

Meeting Minutes
New Prague Planning Commission
Wednesday, July 27, 2016

1. Call Meeting to Order

The meeting was called to order at 6:30 p.m. by Chair Nuhring with the following members present: Dan Meyer, Jenna Tuma, Bob Gilman and Matthew Goldade. All members were present.

City Staff Present: Ken Ondich – Planning / Community Development Director

2. Approval of June 22, 2016 Regular Meeting Minutes

It was moved by Gilman, seconded by Meyer, to approve the June 22, 2016 regular meeting minutes as submitted. Motion carried (5-0).

3. New Business

A. Request for Conditional Use Permit Request #C2-2016 – Planned Unit Development Witt Development, applicant

Planning Director Ondich presented the staff report. He stated that the Eastland Plat was originally approved in 2007 and has remained unimproved since that time. He stated that earlier this year the applicant requested and was approved for a rezoning to the northern portion of the plat from B-2 Community Commercial to RM Medium Density Residential. He stated that the next step in the process is for a Planned Unit Development that would include 25 residential units and that a plat is also being reviewed for the lots in the PUD. He stated that the applicant proposes to build out Eastland in four phases. He stated that planned unit developments require a minimum of 2 principal structures and 2 acres for the area which are both met by the proposal. He stated that planned unit developments are used to encourage a more creative and efficient development of the land than is possible under the zoning ordinance and to ensure concentration of open space and natural resources such as wetlands. He stated that the PUD would allow certain lots to be smaller than normally required and would also allow some reduced setbacks. He stated that lot sizes are proposed down to just under 4,300 sq. ft. and setbacks are requested to be reduced to 20' front, 4.5' to side and 15' to rear for some lots while a normal 30' setback would be maintained for the units on Autumn Ave. SE. He stated that all units would be 2 unit buildings except one 3 unit building is proposed north of 3rd Street SE. He stated that landscaping and screening adjacent to the single family home area has been the biggest discussion point starting with the rezoning review. He stated that the adjacent residents most recently requested enhancing the existing tree line by planting additional trees and also requested a privacy fence be installed. He stated that the applicant is proposing to keep the existing tree line intact by only removing dead trees or those that are a

safety concern and enhancing the tree line by planting a row of evergreen trees. He stated that staff supports keeping and enhancing the existing tree line but does not support a fence as a fence is normally used as a barrier to keep people in our out of an area which is typical between residential and non-residential uses and is not a requirement of the city's screening regulations. He stated that the existing tree line is 90% or more located on the applicant's property line and that a fence would have to be located in the tree line or on the east edge of the tree line which would preclude additional trees from being planted to enhance the tree line. He stated that regardless of the fence there is not room to plant a double row of trees within the 30' rear setback. He stated that staff suggests reducing the 20' spacing of the evergreens to 15' and extending the tree line to the Jillian Street SE right of way line. He stated that additional screening is also suggested along Alton Ave. SE and 3rd Street SE for the units adjacent. He stated that the applicant is proposing a 6' tall privacy fence along the north property line by Coborn's and that staff suggests one panel be removable to maintain access to the fire hydrant. He stated that the private driveway on the north side of 3rd Street SE is proposed at 22' wide which would not allow parking on one side and that in such a case 6 additional guest parking spaces should be provided for. He stated that the private driveway is not allowed to loop back to 3rd Street SE as access spacing guidelines and an MOU between the City and LeSueur County do not allow it. He stated that no traffic impact study was required for the development and that trails are being provided for on at least one side of each public road as provided for in the original plat from 2007. He stated that the biggest concern for the building and fire departments is the turnaround at the end of the private driveway and that the state fire marshal's office provided a detail on how it needs to be adjusted. He also noted that buildings may need to be spaced a minimum of 5' from any lot line rather than the 4.5' currently shown in one area. He stated that staff recommends approval of the conditional use permit approving the planned unit development for 25 residential units with the conditions and findings listed in the staff report.

The public hearing was opened at 6:56PM.

Mary Peterson, 1523 Praha Street SE, pointed out on an air photo where she lived adjacent to the north townhome area near Coborns. She stated that they support keeping the tree line on the east side of their home. She stated that she thought the survey seemed off by a couple of feet because there is a cow fence located in the middle of the tree line and the survey showed the property line being closer to their home and asked how the property lines are established. She asked if she could be notified about the removal of any dead or dying trees before they are removed. She asked how far the tree line is from the proposed private driveway and finally asked about the location of the fence along the property line with Coborns.

