

**THE REGULAR MEETING OF THE PLANNING COMMISSION BOARD HELD ON AUGUST 15, 2011,
AT 7:00 P.M., AT THE CITY HALL CHAMBERS**

The meeting was called to order at 7:00 P.M., by Dave Thompson. Members present were Jack Edmonds, Ben Hanson, Mitzi Mellott, and Dick Dobson. Township members present were Jim Kusler (Princeton Twsp.) and Randy Atwood (Baldwin Twsp.) Staff present were Carie Fuhrman and Mary Lou DeWitt.

APPROVAL OF MINUTES OF THE REGULAR MEETING ON JULY 21, 2011 & THE SPECIAL MEETING OF AUGUST 1, 2011

EDMONDS MOVED, SECOND BY MELLOTT TO APPROVE THE MINUTES OF JULY 21, 2011. UPON THE VOTE, THERE WERE 5 AYES, 0 NAYS. MOTION CARRIED.

HANSON MOVED, SECOND BY EDMONDS TO APPROVE THE MINUTES OF THE SPECIAL MEETING OF AUGUST 1, 2011. UPON THE VOTE, THERE WERE 5 AYES, 0 NAYS. MOTION CARRIED.

PUBLIC HEARING:

Fuhrman informed the Planning Commission Board that MFRA, on behalf of Walmart Real Estate Business Trust, has submitted applications for a Preliminary and Final Plat, Easement Vacations, Conditional Use Permit, and Site Plan Review in order to construct and operate a new retail Walmart store located west of Highway 169 and south of Highway 95 on the property described as Lots 3, 4, 5, and 6, and Block 1 of Rivertown Crossing. The property is currently owned by Thousand Acres Development Company and is zoned B-3. Fuhrman wanted to give an overall review of the applications submitted by Walmart and then have Mike Nielson, City Engineer give his review.

Fuhrman reviewed the application requests:

- I. Preliminary and Final Plat application to combine Lots 3, 4, 5, and 6, Block 1 of Rivertown Crossing into one lot, to be known as Lot 1, Block 1 of Rivertown Crossing.
- II. Vacation of the drainage and utility easements that lie within Lots 3, 4, 5, and 6, Block 1 of Rivertown Crossing.
- III. Conditional Use Permit in order to operate a retail business and service business establishment more than 50,000 square feet in total building area, including outside storage, in the B-3 General Commercial District. Also included is a request for approval to extend the permit for an additional period not to exceed six months beyond one year from the date of the Conditional Use Permit.
- IV. Site Plan Review is required by the Planning Commission for all plans and specifications pertaining to site use design before any building permit is issued for a principal use in the B-3 District.

Walmart requested to extend the City's review period and postpone the application reviews until the August Planning Commission meeting. The Public Hearings were opened at the July 18, 2011, Planning Commission meeting and were continued until the August 15, 2011, meeting.

The applicants have submitted an application for a 120,807 square foot Walmart retail store to be located in the Rivertown Crossing Plat, located south of Highway 95 and west of Highway 169. The store is proposed to be open 24 hours a day, offer a drive-thru pharmacy in the

northeast corner of the store, and a seasonal garden center in the northwest corner of the store, with the potential to expand into the parking lot if needed. The store will contain approximately 60% general merchandise and 40% grocery, with a cross over area of household paper and cleaning products. The internal tenants are not determined at this time, but could contain fast food, a vision center, hair or nail salon, clinic, bank, etc.

Fuhrman commented that the B-3 Zoning District requires portions of buildings facing or oriented towards public rights-of-way shall feature breaks or divisions in materials. The proposed building does include variations in color and design materials but, this may be an opportunity for the City to establish a high standard for design features of this type of building. It is purely a policy decision to be made by the Planning Commission, but they may want to consider requiring additional architectural features on the rear and right elevations especially.

Hanson asked if this is the back side of the building she is speaking of.

Fuhrman said it was.

Edmonds commented that he does not have concerns with the back side of the building. It will not be that visible from First Street.

Mike Nielson, City Engineer with WSB was present and addressed the Planning Commission Board on his review and went over his memo dated August 15, 2011, that stated: WSB has completed the review of the Walmart Development plan at 21st Avenue North and Second Street North in the City of Princeton for stormwater, traffic, and general requirements.

The Walmart store is located in the Rivertown Crossing Plat approval that was processed in 2004 with the site improvement being completed in 2006.

The plan was reviewed for conformance with the direction given to the Rivertown Crossing Developer's for rate control, flood control, water quality treatment, and infiltration/volume control during the development approval process in 2004. At this time, rate control for the site was limited to existing rates, flood control freeboard to low building opening and low floor elevations, and water quality treatment.

Based on my review I offer the following comments and observations for your consideration.

Summary

1. The stormwater management plan for the site provides rate control of the 100-year 24-hour event to the pre development existing conditions discharge rates. The proposed plan discharges the site runoff east to the existing storm sewer that outfalls to the storm water storage pond immediately west of TH 169. The previous stormwater modeling indicates that the pond will discharge at a rate below the existing discharge rate.
2. The existing pond was designed for an impervious area of 75%. The Walmart site is being proposed with an impervious area of 80%. The additional stormwater ponding volume is being provided by an on-site dry pond. This pond will provide an infiltration component meeting the

requirements of the newly adopted WRMP. The water quality treatment requirements are being met by the existing pond adjacent to TH 169.

3. The flood control regulations to the low floor and low building opening are in conformance with the City requirements. It is estimated that when the parcels east of 19th Avenue are developed that the EOF will not be above elevation 981.5.

4. The storm sewer design is consistent with the capacity requirement for the site. The submitted calculations have adequate capacity to meet the City regulations.

Specific plan review comments that will need attention prior to the final approval.

The following review is for the plan set with Revision Date of 7/29/11 as prepared by MFRA, Inc. and signed by Mr. Robert Olson, PE.

