

Meeting Minutes
New Prague Planning Commission
Wednesday, August 22, 2012

1. Call Meeting to Order

The meeting was called to order at 6:30 p.m. by Planning Commission vice Chair Jay Nuhning with the following members present: John Roos, Jay Nuhning, Dan Meyer and Dave Bruzek. Absent was Bob Gilman who arrived at 6:34 PM.

City Staff Present: Ken Ondich – Planning Director and Michael Johnson – City Administrator

2. Approval of July 25, 2012 Regular Meeting Minutes

Commissioner Bruzek asked that the minutes on Page 1 be changed to read 13’ 2” instead of 13” 2”.

It was moved by Bruzek seconded by Roos to approve the July 25, 2012 regular meeting minutes as submitted. Motion carried (4-0, Gilman had not yet arrived).

3. Old Business

None.

4. New Business

A. Final Plat – Chart Inc. Second Addition

Planning Director Ondich presented the staff report. He stated that the preliminary plat for Chart Inc. Second Addition was approved on June 4, 2012 with 20 conditions for approval and that application for the Final Plat was made by Chart Inc. on August 1, 2012. He stated that each of the 20 conditions for Preliminary Plat approval was addressed in one way or another. He stated that Chart has purchased three of four properties to be included in the plat. He stated that the plat would consolidate all the property into two lots, two outlots and right of way for 1st Ave. NW on 37.54 acres. He stated that a proposed first phase of a building on the site would be approximately 98,851 sq. ft. He stated that one of the major requirements of the Preliminary Plat was that a Traffic Impact Study needed to be completed. He stated that I&S Engineers completed a TIS for the applicant which was reviewed by the City Engineer, Scott County Highway Department and MnDOT which answered four main questions related to the plat. The study noted that 1st Ave. NW should extend to 12th Street NW at some point in the future which requires right of way to be platted to the north edge of the plat and that any second phase of construction will require an update of the TIS. He stated that left turn lanes are required on County Road 37 at 1st Ave. NW as a part of the first phase of the

development. He stated that a 6' wide sidewalk is required along the east side of 1st Ave. NW and finally the City will monitor 1st Ave. NW to determine if "No Parking" should be signed on the West Side of 1st Ave. NW but will not require it to be no parking upon construction. He stated that the wetland mitigation plan was submitted and the required notices were issued. He stated that comments are due by August 31st to the City and that it is anticipated that the City Council will make a decision on the wetland mitigation plan on 9/4/12. He stated that 2.7 acres of wetlands are proposed to be filled and would be proposed to be replaced off-site at wetland banks at a ratio of 2:1 for a total of 5.4 acres. He stated that while the City can approve the WCA aspect of the wetlands, the United States Army Corps of Engineers has jurisdiction over the south wetland/ditch and a permit must also be issued by them. He noted that the Building Official, Public Works Director, City Engineer, Scott County, MnDOT and Police Department all offered comments which were added as conditions for approval. He stated that two residents of 1st Ave. NW. submitted letters. He stated that the letters from Russ Sirek and Terry & Maureen Connelly were included in the staff report along with staff responses. He stated that to address their concerns he noted that Industrial Zoning Districts are exempt from noise violations related to sound producing devices, but a general provision for noise and obnoxious noises as defined by the state still exists. He stated that the proposed use is a permitted use in the I-1 District and nowhere in the zoning code does it require that manufacturing must take place within a completely enclosed building. He stated that 1st Ave. NW was reconstructed in 2005 and all adjacent properties were assessed including a higher assessment rate for commercial properties and that it was constructed to a 10 ton + design to handle the future industrial traffic and that all repairs would be taken care of by the City as with any other public roadway. He stated that the City has welcomed input from all adjacent property owners from the concept report to the submittal of the final plat and that comments have been incorporated into the review process. He stated that staff recommends approval of the final plat with the two findings and nineteen conditions listed in the staff report. He stated that the City Council would receive the report and recommendation for final action on September 4th or September 17th.

