

City of Cottage Grove Planning Commission September 24, 2007

Pursuant to due call and notice thereof, a regular meeting of the Planning Commission was duly held at City Hall, 7516 – 80th Street South, Cottage Grove, Minnesota on the 24th day of September 2007, in the Council Chambers and telecast on local Government Cable Channel 16.

Call to Order

Chairperson Thiede called the meeting to order at 7:00 p.m.

Roll Call

Members Present: Ken Brittain, Tina Folch-Freiermuth, Obid Hofland, Steve Messick, Tracy Poncin, Chris Reese, David Thiede (arrived at 8:29), Chris Willhite

Staff Present: Howard Blin, Community Development Director
John McCool, Senior Planner
Mark Grossklaus, City Council

Approval of Agenda

Brittain made a motion to approve the agenda. Hofland seconded. Motion approved unanimously (7-0 vote).

Open Forum

Vice Chairperson Reese asked if anyone wished to address the Planning Commission on any non-agenda item. No one addressed the Commission.

Chair's Explanation of the Public Hearing Process

Vice Chairperson Reese explained the purpose of the Planning Commission, which serves in an advisory capacity to the City Council, and that the City Council makes all final decisions. In addition, he explained the process of conducting a public hearing and requested that any person wishing to speak should come to the microphone and state their full name and address for the public record.

Public Hearings and Application Reviews

6.1 Zoning Code Amendment: Body Art – Case TA07-040

Justina Lansing-Wakefield has applied for a zoning text amendment to City Code Title 11-10B-2, Permitted Uses in the B-2, Retail Business District, to allow permanent body art (tattooing and body piercing) businesses as a permitted use in the B-2 and B-3 zoning districts; and amending City Code Title 3, Business and Licensing Regulations, to add Chapter 12, Permanent Body Art.

Blin summarized the planning staff report and recommended approval subject to the adoption of licensing regulations.

Mike Care, 469 Gibbs Street, Apartment 8, Prescott, Wisconsin, explained that they are a design company that does graphic design, clothing design, and hair design. They recently added body art and are looking to locate in the city.

Poncin asked if there would be any restrictions on hours of operation. Blin responded that the proposed licensing requirements require closing by 11:00 p.m. There will also be restrictions on working with customers who are obviously intoxicated. Failure to comply with the regulations could cause loss of licensure. He stated that the applicant is familiar with the restrictions and intends to comply with them. Care stated that they will make sure all employees are informed and educated.

Brittain asked for a brief list of what is included as an adult establishment. Blin responded that the ordinance is very specific on the definition of adult uses, and most uses fall under the category of pornography.

Reese opened the public hearing. No one spoke. Reese closed the public hearing.

Poncin asked if there was a specific location at this point. Blin stated there was not. He emphasized that this would be a permitted use; those types of businesses could locate in any B-2 or B-3 area.

Reese asked where the B-2 and B-3 areas are. Blin stated that the two major areas are at the intersections of 80th Street and Highway 61 in the Gateway North area and in the vicinity of Jamaica Avenue and Highway 61.

Folch asked if the regulations address the age of the clientele. Blin responded they have to be adults.

Willhite made a motion to recommend approval of the zoning text amendment to allow body art establishments to be allowed as a permitted use be approved subject to the adoption of licensing standards. Poncin seconded the motion.

Motion passed unanimously (7-to-0 vote).

6.2 Setback Variance: Shed On River Acres Road – Case V07-051

Larry Brown has applied for a variance to City Code Title 11-3-3C, Accessory Structure Setbacks, to allow an existing 10-foot by 12-foot shed, which is located in front of the principal structure on the side property line, to be replaced by a 10-foot by 12-foot shed that would be located in front of the principal structure within the property boundaries at 8035 River Acres Road.

McCool summarized the planning staff report and recommended approval based on the finding of fact and subject to the conditions stipulated in the staff report.