Sheet C3.01 – Preliminary Site Plan

1. The curb & gutter on the southwest corner of the site is within the drainage and utility easement. The City will allow this as condition to exist if it is noted in the developers agreement that all costs for removal and replacement of the encroaching infrastructure will be the responsibility of Walmart.
2. Verify that the right turn lane length meets the 20-year traffic projection.

Sheet C4.01 – Preliminary Grading Plan

1. Construction Entrances need to be shown on the plan.
2. Stormwater management BMP's need to be shown on the plan prior to approval.

Sheet C6.01

1. Storm sewer pipe inverts need to be modified to match the storm sewer design sheets.

Sheet L1.01

1. The placement of trees and shrubs over the storm sewer and in emergency overflow routes should be avoided and the placement of trees over the existing City storm sewer in the southwest corner must be redesigned.

Traffic Analysis

As requested, we have reviewed the Traffic Impact Study prepared by Spack Consulting for the proposed Walmart Store in Princeton, Minnesota. The proposed development is located on east side of 21st Avenue south of TH 95. The development will include the construction of an 118,687 SF building on a vacant lot.

The primary purpose of the review is to insure that with the opening of the Walmart Store traffic operations in the area will not be significantly impacted. Based on our review of the Traffic Impact Study dated May 2011, the following comments should be addressed if applicable.

1. The traffic analysis concludes that there are no significant impacts and that only minor signing and stripping changes are required. The primary concern is that the analysis does show a borderline issue at the TH 95 and 21st Avenue intersection.

The LOS results indicate that a LOS F is OK for stop controlled approaches at busy highways. I would agree with this for a low volume street however, when the traffic on side street (21st Avenue) is approaching the same level as the highway traffic (TH 95) I believe this would become a operation and safety concern especially with a 50/55 mph speed limit on TH 169. This conclusion also conflicts with the statement on page 15 in the last paragraph where it indicated that LOS F is OK where "approach volumes are relatively light".

Based on these concerns the following questions should be addressed.

a. Additional analysis should be completed to determine when anticipated improvements (i.e. roundabout or signal) would be required at the TH 95 and 21st Avenue intersection. To be conservative, the same yearly background growth rate (2.05%/yr) can be used on top of the 2013 build volumes to determine future traffic conditions on both TH 95 and 21st Avenue.

b. The links and turn bay storage lengths should be verified. The analysis indicates a 550 ft link length for the westbound left turn lane at 21st Avenue. I believe this is the actual length between the TH 169 Ramp and 21st Avenue. The actual left turn lane storage should be used in the analysis.

2. The EA prepared for TH 95 improvements indicate that Mn/DOT's threshold for expansion from a two land roadway to a four lane roadway is 11,200 vpd. The projected 2013 volume on TH 95 is 9,200 without the proposed Walmart and 14,100 with the proposed Walmart. This would indicate that additional improvements to TH 95 will be needed between TH 169 and 21st Avenue in the near future and that planning should begin with Mn/DOT for these improvements. Improvements of this magnitude would not be the sole responsibility of Walmart and should not be a requirement of the development.

3. Any improvements to TH 95 will require review and approval by Mn/DOT. One of the criteria they look at is if an intersection meets traffic signal warrants. We have looked at the intersection of TH 95 and 21st Avenue to determine if it would meet warrants based on the projected peak hour traffic volumes with the Walmart Store. The results conclude that it would meet the peak hour warrant even assuming on 50% of the right turns in the calculation. It should be noted that Mn/DOT typically will not approve the installation of a traffic signal based solely on projected traffic.

However, installation and justification of a roundabout is based more on capacity and may be a good option to consider for this intersection assuming the borderline operational issues anticipated and the fact that the intersection does meet a signal warrant.

In previous discussions with Mn/DOT they have acknowledged that this stretch of TH 95 is and will be a concern for them, and that they are open to discuss potential improvements.

Based on the comments and my review of the Traffic Impact Analysis, I concur with the recommended improvements in the Study; however I believe that additional traffic control and improvements will be needed at TH 95 and 21st Avenue as a result in part by the proposed Walmart site traffic. Additional information and analysis, as outlined above, should be provided

in order to determine when these improvements should be completed. In addition the City should continue to work with Mn/DOT to imitate corridor improvements.

Our recommendation is that no additional traffic improvements will be necessary prior to Walmart opening up, however we acknowledge that in the near future traffic control improvements will be necessary at the intersection of 21st Avenue North and TH 95. We recommend that Walmart acknowledge their proportional responsibility for these improvements in the Developer's Agreement.

Nielson said that the conditions have been met on additional ponding and storm system. The small typos in the plans have been cleaned up. The pedestrian sidewalk on the east side of 21st Avenue has been included. When the parcel to the north of the Walmart site develops, that property owner will be responsible to extend the sidewalk. There is a connection to the utilities on 19th Avenue and it will be looped. There are two access points for water. So they have met those requirements. Nielson did ask them to put a driveway to access the lift station, but because it is out of the existing easement, he is requiring that they put in an ingress/egress access and this should be written in the Developer's Agreement.

At some point following the Walmart development where this area develops more maybe in three to five years, improvements will be needed at the intersection. It is at a satisfactory level right now. All contributing traffic generated from facilities that build in that area will be accessed for improvements needed for the intersection.

Thompson told those that are present that the public hearing is now open. If any of the Walmart representatives or audience would like to speak or ask questions they can.

Eric Miller, Civil Engineer with MFRA, spoke for Walmart. Miller said they have no comments or concerns regarding the staff report.

Joel Stottrup, Union Eagle Reporter, asked the representatives from Walmart when they will begin construction.

Miller responded that they will begin construction in the spring of 2012 and the completion should be in the first quarter of 2013.

Dylan Howard, Howard Homes, asked what the regulations are for the sides, front, and back of the building.

Fuhrman said in the B-3 Zoning District in the design criteria it reads buildings facing or oriented toward public rights-of-way or residentially zoned or designated parcels shall be feature breaks and divisions in materials. Fuhrman said this is open to interpretation and is up for the Board to determine.