Chairman Gilman asked the public if they had any comments to make regarding the plat despite not being a formal public hearing.

Russ Sirek, 1105 1st Ave. NW, stated that he had a number of questions and comments to make about the proposal. He stated that he had concerns about establishing no parking on both sides of 1st Ave. NW in the future. He stated that he had questions about the noise ordinance and how it pertained to the proposed operation and construction. He asked for clarification on time limits for construction and other general noise provisions. He read sections of the City's noise ordinance and asked for clarification. He stated that he was told by a realtor that because of the noise he could expect a 10% to 20% decrease in property value. He stated that the traffic impact study noted a large increase in traffic and they as residents did not want to be responsible for street repair charges. He stated that regarding their representation as residents that they had only short notification of each meeting and figured that changes to the development would be slim to none. He stated that he felt Chart was getting more representation than the residents. He asked about how their setbacks would be changed with the platting of roadway in front of their homes.

Planning Director Ondich noted that the City and Chart had discussed construction hours of 7AM to 10PM which should be followed due to the homes on the east side of 1st Ave. NW. He also stated that the setbacks for all the homes on the east side of 1st Ave. NW would not be changing because their property lines were not being adjusted.

Mr. Sirek stated that the City Engineer comments noted that their properties back yards were considered marginal lands and might be better suited for stormwater ponds. He stated that he had concerns about truck accessibility into and out of the site particularly as it relates to no parking areas. He asked for clarification of the zoning definition of the proposed use and whether it was light manufacturing or heavy manufacturing.

Planning Director Ondich stated that the proposed use was considered under the definition of light industrial as it involved the manufacture and assembly of products by using already prepared materials. He noted that heavy industry would include the processing of materials from raw materials.

Mr. Sirek read the Exterior Storage provisions from Section 702 of the Zoning Ordinance and asked how that would apply to Chart.

Planning Director Ondich noted that Section 702 pertains only to residential zoning districts and that the conditional use permit for the exterior storage area for the proposed project had already been reviewed and approved by the City Council in June.

Mr. Sirek read section 703 of the Zoning Ordinance pertaining to refuse which requires dumpsters to be located within enclosures at least 5' tall.

Planning Director Ondich stated that all dumpsters would be required to be screened as required by the ordinance but that such details would typically not be available until the building permit would be applied for.

Mr. Sirek asked how materials would be entering and exiting the site.

Bruce Lyman, Vice President of Operations for Chart Inc., stated that materials would be brought in at various locations to the building, some by rail and some by truck and noted the various loading docks and doors.

Mr. Sirek stated that when some of the trees were removed from the Bilek property that the noise levels increased at their property from the existing facility on the west side of the railroad tracks. He stated that air being released out of tanks is particularly loud. He also pointed out that they had an issue with trucks hauling mulch from the Bilek site before 6AM. He stated that he is concerned about the noise being a problem not only for them living across the street but also for those living elsewhere in the City. He stated that while he did believe the project was a good deal for the City and for Chart it was not a good deal for the residents.

Terry Connelly, owner of 1107 1st Ave. NW, stated that he owns the property as a rental home. He stated that he got calls from the renter that the noise of air being released from the tanks was loud. He stated that noise is a serious issue and that it was not being heard

before. He stated that people further away from Chart will hear the sounds from the new facility. He stated that he has concerns about how City Staff reviewed the project and considered whether it will fit with the City or if they had tunnel vision to make sure it got approved. He stated that he would like the City to work with Chart to require buying out the property owners on their side of the road.

Dave Mach, 880 Countryside Ave. SW, stated that his mother lives at 1101 1st Ave. NW and has been there for over 60 years. He stated that he would like the City to put themselves in the place of the residents before making a decision.