Reese opened the public hearing. No one spoke. Reese closed the public hearing.

Messick made a motion to recommend approval based on the findings of fact and subject to the conditions listed below. Brittain seconded.

Findings of Approval

- A. The proposed accessory structure is farther away from the Mississippi River bank than the principal structure.***
- B. The provisions of the Mississippi River Corridor Critical Area Overlay District were considered and it was determined that the proposed accessory structure will not adversely impact any of the criteria listed in Title 11-15.***
- C. The proposed variance will not impair an adequate supply of light and air to adjacent properties, will not increase the congestion of the public streets, will not endanger the public's safety, or will not diminish or impair property values within the neighborhood.***
- D. The existing nonconforming structure will no longer encroach upon the abutting parcel and the new structure will exceed the City's minimum side yard setback requirement of six feet.***
- E. Parcels between River Acres Road and the Mississippi River typically have accessory structures that are closer to the road than the principal structure.***

Conditions of Approval

- 1. The side yard setback must not be less than six feet.***
- 2. The exterior color for the 10-foot by 12-foot accessory structure must be similar to the principal structure.***
- 3. The property owner must complete a building permit application and be issued a building permit before any construction begins.***

Motion passed unanimously (7-to-0 vote).

6.3 Variance: Pole Barn on Kimbro Avenue – Cases CUP07-049 and V07-050

Daniel Banttari, 8600 Kimbro Avenue South, has applied for a variance to reduce the 60-foot minimum rear yard setback and 30-foot minimum side yard setback for an accessory structure, a variance to allow three accessory structures when two are the maximum number allowed by City ordinance, and a conditional use permit to allow 39 percent additional square footage for accessory structures.

McCool summarized the planning staff report and recommended approval of the variance to the number of structures and the conditional use permit to allow additional square footage and denial of the setback variance, based on the finding of fact and subject to the conditions stipulated in the staff report.

Daniel Banttari, 8600 Kimbro Avenue South, stated that he is concerned about a fire hazard if the buildings are too close together. He explained that there is park land behind his property and a row of mature trees between his property and the neighboring property. He believes it would look better if the structure could be set back further and to keep it away from the existing garage due to a possible fire hazard.

Thiede opened the public hearing. No one spoke. Thiede closed the public hearing.

Messick stated that he does not see a problem with granting the variance for the setbacks due to the location of the property and the fact that nobody is at the meeting in opposition to the proposal. Willhite agreed with Messick.

Hofland asked if the pole barn could be turned 90 degrees. Banttari stated that it could but it would be located right behind their house.

Banttari then stated that he would prefer a 40-foot setback because that would increase the distance between the two structures.

Folch asked if there would be an undue hardship if the setback variance was not granted. Banttari stated that the new structure would be too close to the existing garage with the proposed 60-foot rear setback and 30-foot side yard. He is concerned that if one structure starts on fire, the other will burn too.

Messick made a motion to recommend approval of the conditional use permit to allow 39 percent additional square footage for accessory buildings, the variance to allow three accessory structures, and the variance to allow a 50-foot rear yard setback and a 25-foot side yard setback, based on the findings of fact and subject to the conditions listed below. Willhite seconded.

Folch asked if the variance place the pole barn closer to the neighbor's property and to Ravine Park. Banttari stated that was correct, noting that there are two to three rows of mature trees between his property and the neighbor's property, plus he will plant more trees in that area. Folch suggested a compromise to allow the 50-foot rear yard setback variance and maintain the 30-foot side yard setback. Banttari stated that would mean the gap between the buildings would be 10 feet instead of 15 feet.