Jason Witt, representing Witt Development, stated that the property pins along the dividing property line were located by I&S who had surveyed all the properties for their initial platting and that they had double checked the property line by referencing surveys for some of the houses in the area. He stated that they are not planning on changing anything in the tree line area. He stated that the private driveway is 40' from the property line.

Commissioner Tuma asked about the lot line discrepancy and asked if anyone else had concerns about the property line.

Todd Anderson, 503 Prague Court SE, stated that Jason Witt did come out to his lot to meet with him to discuss the property line discrepancy. He stated that the issue was their SE corner of their lot and that the property pin had been in that location since 2003. He stated that to have his own survey done it would cost \$1,000 which he didn't have the money to spend to have done. He stated that I&S did put a stake in the NE corner of their lot as well.

Mr. Witt stated that Mr. Anderson's SE corner was approximately 4' off.

Mr. Anderson stated that the property pin had been in that location since day one when Keyland built the house. He stated that they also found when their neighbor's home was built that one of their sprinkler heads was located on their neighbor's property. He stated once again that he cannot spend money on a survey.

Mr. Witt stated that I&S checked the property line twice and that the one stake in the SE corner is off and that the one property corner does not affect the development but that it could be an issue for the Andersons when selling their lot in the future.

Ms. Peterson stated that it was shocking to see where the lot line was located as since 2004 they thought the property line was through the middle of the tree line.

Mr. Witt stated that while it was not shown on the landscaping plan that they are planning on some sort of landscaping on the north end of the townhome development adjacent to Praha Street but that they did not want it to be part of the requirements so that they have some discretion about what is planted there. He stated that they will make the area look nice on the west side of the private driveway to the existing tree line.

Commissioner Tuma asked if the existing elevations at the tree line was workable with the adjacent properties.

Mr. Witt stated that they have been working to modify their plans to avoid changing elevations so that they won't be affecting the root lines of the existing trees so that they are not damaged.

Anne Anderson, 503 Prague Court SE, asked what the size the trees would be when planted on the east side of the existing tree line by their property.

Mr. Witt stated that they would be above the city's minimum of 6' tall.

Mr. Anderson asked if construction access could be kept to Alton Ave. SE.

Mr. Witt stated that it is a dirt access currently and that weather can dictate its availability.

Commissioner Tuma stated that she did not think it seemed practical to go through a temporary road and that it seemed excessive to require a temporary road be built for access when there are adjacent roads available.

Mr. Witt stated that it would cost thousands of dollars to build a temporary road to Alton Ave. SE. He stated that they alternately would suggest asking their drivers to watch closely for kids as 3rd Street SE and 5th Street SE are residential areas. He stated that they are a City taxpayer and have been paying taxes for years on the platted lots and believes they should be allowed to use the roads that exist for access. He stated that they will do everything they can for the streets such as sweeping. He stated that construction is not fun and is a disruption for everyone. He stated that if conditions allow they will use Alton Ave. SE.

The public hearing was closed at 7:32PM.

Commissioner Meyer asked if the trees to be used had to be white pine and Colorado blue spruce as they are different size evergreens and white pine grow very tall and worried about how tall they will get in the future, possibly up to 100 feet.

Planning Director Ondich suggested that the condition relating to landscaping could be modified to simply note that alternating types of evergreens should be used and not specifically any particular species.

A motion was made by Gilman, seconded by Tuma to recommend approval of Conditional Use Permit #C2-2016 which approves the 25 unit Planned Unit Development for the following reasons:

1. The request meets the purpose of Planned Unit Developments listed in Zoning Ordinance Section 727 (1).
2. The request meets the general requirements for Planned Unit Development in Zoning Ordinance Section 727 Subd. 3 (A-H).

With the following conditions:

1. Approval is granted in general accordance with the Concept Plan 2 (PUD Layout) dated 7/6/16, on file with the New Prague Planning Department.
2. Approval is granted in accordance with the Landscaping Plan dated 7/13/16, however the plan shall be amended to note that two alternating types of evergreens must be planted between the single family homes and townhomes, reduce the spacing between the trees to 15', to extend the landscaping north to the adjacent south right of way line of Jillian Street SE, to add a 6' tall privacy fence along the north side of the private driveway, to add trees next to the three buildings that abut 3rd Street SE and finally to add additional trees along Alton Ave. SE.
3. The existing tree line on the west side of the subject property must be maintained as it exists except that dead trees or those constituting a safety concern may be removed upon consultation with City Staff.