Mr. Lyman stated that Chart has selected a design/build contractor for the project. He stated that they have done their best to comply with the comments from City Staff and the residents. He stated that he acknowledges the issue between their operation and the residential homes and stated that he realizes they are not manufacturing pillows so there will be some noise issues. He stated that Chart looked at the possibility of buying out the five residents on the east side of 1st Ave. NW and using the area for wetland replacement, parking or even for stormwater ponds. He stated that he met on July 17th with the residents and stated that after a review of the facts that it was not economically advantageous to buy them out. He stated that the residents did offer a suggestion to potentially vacated 1st Ave. NW if all the homes were bought out and 1st Ave. would become a driveway for Charts private use. He stated that there may be some permit to this plan in the future if and when Chart expands. He stated that there are no concrete plans for a phase two expansion at this time. He stated that he wanted to thank City Staff for their assistance and review in the coordination of the various agencies involved. He noted that they are going above some of the basic requirements of the City Ordinances such as re-routing the stormsewer pipe from under their building which could become a problem in the future. He stated that they will be providing a berm and vegetation along 1st Ave. NW even beyond the required area of the exterior storage. He stated that Chart does take issue with the new requirement that Chart must install a sidewalk along the west side of 1st Ave. NW because he believes it will affect the existing berm and fencing. He stated that the feasibility of fitting the sidewalk on the west side of 1st Ave. NW had not been looked at.

Commissioner Bruzek asked about the timing of the air releases from the tanks and asked if the timing could be adjusted.

Mr. Lyman stated that the air releases happen in one of two shifts with varying pressures being used in the tanks. He stated that the final air release was to bring the tanks for 25 psi for safe shipping. He stated that most of the time the air releases occur during the day time. He stated that there is a potential to improve the timing of the air releases which would lessen the impact.

Commissioner Bruzek asked if the construction crews would honor the 7AM to 10PM work period.

Mr. Lyman stated that they had discussed the work hours with their contractor yesterday and that would not be a problem. He stated that as the days get shorter they need to work in daylight hours so that would limit them as well. He stated that once the building shell

is up they may work longer inside the building but there would not be exterior noise concerns.

Commissioner Nuhring stated that the study of acoustics is a science. He stated that there has been a lot of study of noise related to highway construction such as up on 35W. He stated that noise walls push the noise and sound upwards. He stated that maybe Chart could consider installing noise deflection walls by where the depressurization of tanks takes place. He stated that another way to deal with noise is to add more noise such as white noise. He stated that the sound of falling water is a very good example of white noise that creates a diversion to the less desirable noises.

Mr. Lyman stated that it is good to see how the trees removed from the site really did provide some sound benefits because it shows that the new screening and landscaping should provide benefits to the adjacent residents.

Commissioner Nuhring stated that he believes the landscaping as shown on the landscaping plan will likely look very attractive from the roadway.

Commissioner Bruzek stated that he appreciates the willingness of Chart to accommodate the neighbors and that Chart and the residents have been able to meet to try to accommodate concerns.

Deb Sirek, 1105 1st Ave. NW, stated that she wanted to point out that they had the smallest assessment of any of the properties on the east side of 1st Ave. NW which they already paid in full. She stated that the traffic impact study notes 1st Ave. NW should go through at some point in the future but is worried about traffic to the school heading north to 12th Street NW. She stated that the screening may try to eliminate some noise but that with no screening her son was woken up at 10:15PM recently. She stated that she is worried about the sounds. She stated that she intended to retire at the property prior to the development but now her plans have changed. She stated that she is worried that her property has been devalued.

Commissioner Bruzek asked for a timeline to address the conditions of plat approval.

Planning Director Ondich stated that the timeline really lied with Chart and their ability to address the concerns.

Mr. Lyman stated that he would expect 75% of the items to be cleared up by the middle of September. He stated that they would like to start by doing some grading on the site.

A motion was made by Bruzek, seconded by Nuhring, to recommend approval of the Final Plat of Chart Inc. Second Addition with the following findings:

1. The plat complies with the purpose and intent of the New Prague Comprehensive Plan and Subdivision Ordinance.
2. The plat conforms to the requirements of the I-1 Light Industrial, RM Medium Density Residential and RL-90 Single Family Residential Zoning Districts in which it is located.