Findings of Approval

- A. One of the two existing accessory structures is a gazebo. The exterior walls were constructed with cedar materials. This type of structure has screened sides and is architecturally different than the other existing accessory structure and proposed new accessory structure.***
- B. The 60-foot minimum rear yard setback can be met.***
- C. There is no uniqueness to the property's topography or property boundary lines.***
- D. The existing structure and proposed new accessory structure are located in the rear portion of the property and are effectively screened from public view from Kimbro Avenue.***

Conditions of Approval

- 1. The property owner must obtain all applicable construction permits from the City before any construction begins.**
- 2. The use of all accessory structures must be only for private residential purposes. Home occupation or non-residential uses are prohibited within any accessory structure.**
- 3. The total number of accessory structures is limited to three. The older and dilapidated structure closest to the west property boundary line must be removed.**

Motion passed unanimously (7-to-0 vote).

6.4 Preliminary Plat and CUP: Culver's – Cases PP07-052, SP07-053, CUP07-054

R&G Endeavors, Inc., dba Culver's of Cottage Grove, has applied for a preliminary plat, a conditional use permit for a restaurant with a drive-through window, and a site plan review of a 3,954 square food restaurant building on 80th Street, south of the Kohl's building and west of the US Bank Building.

Blin summarized the planning staff report and recommended approval subject to the conditions stipulated in the staff report.

Willhite asked how high the display sign is from the ground. Blin stated about six feet, which could allow put it reach of vandals. Willhite asked what the maximum sign height is. Blin responded up to 25 feet.

Brittain asked where the monument sign would be located and where the Kohl's sign is located. Blin pointed out the locations of the signs on the aerial photo.

Folch asked if the yellow striping could be extended through the parking lot to Culver's. Blin stated that would help channel traffic through the area.

Brittain asked if there would be a secondary access to the site, possibly by Tutor Time. Blin responded that there was some discussion about bringing an access onto East Point Douglas Road. However, in the past Kohl's has not been in favor of another access point as they want to avoid traffic cutting through their parking lot.

Chris McGuire, McCann Building Corporation, 1059 Circle Drive, Highland, Wisconsin, stated that they will work with the city's ordinance on signage. He then stated that they would like to not have awnings on the west elevation as requested as they would protrude into the drive-through lane which could potentially cause vehicle damage. He asked if they could get the grading and foundation permits in advance of the building full permits due to the time of year they are proposing to start construction. Blin stated that the city typically requires a full set of buildings plans and a building permit prior to initiating the construction process. In this case because they are trying to beat the winter elements, staff is suggesting that if the Council approves this project on October 3, their grading permit would be issued to allow them to start

preparing the site while the building plans are being reviewed. McGuire stated that their primary focus is to get the asphalt laid before it is too cold.

Brittain understands the concerns about awnings on the west side of the building and asked if they could put some other type of architectural materials to break up some of that transitional space. McGuire responded that they could look at possibly adding some type of architectural insertion or accent colors. Blin stated that staff will work Culver's to dress up that side of the building.

Folch asked if there would be a barrier between the outdoor patio area and the vehicle traffic, such as a railing to keep kids from wandering into the traffic area. McGuire stated that they could do that.

Willhite asked the applicant what their preference would be for the sign. McGuire stated that they have done signs of all heights and there are solutions to prevent creative lettering. He asked if they could get a little more height to keep the reader board out of reach.

Reese opened the public hearing. No one spoke. Reese closed the public hearing.

Messick stated that he would be agreeable to raising the height of the sign by four to five feet to get it out of reach. He also asked if there was a desire to have a higher sign so it could be seen from the highway. McGuire responded that the sign, regardless of height, would not be seen from the highway; its function is to be seen from the local roadways.

Willhite made a motion to recommend approval of the preliminary plat, site plan review, and conditional use permit, with the sign being allowed to be 19 feet in height, subject to the conditions listed below. Messick seconded.

Reese asked what materials the trash enclosure would be constructed of, is there enough room to maneuver a garbage truck by the enclosure, and where deliveries would be made. McGuire stated that delivery trucks would be parked in the drive-through lane and be unloaded from the right side of the vehicle and brought in through the back door before the restaurant opens for the day. The trash enclosure would be constructed of masonry as shown in the elevations and the dumpster gates would be rough sawn cedar, which they found is easier to maintain or replace than alternative products such as metal.