Nick Tumler, 9706 State Hwy. 95, has property on the north side of Hwy 95. Tumler said he is worried about the traffic. If this store is successful, what would be the solution for the

increased traffic. He is also concerned about his own property and if there are improvements with the intersection, would it have any impact on his property.

Nielson said there is a proposed right-of-way purchase that would be a bump out at the frontage road and Hwy 95. There is one property north of 21st Avenue that would be involved in the intersection expansion. Nielson will show him a right-of-way map later of what he is speaking of.

Carol Hinchliff, 1304 2nd Street North, asked how much of the store will be groceries.

Jackolyn Cook-Haxby, Project Architect, answered that it will have full grocery. The grocery sales area will be 25,000 square feet. It will have all that a grocery store has. That square footage does not include the back room area. The store will have one entrance.

Those present had no other comments for staff, City Engineer, or applicants. The overall review was completed and the Planning Commission Board moved forward on their recommendation of the Walmart applications.

A. #03-11 Rivertown Crossing Second Addition Preliminary & Final Plat

The proposed Preliminary and Final Plat is processed as a "Short Plat", which requires only one review by the Planning Commission and City Council, with a public hearing held at the Planning Commission level for the Preliminary Plat.

The plat proposed to combine Lots 3, 4, 5, and 6, Block 1, Rivertown Crossing into one parcel, to be known as Lot 1, Block 1, Rivertown Crossing Second Addition and will contain the proposed building and all associated uses (parking, outdoor sales area etc.) The lot will be 14,488 acre in size. The plat proposes to retain the existing 20 foot drainage and utility easement located on the perimeter of the proposed parcel, along with a 74 foot by 60 foot drainage and utility easement in the southwest corner of the lot.

If the Planning Commission approves the Preliminary and Final Plat conditions upon the approval, the applicant shall be responsible for following the final plat procedures indentified in the Subdivision Ordinance, including the requirement to enter into a Developer's Agreement with the City and following the City Engineer and other staff comments and conditions.

DOBSON MOVED, SECOND BY HANSON TO CLOSE THE PUBLIC HEARING. UPON THE VOTE, THERE WERE 5 AYES, 0 NAYS. MOTION CARRIED.

Edmonds brought back Fuhrman's comment on the outside finish material of the store. The front of the building will face Hwy 95 and the east will face Hwy 169. He does not see an issue of the back side having a plainer look. Maybe a little coloration could be added in the back.

Dylan Howard understood that the public hearing was now closed, but did want the Planning Commission to understand that Howard Homes owns the buildings that face the back side of this site. It is those buildings that buffer First Street. He would like to see the back side of this proposed building have some color and variations for those buildings that face it.

Fuhrman was asked by Hanson to re-read from the Zoning Ordinance regarding the design criteria. In B-3 Section, General Design Criteria it states:

- a. Building facades shall be designed to avoid monolithic or monotonous appearance by employing designs which prevent the appearance of straight, unbroken lines in their horizontal and vertical surfaces.
- b. Portions of buildings facing or oriented toward public rights-of-way or residentially zoned or designated parcels shall be feature breaks/divisions in materials, separate entrances/entrance treatments, variation in rooflines and/or variation in building setbacks.

Jackolyn Cook-Haxby commented that the outside of the building is not all one material. There is a section that has the look of brick. They could certainly add more color to the back of the building. She agrees that the color scheme can look dull and would be happy to add more color to the back side and this would also change the color of the wrap around.

Howard asked if they use tip up panels and she said yes. Howard responded that he would like to see the color change she spoke of put on this building.

Dobson commented that he would like the added aesthetics put in the building.

Jackolyn Cook-Haxby said the colors cost the same so it is fine with her.

HANSON MOVED, SECOND BY EDMONDS, TO APPROVE ITEM #03-11 RIVERTOWN CROSSING SECOND ADDITION PRELIMINARY & FINAL PLAT BASED ON THE FINDINGS THAT THE PROPOSED PLAT MEET THE REQUIREMENTS OF THE ZONING AND SUBDIVISION ORDINANCES AND SUBJECT TO THE FOLLOWING CONDITIONS: THE APPLICANT SHALL FOLLOW THE FINAL PLAT PROCEDURES IDENTIFIED IN THE SUBDIVISION ORDINANCE, EXECUTION OF A DEVELOPER'S AGREEMENT WITH THE CITY, CITY ENGINEER'S COMMENTS AND CONDITIONS SHALL BE MET, AND ANY OTHER CONDITIONS AS RECOMMENDED BY STAFF, PUC, PLANNING COMMISSION, CITY ENGINEER, PUBLIC WORKS, OR CITY COUNCIL. UPON THE VOTE, THERE WERE 5 AYES, 0 NAYS. MOTION CARRIED.

B. #04-11 Vacation of Drainage & Utility Easements (Lots 3, 4, 5, & 6, Block 1, Rivertown Crossing)

The applicants have submitted an application to petition to vacate the drainage and utility easements established along the interior lot lines of Lots 3, 4, 5, and 6 of Rivertown Crossing. These easements are no longer needed if the preliminary and final plat are approved, which would result in the combination of these four lots into one lot.

The Planning Commission is required to hold a public hearing regarding vacations, with final approval or denial issued by City Council. In reviewing a vacation, it should be determined that there is no present or prospective use for the easement, and the vacation will serve the public interest. As a condition upon approval, a certified copy of the resolution granting the easement vacation shall be recorded with the County Recorder's office and any conditions by the City Engineer shall be followed. Any other conditions recommended by staff, PUC, Planning Commission, or City Council will also be met.

Fuhrman would like to add as another recommendation that if in the future the parcel were subdivided, the drainage and utility easements are given back to the City.

DOBSON MOVED, SECOND BY HANSON TO CLOSE THE PUBLIC HEARING. UPON THE VOTE, THERE WERE 5 AYES, 0 NAYS. MOTION CARRIED.

