

**Meeting Minutes**  
**New Prague Planning Commission**  
**Wednesday, November 19, 2014**

**1. Call Meeting to Order**

The meeting was called to order at 6:32 p.m. by Planning Commission Chair Bob Gilman with the following members present: John Roos and Jay Nuhring. Absent were Dan Meyer and Mark Bartusek.

City Staff Present: Ken Ondich – Planning Director

**2. Approval of September 24, 2014 Regular Meeting Minutes**

Planning Director Ondich stated that there was not an October meeting due to a lack of a quorum.

It was moved by Nuhring, seconded by Roos, to approve the September 24, 2014 regular meeting minutes as submitted. Motion carried (3-0, Meyer and Bartusek absent).

**3. Old Business**

**A. None.**

**4. New Business**

**A. Conditional Use Permit Request #C3-2014 – Motor Vehicle Sales  
Nate’s Auto, LLC – applicant**

Planning Director Ondich stated that 401 W. Main Street has been vacant since 2008 when it last operated as West End Pit Stop. He stated that the building on the site was constructed in 1956 and is 1,011 sq. ft. in size and has been owned by SSA&M, Inc. since 2004. He stated that the applicant, Nate’s Auto, LLC will be leasing the property for a two year time period with intent to purchase thereafter. He stated that the proposed use of the site for a used car lot would also use the existing building as a sales office and that this would be the applicants only used car lot that he operates. He stated that the property has been in less than ideal conditions since it closed and was noted as an “eyesore” in a 2011 survey by the City and its residents. He stated that the site has been subject to a fuel leak and monitoring by the MPCA in the past, but four underground storage tanks remain on the site. He stated that the applicant and owner indicated that all four tanks, pumps and canopy will be removed in November 2014. He stated that the applicant plans to strip and repaint the building along with painting the interior of the building. He stated that the environmental issues on the site combined with the underground storage tanks

have hampered the reuse of the site. He stated that the 9,840 sq. ft. property is zoned as B-3 Highway Commercial and is bound on the west by Philipps Park and Highway ROW, on the north by a residential dwelling in the B-3 District, on the east by the Union Pacific Railroad and on the south by TH13/19. He stated that the proposed “motor vehicle and recreational equipment sales” use requires a conditional use permit. He stated that the existing structure does not meet setback requirements but as an existing with no additions it can remain as is. He stated that a variance would be required for any additions to the building on the site. He stated that the site has direct access to TH13/19 which is a state highway. He stated that the proposed use does not trigger the need for a traffic impact study. He stated that MnDOT District 7 is requiring the closure of the western most access to the site but that it would be part of their permitting process and not the City’s review and approval. He stated that the site does not currently have any striped parking spaces but nearly all of the lot is currently paved. He stated that the zoning ordinance does not specifically list off-street parking requirements for motor vehicle sales but does state that it must be based on a similar use which in this case would be a sales office for the used cars which is a 1 space per 300 sq. ft. requirement on the building meaning a total of 3 paved and striped spaces will be required. He noted that with the removal of the tanks that a large area of the parking lot would be disturbed and that it would need to be repaved by June 1, 2015 per staff recommendation but noted that the applicant would actually like to be given until June 1, 2016 to complete the paving. He stated that staff requires the owner/applicant to remove all noxious and tall weeds from the site and to continue to control them during operation. He stated that the property as a couple of environmental issues such as a leaded gasoline leak from 1991 with monitoring wells installed and which was closed out in 2007 by the MPCA with some contamination still remaining on the site. He also noted that the owner of the site received a letter dated June 27, 2014 from MPCA to remove all four remaining underground storage tanks by September 27, 2014, but that MPCA doesn’t have the enforcement tools to get the tanks removed and that instead the City will add the removal of the tanks as a requirement before the site operates. He stated that Fire Chief Jerry Novak requires that the tanks be removed in accordance with MPCA requirements and that Building Official Chad Lunder requires accessible routes to the building and parking and an accessible toilet room and that the paint on the building should be tested for lead. He stated that staff recommends approval of the conditional use permit with the seven findings and 12 conditions listed in the staff report after the removal of condition #13 pertaining to the closing of the western access point to the site.

The public hearing was opened at 6:50PM.

Izzat Minhas, representing SSA&M, Inc. owner of the site, stated that he would like to push the date to complete the blacktopping of the lot out to June 1, 2016 being his only concern.

The public hearing was closed at 6:52PM.

Commissioner Gilman asked what would happen if additional contamination was found during the tank removal.

Planning Director Ondich stated that the MPCA required a 10 day advance notification on the tank removal and would likely be on site and would need to immediately document if any additional contamination were found.

Commissioner Nuhring asked what would happen to the area where the tanks would be removed from.

Mr. Minhas stated that the location of the tank removals would be backfilled and have class five gravel placed over the top. He stated that because he was not expecting to have to pay \$18,000 for removal of the tanks and canopy that he did not have money to pay for the paving of the lot at this time and would like consideration to push the paving of the lot to not have to be completed until June 1, 2016.

Nathan Greene, Nate's Auto, LLC, stated that there is already a lot of gravel surfaces and roads in the general area.

Planning Director Ondich stated that while there are gravel roads, alleys and parking lots in the area that they are all grandfathered in from the relatively recent zoning code requirement which states that all areas to be used for parking must be paved with concrete or bituminous. He stated that since this lot was already paved and the construction work would be removing some of it and because of the new use that it would have to be repaved to meet ordinance requirements.

Commissioner Gilman stated that he can live with a small area of gravel on the site for an additional year out to June 1, 2016 as it will be an improvement at the site versus the vacant lot that exists today. He asked Planning Director Ondich what staff's opinion is on the matter.