Brittain asked about the maintenance program for the cedar doors. McGuire explained that the product is stained to match the siding, noting that Culver's has an annual inspection in which each store is graded so it is in the owner's best interest to ensure that the whole property is well maintained. Brittain then stated he believes it is a good idea to keep the sign out of the reach of mischief, but he prefers the look of the shorter sign. He would be all right with the sign at the taller height.

- 1. All drainage and utility easements recommended by the City Engineer are shown on the final plat.***
- 2. All applicable permits (i.e., building, electrical, grading, mechanical) and a commercial plan review packet must be completed, submitted, and approved by the City prior to***

the commencement of any construction activities. Detailed construction plans must be reviewed and approved by the Building Official and Fire Marshal.

- 3. Final exterior construction materials and colors must be reviewed and approved by the Planning Department prior to the issuance of a building permit.***
- 4. Colored stripes/corporate branding is prohibited on the building awnings.***
- 5. LED architectural light bands shall be permitted around the perimeter of the building near to roof flashing.***
- 6. The grading and erosion control plan for the site must comply with NPDES II Permit requirements. Erosion control devices must be installed prior to commencement of any grading activity. Erosion control must be performed in accordance with the recommended practices of the "Minnesota Construction Site Erosion and Sediment Control Planning Handbook" and the conditions stipulated in Title 10-5-8, Erosion Control During Construction, of the City's Subdivision Ordinance.***
- 7. Cross parking easements must be recorded for the site prior to the issuance of a building permit.***
- 8. The applicant must provide the City with an as-built survey of all private utilities prior to certificate of occupancy.***
- 9. Prior to the issuance of a building permit, the applicant must pay a park dedication fee amounting to \$23,117.00.***
- 10. Prior to the issuance of a building permit, the applicant must revise the monument sign as detailed in the staff report, and submit a comprehensive sign package to the City for review and approval.***
- 11. Prior to the issuance of a building permit, the applicant must submit to the City a comprehensive lighting package consistent with the city redevelopment plan for review and approval. All outdoor lighting must be directed downward and away from residential property and public streets, and must not exceed one footcandle at the property lines.***
- 12. All curbing for the project must be consistent with the existing curbing in the plat.***
- 13. The landscaping plan must be revised to address the items identified in the staff report. Said plan must be reviewed and approved by the Planning Department prior to the issuance of a building permit.***
- 14. A bona fide cost estimate of the landscaping improvements must be submitted in conjunction with a letter of credit approved by the City in the amount of 150 percent of such estimate. Upon completion of the landscaping requirements, the applicant must in writing inform the City that said improvements have been completed. The City will retain the financial guarantee for a period of one year from the date of notice to insure the survival of the plantings, and until the as-built utility survey has been***

submitted. No building permit will be issued until the required financial guarantee has been received and accepted by the City.

15. Ornamental wrought iron/aluminum fencing that is consistent with the City standards will be required for any fencing completed on the site.

16. A radio-read water meter(s) must be installed.

Motion passed unanimously (7-to-0 vote).

6.5 Preliminary Plat: Holiday Stationstore – Case PP07-047

BDM Consulting Engineers has applied for a preliminary plat for Holiday Stationstore Cottage Grove, which would create one commercial lot for the existing Holiday Station at 8101 Hadley Avenue South.

Blin summarized the planning staff report and recommended approval subject to the condition stipulated in the staff report.

Reese opened the public hearing. No one spoke. Reese closed the public hearing.

Messick made a motion to recommend approval subject to the condition listed below. Hofland seconded.

1. All drainage and utility easements recommended by the City Engineer must be shown on the final plat.

Motion passed unanimously (7-to-0 vote).