DOBSON MOVED, SECOND BY EDMONDS, TO APPROVE ITEM #04-11 TO VACATE THE DRAINAGE AND UTILITY EASEMENTS ALONG THE INTERIOR LOT LINES OF LOTS 3, 4, 5, AND 6, BLOCK 1, RIVERTOWN CROSSING, WITH THE CONDITIONS THAT A CERTIFIED COPY OF THE RESOLUTION GRANTING THE EASEMENT VACATION BE RECORDED WITH THE COUNTY RECORDER'S OFFICE AND ANY CONDITIONS BY THE CITY ENGINEER, PUC, CITY STAFF, PLANNING COMMISSION BOARD AND CITY COUNCIL SHALL BE FOLLOWED, AND IF IN THE FUTURE THE PARCEL WERE TO BE SUBDIVIDED, THE UTILITY AND DRAINAGE EASEMENTS ARE GIVEN BACK TO THE CITY. UPON THE VOTE, THERE WERE 5 AYES, 0 NAYS. MOTION CARRIED.

The Planning Commission Board reviewed the Findings of Fact:

1. Will the vacation of the easement reduce the access to provide sewer and water utilities to adjoining property? No
2. Will the easement vacation cause problems to the surrounding neighborhood in the form of storm water runoff? No.
3. What if any impact be against the surrounding area in regard to the vacation of easement? No.

Facts supporting the answer to each question, above, are hereby certified to be the Findings of the Board of Adjustment. Findings of Fact were approved.

C. #05-11 Conditional Use Permit for Walmart Retail Store over 50,000 Square Feet & Walmart Site Plan Review

The subject property is zoned B-3 General Commercial District. The B-3 District allows retail business and service business establishments with more than 50,000 square feet in total building area, including those with outside display, through the conditional use permit process. The proposed Walmart building will be approximately 120,000 square feet, along with an attached outdoor garden center approximately 7,000 square feet in size and a seasonal sales area within the parking lot.

Subsection 4.E. of chapter IV specifies the expiration date for conditional use permits. If substantial (80% of construction) has not taken place within one year after the date of a Conditional Use Permit, the permit is void except that, on application within one year, the Planning Commission may extend the permit for an additional period not to exceed six months.

The applicants are requesting to extend the Conditional Use Permit for an additional period not to exceed six months. If approved, the following conditions should be included; City Engineer's comments and conditions are met, all of the conditions listed under the Site Plan Review shall be met, and any other conditions recommended by staff, PUC, or Planning Commission are followed.

DOBSON MOVED, SECOND BY HANSON TO CLOSE THE PUBLIC HEARING. UPON THE VOTE, THERE WERE 5 AYES, 0 NAYS. MOTION CARRIED.

DOBSON MOVED, SECOND BY HANSON, TO APPROVE ITEM #05-11 CONDITIONAL USE PERMIT FOR WALMART RETAIL STORE OVER 50,000 SQUARE FEET, ALONG WITH A SIX MONTH EXTENSION NOT TO EXCEED SIX MONTHS BEYOND ONE YEAR FROM THE DATE OF THE CONDITIONAL USE PERMIT BASED ON THE FOLLOWING CONDITIONS: THE CITY ENGINEER'S COMMENTS AND CONDITIONS SHALL BE MET, ALL CONDITIONS LISTED UNDER THE SITE PLAN REVIEW SHALL BE MET, AND ANY OTHER CONDITIONS AS RECOMMENDED BY STAFF, PUC, AND PLANNING COMMISSION.

Edmonds asked if the motion should be amended to include the variation of color being added to the back side of the building.

Fuhrman said that should be included in the Site Plan motion.

UPON THE VOTE, THERE WERE 5 AYES, 0 NAYS. MOTION CARRIED.

Dobson thanked those who were representing Walmart for working with the Planning Commission on being able to change the color scheme in the back of the building.

The Planning Commission reviewed the Findings of Fact:

1. Are there characteristics of the proposed use that may violate the health, safety or general welfare of Princeton residents? No.
 2. Does the proposed use present any unique concerns regarding erosion, runoff, water pollution or sedimentation? No.
 3. Could the proposed use create any special problems with parking? No.
 4. Would the proposed use cause any problems with access or traffic generation? No.
 5. Is the proposed use incompatible with other uses located in the zoning district? No.
- The Commission recommends approval of a Conditional Use Permit, based upon the Findings of Fact, with the noted conditions.

C. Walmart Site Plan Review (second part of Item C.)

The City Code requires a Site Plan Review for commercial projects. The Zoning Ordinance underwent fairly significant amendments last year during the update with Bonestroo. The amendments were adopted by Council at their November 18, 2010 meeting; however, the ordinance was not published until June 30, 2011. Because Walmart application was submitted prior to the ordinance being published, the application will be reviewed based on the regulations in place at the time of their application submittal.

The site plan proposes 601 parking stalls, which exceeds the Ordinance requirement of 544 parking stalls. Although the outdoor seasonal sales area is proposed to be located within the parking lot and would occupy approximately 33 parking stalls, the required minimum number of parking stalls is still met. The site plan proposes a mixture of 60 degree and 90 degree parking stall, along with one and two-way drive aisles. The proposed parking stalls, drive aisles, and setbacks meet the Ordinance requirements.

The Ordinance requires one bicycle parking space for each 50 off-street parking spaces. An updates site plan, received August 4, 2011, indicates bicycle parking spaces for 12 bicycles to the west of the entry vestibule.

The B-3 District requires landscaped islands within parking lots. According to Subsection G of B-3, all off-street parking areas shall include unpaved landscaped islands that are distributed throughout the parking area. These islands shall be located to break up expanses of paved area and facilitate traffic control. The current total area of the proposed landscape islands 14,799 square feet meets the 14,327 square feet requirement.