4. All buildings must be setback a minimum of 20' from public road right of way.
5. All driveways must be a minimum length of 22' from the garage door to the public road pavement or private driveway pavement in order to fit a vehicle entirely on the driveway.
6. Vehicles are not permitted to park on driveways so as to block free passage on the sidewalks.
7. All buildings located in Block 3 of Eastland Third Addition must be setback at least 30' from the rear lot line adjacent to the single family homes.
8. All buildings must have at least 9' spacing between them or meet the minimum requirements to meet the Minnesota State Building Code.
9. Three or more unit buildings are prohibited on any lot on the west side of Autumn Ave. SE and can only be one or two unit buildings.
10. Patio areas must not be located within easements.
11. Landscaping/buffer trees and vegetation must not be located within public easements or public right of way.
12. The fence panel of the privacy fence along the north private driveway adjacent to the fire hydrant must be removable and have a marker sign on the panel indicating that a fire hydrant is located on the opposite side of the fence.
13. The stormwater pond on Outlot B of Eastland Third Addition must be deeded to the City after it is accepted as a public improvement.
14. Outlot A of Eastland Third Addition must remain in ownership of the association that governs the 25 units in the planned unit development.
15. The private driveway is proposed at only 22' wide and in this case the entire driveway shall be signed as "no parking" on both sides to ensure emergency vehicles have full access at all times.
16. At least 6 guest parking stalls shall be provided for of at least 9' x 20' in size in the townhome area north of 3rd Street SE.
17. The hammerhead turn around at the end of the private driveway must be modified to meet the requirements of the state fire marshal and shall also be signed as no parking and no snow storage.
18. Any water or stormsewer line located outside of public right of way is considered to be private, however the sanitary sewer lines servicing the townhome units north of 3rd Street SE are considered public and must be located within a public utility easement.

Motion carried (5-0).

**B. Request for Eastland Third Addition Preliminary and Final Plat
Witt Development, applicant**

Planning Director Ondich presented the staff report. He stated that the Eastland Plat was originally approved in 2007 and has remained unimproved since that time. He stated that earlier this year the applicant requested and was approved for a rezoning to the northern portion of the plat from B-2 Community Commercial to RM Medium Density Residential. He stated that this replat is being reviewed for the lots as proposed in the PUD request. He stated that the applicant proposes to build out Eastland in four phases. He stated that Outlot A is proposed to remain in the ownership of the association and contains the wetland and private driveway and that Outlot B would be deeded to the City as a public stormwater pond. He stated that the

PUD must first be approved before the plat can be approved and that existing easements are not erased with the replat and that a separate request is being made to vacate the easements with the City Council if the plat were to be approved. He stated that no changes are being made to the public streets proposed and that the City is working with the applicant on an amendment to the developer's agreement to set a time limit to pay past due park land dedication and to complete the roundabout at Alton and 3rd Street SE. He stated that staff recommends approval of the preliminary and final plat of Eastland Third Addition with the findings and conditions listed in the staff report.

The public hearing was opened at 7:45PM.

Todd Anderson, 503 Prague Court SE, asked if 3rd Street SE would be connected to Autumn Ave. SE with the first phase of construction.

Jason Witt, representing the applicant, stated that it would be connected.

The public hearing was closed at 7:47PM.

Commissioner Tuma asked if sidewalks and trails were going to be on each side of each road.

Planning Director Ondich stated that Alton Ave. SE would have a trail on one side and a sidewalk on the other side and that all other public roads would have a sidewalk on one side only as was approved back in 2007 and which is still the standard today.

Commissioner Gilman asked if the full access from Alton into Coborns would have to be closed when the roundabout at 3rd and Alton were installed.

Planning Director Ondich stated that originally might have been the case but that the access agreement had been modified to address traffic counts instead which may not be met for a number of years.

A motion was made by Meyer, seconded by Gilman to recommend approval of the preliminary and final plat of Eastland Third Addition for following reasons:

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 Planned Unit Development (#C2-2016) as approved (to be considered by the City Council on August 1, 2016).