6.6 Preliminary Plat: Hamlet Park South – Case PP07-056

The City of Cottage Grove has applied for a preliminary plat for Hamlet Park South, which would be located on property north of 95th Street and west of Hemingway Avenue (the Werner Electric site), to create one industrial lot and three outlots. Expansion of Hamlet Park would occur on Outlot B and future residential development may occur on Outlots A and C.

McCool summarized the planning staff report and recommended approval based on the findings of fact and subject to the conditions stipulated in the staff report.

Reese opened the public hearing.

Gerald Shaver, 9325 Harkness Avenue, stated that when he moved to the area five years ago, he was told that the area was parkland. He explained that he believes that behind his property are underground water lines and a 50-foot easement. McCool stated that the sanitary sewer lines run through there within the 50-foot buffer. Shaver was also told that there would be trails through that area and that trees would be planted there. He does not believe that there would be room for any buildings right behind his property. He asked if there would be enough room on Outlot C for a building. McCool stated that Outlot C is a triangular piece of land that would

be combined with Outlot A and that 14 acres of land would be the site for potential future development. He then stated that Shaver lives just to the south of that parcel and the Werner Electric property is located directly to the east. Shaver asked if there would be room for home building right behind his property. McCool responded that would be park property. Shaver said he was also told that there is going to be another pond coming in behind his property. McCool stated that there has been discussion about expanding the pond system within the Hamlet Park area with additional ponding in that vicinity.

No one else spoke. Reese closed the public hearing.

Brittain made a motion to recommend approval subject to the conditions listed below. Folch seconded.

- 1. All drainage and utility easements recommended by the City Engineer are shown on the final plat.***

Motion passed unanimously (7-to-0 vote).

6.7 Zoning Code Amendment: East Ravine Design Standards – Case TA07-044

The City of Cottage Grove has applied for text amendments to revise City Code Title 11-3-4D, Visibility, to re-insert the provision that no structure be within 20 feet of a public street right-of-way on a corner lot; and to Title 11-9I-5, Multi-family and Townhouse Performance Standards, to require the same exterior materials on all sides of multi-family and townhouse structures.

McCool summarized the planning staff report and recommended approval.

Reese opened the public hearing. No one spoke. Reese closed the public hearing.

Brittain made a motion to recommend approval. Hofland seconded. Motion passed unanimously (7-to-0 vote).

6.8 Zoning Code Amendment: Dynamic Signs – Case TA07-055

The City of Cottage Grove has applied for a zoning text amendment to amend City Code Title 9-8, Signs and Billboards, to prohibit dynamic signs.

Blin summarized the planning staff report and recommended approval.

Reese asked how the City of Minnetonka responded to the study on dynamic signs. Blin responded that Minnetonka reached a settlement with the billboard company, allows dynamic billboards but regulates the duration and the luminosity of the sign.

Willhite asked for more information on electronic reader board signs. Blin responded that the best example is the Walgreen's monument sign, which is a reader board that has script that can be changed electronically. That is the only electronic reader board sign in the city, and if this ordinance is approved, it would become a legal nonconforming sign. However, it could not be replaced if it was destroyed. Willhite asked if schools would also be prohibited from

installing electronic reader board signs. Blin responded that the school district asked for an electronic reader board sign about three years ago, and the Planning Commission denied it on the basis that the city does not want those types of signs, whether for public or private entities. Willhite asked why the city does not want those types of signs. Blin stated that it was due to the potential for distraction as they are brighter and have the potential to change the message. He stated that restrictions on how often the message could change could become an enforcement issue. Willhite suggested regulating the brightness through the lighting ordinance. She stated that she finds these types of signs more attractive than the signs currently allowed.

Thiede asked if this ordinance amendment would prohibit any type of electronic or mechanical signs. Blin responded that was correct. Thiede stated that electronic signs could become less expensive than static signs. He also suggested that the city could determine how often the images are allowed to change.

Brittain stated that the Commission has done a lot of work to improve the aesthetics of the community and he does not find dynamic signs aesthetically appealing.