The updated site plan proposed three dock wells, or loading and unloading areas immediately adjacent to the store and two other areas in the rear of the store as being alternate loading and unloading areas. The five loading areas meet the Ordinance requirement for loading and unloading spaces.

The Landscape Plan was submitted with the required drawings. Subsection L of the Performance Standards stipulates the requirements regarding landscaping regulations. The applicant has submitted a revised Landscape Plan dated July 29, 2011, and meets the total required height and caliper. Although the Preliminary Landscape Details do not indicate the specific number of understory shrubs proposed, by utilizing the landscape details and proposed number of landscape islands as a guide, it is understood that the required number of understory shrubs of 396 will be met.

All exterior trash containers shall be screened by an enclosure as approved by the Planning Commission. All rooftop mechanicals shall be screened with materials that are architecturally compatible with the building; and all ground level mechanicals shall be screened with shrubs or an approved fence.

The color elevations submitted indicate the building will be constructed with decorative architectural pre-cast panel and EIFS, which are both approved materials. Accent materials shall also be used, including CMU split face, quik-brik, panel systems for the main sign area, and metal slat awnings on the front elevation.

Subsection E.9 of the B-3 Zoning District requires that portions of buildings facing or oriented towards public rights-of-way shall feature breaks/divisions in materials, separate entrances/entrance treatments, variation in rooflines, and/or variations in building setbacks. This building is highly visible as it is located adjacent to three public rights-of-way. Although the proposed building does include variations in color and design materials, this may be an opportunity for the City to establish a high standard for design features of this type of building. This would be a decision made by the Planning Commission, but they may want to consider requiring additional architectural features on the rear and right elevations.

The applicants are proposing one pylon sign to be located in the northeast corner of the property. The sign is proposed to be 95 square feet in size, (4 ft, 9 in by 20 ft.), 20 feet high, and internally illuminated. The sign meets size, height, and location requirements.

The colored elevations also proposed multiple wall signs on the proposed structure, including three on the front elevation; the main "Walmart" sign lettering in white with the yellow spark logo (298 SF); white "Market & Pharmacy" lettering (102.58 SF); and white "Outdoor Living" lettering (77.24 SF). A wall sign indicating the "Pharmacy Drive-Thru" is also proposed on the left elevation, facing the east (19th Avenue North).

The Ordinance allows for more than one wall sign when a building abuts two or more streets or is a multi-tenant building. The pharmacy and outdoor garden center can be viewed as individual tenants for the purposes of sign regulations. The Ordinance allows multi-tenant buildings to have one wall sign per tenant or similar design standards, and each meets the 10 percent building wall area requirement. The main Walmart/Spark sign exceeds the 200 square feet maximum, but the Ordinance offers the Zoning Administrator the authority to allow individual wall signs larger than 200 square feet in exchange for reducing or removing other wall signage normally allowed. Because the applicants are not proposing wall signage on the wall facing 21st Avenue North, the main Walmart/Spark sign is reasonable.

Sign Permits shall be obtained prior to the construction/installation of any signage. Any modifications to existing signage or the addition of new signage shall follow Ordinance requirements.

The posting of surety shall be required at the time a certificate of occupancy is to be issued for completion of any uncompleted site improvements, according to Section G of the Site Plan Review requirements (p. VII-10, Subdivision Ordinance).

In addition, the applicant is required to provide surety to the City in an amount of \$0.50 per square foot of the site footprint for landscaping/screening site improvements. The surety is

refundable upon completion of the site work to the satisfaction of the Building Official and/or Planning/Zoning Administrator (p.VII-2, Subdivision Ordinance).

If the Planning Commission Board approves the Site Plan Review and the proposed signage based on the finding that the Site Plan Review meets the requirements of the Zoning Ordinance; it should be subject to the following conditions:

Landscaping:

- a. The Landscape Plan shall meet the required 396 understory shrubs of the required size per Ordinance.
- b. The applicant shall follow the landscape requirements as listed in the Zoning Ordinance, Chapter VI, Subsection L.

Screening:

- c. All exterior trash containers, rooftop mechanicals, and ground level mechanicals shall be screened according to the Zoning Ordinance.

Signage:

- d. Sign Permits shall be obtained prior to the construction, installation, or modification of any signage.
- e. Any additional signage or modifications to existing signage shall meet the Ordinance requirements.

Surety:

- f. The posting of surety shall be required at the time a certificate of occupancy is to be issued for completion of any uncompleted site improvements.
- g. The applicant is required to provide surety to the City in an amount of \$0.50 per square foot of the site footprint for landscaping/screening site improvements. The surety is refundable upon completion of the site work to the satisfaction of the Building Official and/or Planner/Zoning Administrator.

Engineering:

- h. City Engineer's comments and conditions shall be met.

Building:

- i. A Building Permit shall be obtained prior to the commencement of any construction.

Other/Miscellaneous:

- j. Any other conditions as recommended by staff, the PUC, City Engineer, or Planning Commission.

EDMONDS MOVED, SECOND BY DOBSON, TO APPROVE THE SITE PLAN AND PROPOSED SIGNAGE WITH THE CONDITIONS LISTED BY STAFF AND THE APPLICANTS WILL REVISE THE PLANS TO INCLUDE A VARIATION OF COLOR BEING ADDED TO THE BACK SIDE OF THE BUILDING. UPON THE VOTE, THERE WERE 5 AYES, 0 NAYS. MOTION CARRIED.

D. #08-11 Vacation of a portion of 7th Street North (between Lot 1, Block 43 and Lot 6, Block 42, Original Townsite and between Lot 1, Block 44 and Lot 6, Block 41, Original Townsite)

Paul and Martina Snow have submitted an application/petition to vacate a portion of 7th Street North between Lot 1, Block 43 and Lot 6, Block 42, Original Townsite and between Lot 1, Block 44 and Lot 6, Block 41, Original Townsite. The applicants live at 402 7th Street North.

The vacation request involves only the street right-of-way; the City would retain utility easement over, above, and below the vacated property for the maintenance and installation of any public utility.