And with the following conditions:

1. Approval is granted in accordance with the Final Plat dated 8/1/12 on file with the New Prague Planning Department, subject to any conditions identified below.
2. Chart Inc. must enter into a Developer's Agreement with the City of New Prague, and the agreement must be approved by the City Council prior to executing signatures on the final plat. The requirements of the agreement shall be incorporated as conditions of the City's approval of the Final Plat.
3. The final plat must be recorded within 90 days of the date of the City Council granting approval per Chapter 051 (E) of the Subdivision Ordinance.
4. The Final Plat and current title commitments must be reviewed and approved by the City Attorney prior to executing signatures on the final plat.
5. Approval is subject to all recommendations of the Public Works Director and City Engineer as noted in their respective comments included in the staff report.
6. Approval is subject to all recommendations of MnDOT regarding their review of the Traffic Impact Study (TIS).
7. Approval is subject to all recommendations of the Building Official and Fire Chief.
8. Construction plans must be reviewed and approved by the City Engineer, Public Works Director and Planning Director prior to construction and signature of the final plat.
9. A hydrant maintenance agreement will be required for the hydrants located on the subject site.
10. All necessary permits from the Army Corps of Engineers and the DNR must be obtained prior to construction occurring related to their respective jurisdictions.
11. No direct driveway access is allowed to CR 37 (7th Street NW) other than the existing curb cut to the site.
12. A temporary turn around must be provided for on the northern terminus of 1st Ave. NW for emergency vehicle and large truck use with details provided to the City for further review and a "future road extension" sign must be installed.
13. A 20' wide easement for the re-routed storm sewer line on the west side of the railroad must be provided to the City before acceptance of the public storm sewer line.
14. Chart Inc. must comply with all recommendations of the MPCA regarding VIC Project #VP7470 located within a portion of the property being platted.
15. The decision on the wetland mitigation must be made by the City Council prior to execution of the Final Plat.
16. All deferred Street Assessments from the 2005 1st Ave. NW improvement project within the area being platted are payable upon the filing of the final plat as documented in City Council Resolution #06-12-18-03.
17. A 6' wide sidewalk is required to be constructed within the easement or right of way by the applicant on the west side of 1st Ave. NW from 7th Street NW (CR37) north to the terminus of 1st Ave. NW.
18. Eastbound and westbound left turn lanes are required on 7th Street NW (CR37) at 1st Ave. NW with the first phase of development and truck turning movements must be verified with curb radius modified as necessary.

19. A second phase of building construction at the Chart Site will trigger the need for the applicant to perform an alternative evaluation of the extension of 1st Ave. NW to 12th Street NW and an update of the Traffic Impact Study (TIS) to determine additional traffic control measures that may be needed in the area.

Motion carried (5-0).

B. Variance #V5-2012 – Sign Variance at 1200 ½ Columbus Ave. N.

Planning Director Ondich presented the staff report. He stated that New Prague Area Schools recently constructed a new concession stand for the football and track complex. He stated that they applied for a sign permit on 8/1/12 which included school logos and general directional signage not visible from adjacent properties. He stated that they also proposed building signage at approximately 30 sq. ft. reading “Trojan Stadium” which would be visible from adjacent properties. He stated that the RL-90 single family residential zoning district only allows 12 sq. ft. of building signage for permitted non-residential uses and that the sign permit for “Trojan Stadium” wording on the building was denied. He stated that two adjacent non-residential uses were granted sign variances in the recent past. He stated that the Gymnastics Club building was issued a variance in 2007 to have 21 sq. ft. of building signage versus the 12 sq. ft. which was permitted and also the Community Center was allowed a 70 sq. ft. monument sign versus the then allowed 12 sq. ft. and also noted that the building signage also exceeds 12 sq. ft. but said signage was apparently permitted when installed. He stated that the sign ordinance was amended a few years ago to allow more monument signage in the district, but did not allow more building signage above 12 sq. ft. He stated that if the building were located within a commercial zoning district it would be permitted to have up to 64.8 sq. ft of building signage which would be 15% of the building face. He stated that they are proposing no more than 30 sq. ft. at this time. He stated that staff and the applicants discussed monument signage instead of building signage but that the location of the building and required sign setback would require the monument sign to be located to the side of the building. He noted that the school district believes the proposed signage is required to have the building be more visible from 12th Street because the building is approximately 220’ away. He stated that staff recommends approval of the variance request with the six findings in the staff report.