Willhite disagreed with Brittain on the aesthetics, stating that she believes dynamic signs would look better and be easier to read than the current signs at Park High School and Crestview Elementary. She does not see any problem with having electronic reader board signs as long as there are regulations on brightness and how often images can be changed.

Messick asked if cities receive revenue from billboards. Blin responded that typically the signs are located on property that is leased from a private property owner who receives income from the lease, but the city does not.

Folch expressed concern about reader board signs at high schools due to possible distractions for young drivers. She stated that in Hastings there are several dynamic reader board signs, which she thinks are visually ugly.

Willhite stated that the city regulates building materials and should be able to regulate signs, but she does not think they need to be eliminated totally.

Reese asked about gas stations being an exception to the prohibition on dynamic reader board signs. Blin responded that cities cannot regulate the contents of signs but can regulate the such things as size, height, and luminosity. Gas stations are the only type of business required to have a sign, which lists the gas prices. He stated that it would be up to the Planning Commission to continue the current blanket prohibition or to allow this one exception. Reese then stated that there could not be an exception for schools to have electronic reader board signs. Blin responded that was correct.

Brittain stated that he could see allowing gas stations to have electronic signs for gas prices because they are required by law to have a sign; however, they also advertise other products in the same format. He would like to prohibit the electronic lottery signs in front windows of stores. He asked if the city prohibits other types of advertisement in windows. Blin responded that lighted signs are allowed but they cannot flash. Window signage is limited to one-third of the window area. Brittain would like to see the lighted signs in windows, except for open signs, to be prohibited for aesthetic reasons.

Messick stated that the city may run into legal issues on that. It is harder to make the argument that the compelling city interest is safety, when this is more about aesthetics. He suggested getting a legal opinion. Blin stated that staff would look into that before the ordinance goes to Council.

Thiede stated that prohibiting lighted signs inside a building may be too specific. He noted that one of the gas stations has displays signs above the gas pumps. He then asked about the message boards on highways. Blin responded that Mn/DOT is categorically exempted from our sign code. Folch stated that Mn/DOT does not like to turn those on for safety reasons as it slows down traffic.

Brittain asked what on grounds were standard LED signs prohibited in the past if it was not for safety reasons. Blin responded aesthetics.

Blin stated that this ordinance amendment does not immediately need to go to the City Council, so the application could be continued.

Willhite made a motion to continue the public hearing. Messick seconded. Motion passed unanimously (8-to-0 vote).

Discussion Items

None.

Approval of Planning Commission Minutes of August 27, 2007

Being that there were no corrections to the August 27, 2007, minutes, they were accepted as distributed.

Reports

9.1 Recap of September City Council Meetings

Blin reviewed the items discussed by the City Council at their September 5 and 19, 2007, meetings.

9.2 Response to Planning Commission Inquiries

Blin responded to the inquiry from last month about the 80th Street bridge. He stated that the bridge is not up to current standards in terms of design, though Mn/DOT considers it to be in good condition. Upgrading the bridge is a very expensive proposition, though installing a decorative rail would give it better aesthetic appeal and would be the least costly alternative. He then reported that staff looked at the house in Timber Ridge 6th Addition that was referenced last month. While it is a little different in style than other in Timber Ridge, Pulte Homes is within its rights to build that house even though it is a little bit smaller.

9.3 Planning Commission Requests

Willhite asked for an update on the Cottage View Theater area. She also asked for a list of the Planning Commissioners. Blin stated that staff would provide an updated list to the Commission.

Folch asked about an inventory of the community's assets, as referenced by John Burbank at a meeting a few months ago. She stated that she recalls that the area where the drive-in is located is an area that is considered an asset. She asked for a copy of that study.

Adjournment

Thiede made a motion to adjourn the meeting. Brittain seconded. Motion passed unanimously and the meeting adjourned at 8:54 p.m.