The City Engineer and Community Development director conducted a site visit on the property and discovered that fill was also brought into the right-of-way of 7th Street North. According to City Code Section 800.10(A), no right-of-way user is allowed to obstruct or excavate any right-of-way without first having obtained the appropriate right-of-way permit from the City to do so. A right-of-way permit was never obtained prior to the work. Notice was given to the property owner that a permit for the work within the right-of-way and approval from the City was required.

The applicant has since applied to vacate a portion of the 7th Street right-of-way. A public hearing in front of the Planning Commission and final approval by the City Council is required for a vacation request. The applicant has also submitted a grading and filling permit application, which calls for an administrative review process. The grading and filling review will not take place until a decision has been made regarding the street vacation request.

The applicant owns property on both sides of 7th Street North. The portion of 7th Street North in front of the applicant's property is not improved and is currently used as the applicant's private, dead-end driveway. In 2004, the applicants applied for and received approval to vacate 4th Avenue North between Lots 1-3, Block 43 and Lots 1-3, Block 44, Original Townsite, and between Lot 6, Block 41 and Lot 6, Block 42, Original Townsite back in 2004. They then came back in 2005 and received approval to vacate the west 15 feet of the utility easement located in the vacated 4th Avenue North in order to construct an addition onto their home.

The applicant has stated in a letter that this portion of the street was never developed or maintained properly because it was joined to a previously vacated 4th Avenue in 2004. This is a dead end street which used to go to 4th Avenue, but has not been traveled on by the public since 4th Avenue, adjoining Avenue, was vacated back in August 2004. Presently the sole purpose of the street is a driveway to our residence. The letter goes on to state that erosion from snow, rain, weather elements, have basically turned the road into gravel with parts of the tar here and there. The street is in the middle of the Snow's properties. The Snow's would like to get the portion of the street which is in between their properties vacated so that they can get it properly tarred to alleviate any vehicle damagers, the driving of any mud into their garage, and to stop the erosion process on the road and adjoining ditch, that has taken place

from the weather elements in the past. With the approval of the vacating of this portion of the street, the City would save over \$7,000. The Snow's had two companies provide them with cost estimates for the proper tarring and drainage of the area request to be vacated.

Fuhrman said that in terms of deciding whether portions of public right-of-way should be vacated to abutting property owners, it should be determined that there is no present or prospective use for the right-of-way and that such action will serve the public interest. Vacations should not be approved to achieve short-term public benefits or for the sole benefit of individuals.

The subject public right-of-way may not be presently utilized by the public; however, due to its location adjacent to Pioneer Park, there is an argument that there is potential that the right-of-way could be utilized in the future for public purpose as access to the park/open space area. Eliminating a possible access to public open space areas does not serve the public interest.

Fuhrman is recommending that the Planning Commission recommend denial to the City Council of the proposed 7th Street vacation, based on the following findings:

1. There is a prospective use for the subject right-of-way in its close proximity to Pioneer Park.
2. Vacating the portion of 7th Street North will not serve the public interest.

If the City finds that there is no present or prospective use for the right-of-way and that vacating the public right-of-way will serve the public interest, then staff would recommend that the following conditions be added upon approval of the vacation:

1. The City would maintain utility easement over, above, and below the vacated property for the maintenance and installation of any public utility.

Edmonds said he has gone to look at the site and asked what utilities are there.

Nielson said sanitary and watermain services are there. They are in the right-of-way.

Edmonds said there is access to Pioneer Park from 8th Street. There is enough room there for the park where this road should not be an issue.

Fuhrman said the proposal between the two properties is what is being asked to vacate.

Thompson asked if the applicants or anyone in the audience would like to speak on this item.

Paul Snow, applicant spoke that this street is a driveway to their house. The portion of the street they are requesting to vacate is the last portion of 7th Street that is a dead end. If the road were to continue, it would go down the bank to the wetlands. The issue for them is erosion. Each year they have added gravel and dirt to help control the erosion. After eight years, they decided to take care of the erosion problem. It is a gravel and rock road. The City has not taken care of this road or even the trees that have fallen down. They have not taken the initiative to make the road safe. Snow said they spoke to two different asphalt companies

and were told what would be needed to fix the erosion problem. Putting fill in was recommended. Just tarring the road would be over \$7,000. The City then told him they have the right-of-way of this street. Fuhrman and Nielson had come out and inspected the road. Bob Gerold told the Snow's that they should vacate the street. The Snow's have put \$5,000 into the fill and grading of the ditch to support the street. Approval of this vacation request will help their property, but also go along with the fill and grading permit they applied for.

Martina Snow, applicant added that there is no access to Pioneer Park from this street it is a dead end. Snow also believes vacating this street would be for the public interest because they would be maintaining the street.

Paul Snow added that there are two other entrances to Pioneer Park, so this street would not be an issue.

Mellott asked if you would have to cross the Snow property if this road were ever used for access to Pioneer Park.

Fuhrman said yes, this is the road that was vacated in the past for an addition to their house.

Mellott asked if the City kept the easements, would Snow's not be able to tar their driveway.

Fuhrman said permits are needed and this is in Wild and Scenic area. They would need a permit for black top. She does not know the Cities point of view of black top over a right-of-way.

Mellott asked if keeping this road for a possible public entrance to the park, and the Snow's own all three sides around that area to enter the park from, would the City have to come back to them and un-vacate the road that had been vacated in the past.

Fuhrman said yes. An easement would be needed for the 15 feet for a road to go to Pioneer Park.

Mellott asked if the City has not maintained this road at all to help stop the erosion.

Nielson said not to his knowledge for the last 8-9 years.

Edmonds asked if the road were approved to vacate and the City maintained the utility easement, would the Snow's be okay if it had to be dug up for repair. It would be at their expense to repair the road.

Paul and Martina Snow said yes. They understand that would be needed to give the City access to repair the utilities if necessary.