Commissioner Bruzek stated that he did not believe there was a sign ordinance pertaining to the community center when it was constructed and that the building signage requirement did not come into play until 2000.

Commissioner Roos stated that he drives by the area each day and did not believe the proposed signage would have a negative visual impact to the area.

Commissioner Nuhring asked if the school district would consider changing the font of the lettering.

Planning Director Ondich stated that he would relay the suggestion to the school regarding the font for the lettering.

A motion was made by Nuhring, seconded by Roos, to recommend approval of Variance #V5-2012 from the building sign requirements in the RL-90 Single Family Residential Zoning District to allow an 18 sq. ft. variance from the maximum 12 sq. ft. building signage for the existing building at 1200 ½ Columbus Ave. N. for the following reasons:

- A. The variance to allow building signage to exceed 12 sq. ft. is in harmony with the general purposes and intent of the Zoning Ordinance because building signage is a permitted addition to a non-residential building in the RL-90 Single Family Residential Zoning District.
- B. The variance to allow building signage to exceed 12 sq. ft. is in harmony with the general purposes and intent of the Comprehensive Plan because building signage is a permitted addition to a non-residential building in the RL-90 Single Family Residential Zoning District as designated by the plan.
- C. The applicant proposes to use the property in a reasonable manner by adding only an additional 18 sq. ft. of building signage which is not permitted by the Zoning Ordinance because the RL-90 Single Family Residential Zoning District only allows 12 sq. ft. of building signage on a permitted non-residential building.
- D. Unique circumstances apply to this property which do not generally apply to other properties in the vicinity because the property on which the building is located has frontage on two roadways, but the portion of the lot where this building is located is not directly adjacent to a public roadway and is located approximately 220' from 12th Street which is the closest adjacent public roadway which causes the building to be less visible to the travelling public.
- E. The variance does not alter the essential character of the neighborhood because the two directly adjacent properties were both issued signage variances as permitted non-residential uses in the RL-90 Single Family Residential District. The gymnastics facility was issued a building signage variance and the community center was issued a monument sign variance and also has building signage in excess of the current ordinance maximum. The subject building is also located approximately 220' from the adjacent 12th Street thereby reducing its visual impact at the street.
- F. The variance requested is the minimum variance which would alleviate the practical difficulties because the proposed 30 sq. ft. of building signage would allow the building to be identified from the adjacent roadway over 220' away.

5. Miscellaneous

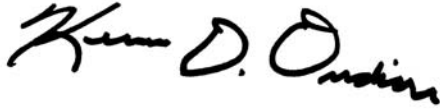
The following miscellaneous items were reviewed as information only:

- A. Monthly Business Update – Planning Director Ondich updated the Planning Commission with a report that was presented to the EDA earlier in the month.
- B. Moving September Meeting to September 19th - Planning Director Ondich stated that due to the State Planning Conference the last week of September that he would like to move the meeting up one week to September 19th. The Planning Commission indicated that this date worked better than the regularly scheduled meeting date on September 26th.

6. Adjournment

A motion was made by Bruzek, seconded by Meyer to adjourn the meeting at 8:22 PM. Motion carried (5-0).

Respectfully submitted,

A handwritten signature in black ink that reads "Kenneth D. Ondich". The signature is written in a cursive style with a large initial "K" and "O".

Kenneth D. Ondich
Planning Director