And with the following conditions:

1. Approval is granted in general accordance with the Preliminary Plat submittal dated 7/6/2016 on file with the New Prague Planning Department.
2. Approval is granted in general accordance with the Final Plat submittal dated 7/6/2016 on file with the New Prague Planning Department.

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. Approval of the Preliminary and Final Plat is contingent upon the approval of Conditional Use Permit #C2-2016 which approves the area being replatted as a Planned Unit Development.
5. Any changes to the construction plans for the townhome portion of the plat shall be reviewed and approved by the City Engineer, Public Works Director, Utilities General Manager and Planning / Community Development Director prior to construction of the improvements.
6. Approval is subject to all recommendations of the City Attorney.
7. The final plat approval is subject to utility extension permits from the Minnesota Pollution Control Agency and the Minnesota Department of Health.
8. Easements that exist in the areas being replatted must be vacated following approval of the final plat.
9. The easements around the wetland areas are required to have signage installed per Zoning Ordinance Section 734, Section 4 (E)(12) which states that the signs shall be installed at 200' intervals along the wetland easement to define its edge. The signs must be at least 12" x 12" in size at least 4' above grade.
10. Development fees including the WAC Charge, Sidewalk Fee, and Siren Fee are required to be paid at the time of the installation of improvements as allowed by the Development Agreement (as amended.).
11. Prior to approval of the final plat, an amendment to the original Eastland Development must be approved to address payment of the Park Land Dedication as well as construction of the Roundabout at Alton Ave. SE and 3rd Street SE.

Motion carried (5-0).

C. Request for Variance #V1-2016 – Reduce Setback to Wetland for New Home Construction
Jeff Weiers, applicant

Planning Director Ondich presented the staff report. He stated that the subject lot has been vacant since it was platted in 1998 as part of Bohemia Acres First Addition. He stated that since it was platted a new wetland setback ordinance provision went into effect that, combined with normal setbacks, has made the lot unbuildable. He stated that no specific home is proposed at this time as the applicant is planning to sell the lot and the variance would make it more saleable. He stated that the property is zoned RL-90 Single Family Residential and other properties in the area are not subject to the same setback as the wetland encroaches onto this property limiting its buildability. He stated that a reduction in the wetland setback to 24' would allow a home to be constructed of a similar size and style to the existing homes in the neighborhood. He stated that the City was required by the MPCA to adopt the ordinance in 2002 to require structures to be setback 50' from the edge of a wetland. He stated that four previous variances have been issued from the wetland setback and buffer. He stated that the most recent variance was for a deck on a townhome just to the east of the subject site. He stated that staff recommends approval of Variance #V1-2016 from the required 50' wetland setback to 24' to allow for the construction

of a new home and to 14' for an uncovered deck located at 1302 7th Street NE with the findings listed in the staff report.

Jeff Weiers, applicant, stated that he didn't have anything to add other than that the lot will now be marketable with a variance in place as he tries to sell the lot.

Thomas Walther, 603 Ladyslipper Ave. NE, stated that he is a neighbor abutting the subject lot on the west side and that he is concerned about drainage once a house is built on the lot and causing water to sit on the back side of his lot and the lot to the north of his. He stated that the lots are currently dry.

Planning Director Ondich stated that the City requires a survey with proposed grading before construction starts as well as an as-built survey that must be reviewed and approved before a final certificate of occupancy is granted for a property. He stated that the concerns would be addressed.

A motion was made by Meyer, seconded by Goldade to recommend approval of Variance #V1-2016 from the required 50' wetland setback to 24' to allow for the construction of a new home and to 14' for an uncovered deck located at 1302 7th Street NE with the following findings:

- A. The requested variance to allow for the construction of a new home at up to 24' and an uncovered deck at up to 14' from the delineated wetland edge is in harmony with the general purposes and intent of this Ordinance because residential structures are a permitted use in the RL-90 Single Family Residential Zoning District.
- B. The requested variance to allow for the construction of a new home at up to 24' and an uncovered deck at up to 14' from the delineated wetland edge is consistent with the comprehensive plan because the subject property can have a single family home as a permitted use in the RL-90 Single Family Residential Zoning District and the variance would provide for a buildable area to construct a single family home on the lot that does not exist with the full wetland setback in place.
- C. The applicants propose to sell the lot to a buyer wishing to construct a single family home which is a reasonable use and would match the existing neighborhood area.
- D. Unique circumstances apply to this property over which the property owners had no control and which do not generally apply to other properties in the vicinity because the lot was platted in 1998 and the 50' wetland setback went into effect in 2002 and instantly made the subject property unbuildable.
- E. The variance does not alter the essential character of the neighborhood because the subject property was platted prior to the adoption of the 50' wetland setback and having a single family home on this lot would simply match the rest of the neighborhood.