Fuhrman said she did speak to the DNR Conservation Officer and he told her they would not be involved in this because it does not effect the actual waterway or wetland. There was fill brought in and was in the flood fringe, but not enough to require a CUP. The slope has been effected and that needs to be addressed.

Edmonds said when he visited the site, he could see the washing out issue.

Martina Snow said the light pole was tilting and that is where it all began.

Mellott asked if the Planning Commission denied the vacation, what would the City do to stop the erosion.

Fuhrman said her and the City Engineer will have to look into the erosion issue.

Nielson's concern is if the street is vacated and the sewer or water utilities there need to be repaired, who is responsible to repair their driveway after the digging is completed. Normally the property owner is responsible for the repair. Would that be a condition if this were vacated that the property owner will be responsible to repair the driveway. Are they okay with this.

Thompson said that he believes this would fall under the standard easement policy that if the property owner puts in any improvements on that easement, the owner is responsible to make the necessary repairs after the service work is completed.

Calvin Cole, 702 5th Avenue North, lives west of them in the next block. He does not care if this street is vacated. His concern is if this would effect the snowplowing. It is not done very well now and would not like it to become worse. He does not want a sign in his yard that the street is a dead end.

Nielson said a dead end street sign should be at the end of 5th Avenue North.

Thompson commented that a sign would be on the south side, so not on his property.

Nielson said storage of snow would be an issue if the City were to push it. That would mean Snow's would have to deal with it.

Mellott asked if this all was to maintain erosion and if it was not an issue anymore, would they still want it tarred.

Paul Snow said yes, erosion would always be an issue if it is not tarred.

Mellott commented that the City should be responsible for the erosion.

Fuhrman said there is a concern if drainage is increased in the wetland.

Mellott said there are a few issues, the erosion, vacating the street, and tarring over the utility easement. The easement has to stay so if the utilities need to be repaired it would not be the City's responsibility to repair the area that was dug up. If the erosion is to be stopped, both parties, the City and the property owner need to come to terms on this.

Nielson said a public improvement would need to be done to fix the erosion issue and then retain the right-of-way to have access to utilities. The Snow's would be assessed.

Mellott asked if they are assessed and then the utilities do need to be repaired in the future, who would be responsible for the repair.

Thompson said it would be the City who is responsible.

Hanson asked Nielson how much the assessed amount would be.

Nielson said over \$7,000. He might want to put a curb in there by the storm sewer pipe. Nielson said he is not sure if Snow's idea would solve the problem for the next 30-40 years. He agrees the road has not been maintained by the City very well.

Hanson asked the Snow's if the vacation was approved tonight would they want to tar right away. Do they need a decision tonight? Could they wait until the City sees what they would do to stop the erosion and how much it would cost.

Paul Snow asked if the street is not vacated and the City did a different construction to eliminate the erosion, would it be their cost?

Nielson said yes. The City would assess the property owners. They would be assessed over a ten year period.

Paul Snow questioned if they have already done this work and spent money fixing the problem, why would they want to be assessed for more?

Martina Snow asked if there is utility repair in the future, would they also be paying again for that.

Nielson said no, you would be assessed only once. If they went the route that tar was added now over the easement and repairs were to be done, then Snow's would be responsible for fixing the repair.

Mellott said it would be in their best interest to have the City be responsible to correct the erosion problem. Who knows down the way how much it would cost to repair the road if the utilities needed repairing.

Nielson said they did a nice job of the fill material. It is the slope that it is steep and could move sometime in the future.

Paul Snow said they brought in rock and crushed gravel and since it has been put there it has not moved and no more erosion.

Thompson said the improvements have to be to the Engineer standards.

Nielson said a Soil Engineer would recommend less of a slope.

Dobson suggested that this be tabled and brought back to the September 19th Planning Commission meeting where City Staff could look at what would be required and have a rough idea of what the assessment would be.

Nielson is okay with the Planning Commission decision of either vacating the street or not. He is concerned that what Snow's did is only a short time fix.

Paul Snow commented that they have put a lot of money into this fill and do not want to put more into this.

Dobson said there would be a better idea of the questions that have been proposed tonight and he does not want to increase their cost significantly, but he does not want to see more erosion.

Thompson said would not support a vacation tonight. Too many unanswered questions.

Mellott agrees something needs to be done to stop the erosion. She would like to see a better concept of the cost to meet code and what Snow's would be responsible for.

Martina Snow asked if Nielson would have the plans of what they would need to do and the cost for the September meeting.

Nielson said he would need the City Council to direct him to go ahead and give an estimate on this. He could do a ball park figure. The Council has to authorize a feasibility study. The slopes are too steep. He recommends if left the way it is, then vacate the right-of-way, and have it in written form what the Snow's are responsibility for if repairs are done in the future.

HANSON MOVED, SECOND BY DOBSON, TO CONTINUE THE PUBLIC HEARING UNTIL THE SEPTEMBER 19, 2011, PLANNING COMMISSION MEETING, SO THE CITY ENGINEER CAN PUT TOGETHER TWO COST ESTIMATES; ONE IS WHAT IT WOULD COST IF THE CITY IMPROVED THE STREET AND THE COST OF WHAT SNOW'S WOULD BE ASSESSED, AND THE OTHER ESTIMATE WOULD BE IF SNOW'S COMPLETED THE PROJECT TO CODE WITH HAVING THE NECESSARY PERMITS. SNOW PLOWING EXPECTATIONS SHOULD ALSO BE INCLUDED. STAFF ALSO HAS

TO SPEAK WITH THE CITY ATTORNEY ON THE LEGALITY IF THE STREET VACATION WERE APPROVED, CAN THE CITY SIGN A RELEASE FROM ANY EXPENSES ON FUTURE REPAIRS OF THAT STREET, WHERE INSTEAD THE PROPERTY OWNER WOULD BE RESPONSIBLE FOR THE COST.

Paul Snow commented this originated from someone not taking care of the street. They took the step to take care of the erosion and they are going bankrupted because of it.