Planning Director Ondich stated that staff does not support extending the date to have the paving completed as past experience has shown that additional time doesn't make compliance any easier and may lead to more difficult enforcement action in the future such as moving towards revocation of the conditional use permit should the work not be completed by the required date.

Commissioner Nuhring stated that the two parties seem amicable and does not want to place additional burden on the owner or applicant as the re-use gets started. He stated that he thinks the re-use of the site will be a big improvement over the vacant gas station and that if delaying the pavement of part of the lot make the transition fit their needs that he supports it.

Mr. Greene stated that he would like the lot fully paved for better curb appeal but the costs are difficult at this time.

Commissioner Nuhring asked about the accessory structure on the west side of the site.

Mr. Minhas indicated that it was a monitoring well shed and that they'd like to keep it on the site.

A motion was made by Nuhring, seconded by Roos, to recommend that the City Council approve Conditional Use Permit #C3-2014 to allow motor vehicle sales on an existing property at 401 W. Main Street in the B-3 Highway Commercial Zoning District conditions for the following reasons:

- A. The proposed use of the site and building for motor vehicle sales will not create an excessive burden on existing parks, schools, streets and other public facilities which serve the area because the proposal utilizes a former gas station/convenience store site to be used in a less intensive manner.
- B. The proposed use of the property for motor vehicle sales is not adjacent to any residentially zoned land but it is adjacent to residentially used land directly to the north but the new use is not proposing any changes that would negatively affect the residentially used property.
- C. The use is reasonably related to the overall needs of the City and to existing land use, as the proposed use for motor vehicle sales will utilize a former gas station site which has been vacant and deteriorating since 2008.
- D. The proposed use of the property for motor vehicle sales is consistent with the purposes of the zoning ordinance and of the zoning district in which it is located, as the motor vehicle sales use is specifically listed as a conditional use in the B-3 Highway Commercial zoning District.
- E. The proposed use of the property for motor vehicle sales is not in conflict with the Comprehensive Plan of the City because the Comprehensive Plan designates this property as being located within the B-3 Highway Commercial Zoning District.
- F. The proposed use of the property for motor vehicle sales does not trigger the need to conduct a traffic impact study and will not generate traffic hazard or congestion.
- G. Adequate utilities such as water and sewer have been provided at the site and the existing access to TH13/19 is adequate for the proposed use.

And with the following conditions:

- 1. Prior to operation of the proposed motor vehicle sales use, the existing gas pump canopy, gas pumps and all existing underground storage tanks must be removed from the site in conformance with MPCA requirements as outlined in the MPCA letter to the owner dated June 27, 2014. Should any additional contamination be found during tank removal it must be immediately reported to MPCA and handled per MPCA regulations.
- 2. Three (3) minimum 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 paved surface, as required by Section 717 of the New Prague Zoning Ordinance and in a location approved by the Planning Department prior to operation of the motor vehicle sales business.
- 3. Any area of the parking lot which is disturbed by the removal of underground storage tanks and related work which was paved and intended to be used as a parking/driving area must be returned to a paved concrete or bituminous condition no later than June 1, 2016.
- 4. The building must meet all requirements of the Minnesota State Building Code

- for the proposed use in the existing building located on the site which includes but is not limited to providing at least one accessible building entrance, one accessible interior route for an accessible entrance to primary function areas, accessing parking, accessible route from parking to building entrance and one accessible unisex toilet room. Any exterior work done to remove existing paint should be first tested for lead and abated properly if found.
5. All signs must conform to Section 718 of the Zoning Ordinance which require a permit under a separate permit process.
  6. All lighting must conform to Section 704 of the Zoning Ordinance.
  7. All dumpsters, garbage containers or refuse bins provided on the site outside of a building shall be screened from view in accordance with Section 703 of the Zoning Ordinance.
  8. All vehicles for sale on the site must be parked in an orderly manner and shall under no circumstance impede the use of the adjacent public sidewalk or encroach onto any public right of way.
  9. Repair work on vehicles shall not be conducted on the site.
  10. The outdoor storage of inoperable vehicles, damaged vehicles, motor vehicle parts, and debris is prohibited.
  11. The grounds and all structures shall be maintained in a clean and safe manner at all times.
  12. The buildings on the site must be free of flaking paint and repainted no later than June 1, 2015, and noxious weeds and other non-landscaping vegetation in excess of 12” in height must be removed immediately and controlled at all times.

Motion carried (3-0).

## **B. Comprehensive Plan Updates – Chapter 11: Implementation City of New Prague - applicant**

Planning Director Ondich stated that he had prepared an update to Chapter 11 – Implementation of the comprehensive plan which was the chapter which contains the action items from many of the other chapters in the comprehensive plan. He stated that many of the action items had been removed in the chapter update as items such as the zoning ordinance had been completely re-written along with the subdivision ordinance being completely re-written since it was written in 2004. He stated that he suggests that the Planning Commission hold the public hearing for the miscellaneous chapter updates on December 17<sup>th</sup>.

The Planning Commission concurred that the public hearing should be scheduled for December 17<sup>th</sup>.

## **5. Miscellaneous**

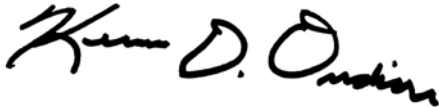
The following miscellaneous items were reviewed as information only:

- 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.

## 6. Adjournment

A motion was made by Roos, seconded by Nuhring to adjourn the meeting at 7:17PM. Motion carried (3-0).

Respectfully submitted,

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

Kenneth D. Ondich  
Planning Director