- F. The variance requested is the minimum variance which would alleviate the practical difficulty because it would allow for the construction of a home that would be similar in size to those that already exist in the neighborhood and which could have been constructed on the lot if a permit had been applied for prior to the 50' wetland setback taking effect.

Motion carried (5-0).

**D. Zoning Ordinance Amendment Public Hearing – Temporary Family Healthcare Dwellings
City of New Prague, applicant**

Planning Director Ondich presented the staff report. He stated that on May 12, 2016 legislation was passed that allows any residential land owner to place a temporary residential dwelling on their property to serve as a temporary family health care dwelling. He stated that the law was presumably passed to provide for transitional housing for seniors, but also provides for transitional housing for those with mental and physical disabilities. He stated that cities may opt out of the law if they determine that this type of temporary housing is not well suited to their communities by passing an ordinance before the law takes effect on September 1st. He stated that the Planning Commission briefly discussed the subject at the meeting in May and that they had also discussed a similar topic in 2010 as it concerned mother in law apartments or granny pods but no interest ever came from the discussions so the topic was not researched further. He stated that at the June 6, 2016 City Council meeting City staff was directed to prepare an opt out ordinance and that staff had prepared an ordinance with the assistance of the City Attorney for review tonight. He stated that staff recommends that the Planning Commission forward a recommendation for approval of the Zoning Ordinance Amendment to Opt-Out of the State Law Regulating Temporary Family Health Care Dwellings.

The public hearing was opened at 8:08PM.

No public comments were received.

The public hearing was closed at 8:09PM.

A motion was made by Gilman, seconded by Tuma to recommend that the City Council approve the Zoning Ordinance Amendment to Opt-Out of the State Law Regulating Temporary Family Health Care Dwellings.

Motion carried (5-0).

4. Old Business

**A. Declare Application Null and Void for Conditional Use Permit Request #C1-2016 – Exterior Storage and Above Ground Storage Tank in Association With a New Construction Building at 501 6th Street NW
Jennifer Sahler, applicant**

Planning Director Ondich presented the staff report. He stated that at the June 22nd Planning Commission meeting, the public hearing for the request for Conditional Use Permit Request #C1-2016 was continued to the July 27th Planning Commission meeting. He stated that since the public hearing was continued, the City has received notification from the applicant and her legal representative requesting termination of the Purchase and Development Agreement for the subject lot which is owned by the New Prague EDA. He stated that in speaking with City Attorney Scott Riggs, in light of their request for termination of the Purchase and Development Agreement, they no longer have any vested interest in the property and therefore the application for the Conditional Use Permit is null and void. He stated that Mr. Riggs requests that the Planning Commission acknowledge the application as null and void at this time.

The Planning Commission made a motion to close the public hearing at 8:10PM which had been continued from the June 22nd meeting.

A motion was made by Meyer, seconded by Goldade, declaring the application for Conditional Use Permit #C1-2016 null and void based on the request by the applicant and their legal representative to terminate the purchase and development agreement for the subject lot.

Motion carried (5-0).

5. Miscellaneous

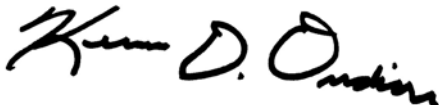
The following miscellaneous items were reviewed as information only:

- A. Monthly Business Update – Planning Director Ondich provided the Monthly Business update to the Planning Commission that had been provided to the EDA earlier in the month.
- B. 2015 Population Estimate – Planning Director Ondich provided the 2015 Population Estimate to the Planning Commission.

6. Adjournment

A motion was made by Meyer, seconded by Gilman, to adjourn the meeting at 8:14 p.m. Motion carried (5-0).

Respectfully submitted,



Kenneth D. Ondich
Planning Director