Mellott said they want to do the opposite and not have added cost. She does not want to see financial surprises to them.

Paul Snow said either it is vacated or not, it is their financial responsibility that either way they pay. Is the City going to help with any of the cost because he has taken steps to stop the erosion.

Fuhrman said if the property owner came to the City when the erosion had begun it would not have come to this. Now we are working backwards because the fill has already been put in. She agrees getting more information from the City Engineer will be helpful.

Mellott said even if they came to the City for this erosion to be fixed, they would have paid an assessment then also.

UPON THE VOTE, THERE WERE 5 AYES, 0 NAYS. MOTION CARRIED TO CONTINUE THE PUBLIC HEARING UNTIL THE SEPTEMBER 19, 2011, PLANNING COMMISSION MEETING.

E. Zoning Ordinance Amendment: Subsection D (Interim Use) of Section 10 (B-3 General Commercial) of Chapter V (Zoning Districts)

Fuhrman informed the Planning Commission Board that the proposed Ordinance amends the Zoning Ordinance by adding the outdoor storage of approved material, such as sand, gravel, fill dirt, or crushed material, as an Interim Use Permit (IUP) in the B-3 General Commercial District, provided certain conditions are met.

William and Sue Dunkley received approval for an IUP in November 2008, for the demolition of the building at 1100 Northland Drive and storage of the crushed material on the site until the material is sold. One of the conditions upon approval of the IUP was that all materials were to be removed within 12 months of the commencement of the demolition. This termination date noted in the permit has passed; and there, the IUP has technically expired.

According to the representatives of the property owners, the property owners would like to request an extension on the IUP. Their hope is that the material may be used in conjunction with the Smith System Road project when that comes to fruition.

The Ordinance does not provide for extensions of IUPs, so a new IUP would be required. However, after looking into the matter, it was discovered that the storage of crushed material is not specifically listed as an IUP in the B-3 District. The Ordinance requires that the proposed use must be listed as an interim use in the district in which the application is being made. At the July 7, 2011 City Council Study Session, the Council informally discussed the possibility of amending the Zoning Ordinance to allow the outdoor storage of crushed material as an Interim Use Permit in the B-3 General Commercial District.

Fuhrman explained that the Zoning Ordinance does not outline specific factors upon which a proposed amendment should be considered; therefore, staff is providing the following factors, which are common review standards from other ordinances:

1. The proposed action has been considered in relation to the specific policies and provisions and has been found to be consistent with the official city comprehensive plan.
2. The proposed use is or will be compatible with present and future land uses of the area.
3. The proposed use conforms with all performance standards contained in this code.
4. The proposed use can be accommodated with existing public services and will not overburden the city's service capacity.
5. Traffic generation by the proposed use is within capabilities of streets serving the property.

The City Engineer has stated that the material was crushed to a Class 5 rating and that utilizing the crushed material would help to decrease costs with the Smith Systems Road project because of the close proximity of the material to the project.

Fuhrman has put together an amendment to the Ordinance that adds the outdoor stage of approved material, such as sand, gravel, fill dirt, or crushed material, as an Interim Use Permit in the B-3 District. The following conditions must be met before an IUP for the outdoor storage of material would be approved:

- a. The material storage area shall be clearly identified upon an approved site plan for the property.
- b. The material storage area shall meet the required front, side, and rear yard setbacks for the district in which it is located.
- c. The appropriate height of the material shall be determined by considering the size/amount of the material, the proportion of the storage area to any buildings on site, and the location of the material storage area on the site.
- d. If determined necessary by the Planning Commission, temporary security fencing shall be provided around the material storage area.
- e. Measures shall be taken to control dust and erosion.
- f. Screening measures, as determined appropriate by the Planning Commission, shall be provided when the subject property on which the material storage is proposed is adjacent to or across the street from a residentially-zoned property.

During the Council's discussion on July 7, 2011, it was mentioned that a 12 month deadline and a limit on the number of extensions should be added to the ordinance. Staff suggest that the 12 month deadline and extension limit be added to the specific conditions of each individual

IUP and not added to the actual Ordinance language. This not only allows for more flexibility in future similar IUP applications, but the existing IUP standards states that the date or event will terminate the use can be identified with certainty and continued.

Hanson asked if the City would be using the fill for the improvements of Smith System Road.

Nielson said they would make it available to the contractors that this material is on site and would saved money for the City. He would urge the use of this material for the project bid that would take place in early spring of 2012. At the end of 2012 summer the pile should be gone and the road constructed.

Thompson asked if there would be a time limit on the interim use permit.

Fuhrman said first this has to be approved for the Ordinance amendment and then they have to apply for the Interim Use Permit. This amendment should be reviewed as an overall Ordinance amendment in the B-3 District and not just for this item with the crushed concrete.

Thompson commented that Walmart will have to haul in soil for corrections on their site and they would be able to stock pile there too as this reads.

Dobson asked on item d, under conditions that must be met, it says if determined necessary by the Planning Commission, temporary security fence shall be provided around the material storage area. Dobson believes the City would want a security fence around the material.

Fuhrman said she could change the language where it states a security fence has to be around the material area. Fuhrman suggested that for the height of the material there could be language for what the allowed height could be. She will talk to the City Attorney regarding language being added that allows the outdoor storage of material for an adjacent project use. Where it would not become a problem of other sites just storing outside material.

There was no one present for the public hearing, but the Planning Commission Board wanted to keep it open for staff to do more research on the language.

DOBSON MOVED, SECOND BY HANSON, TO KEEP THE PUBLIC HEARING OPEN UNTIL THE SEPTEMBER 19, 2011 PLANNING COMMISSION MEETING, TO GIVE STAFF TIME TO RESEARCH LANGUAGE BEING ADDED TO THE B-3 ZONING DISTRICT ORDINANCE AMENDMENT FOR INTERIM USE PERMIT. UPON THE VOTE, THERE WERE 5 AYES, 0 NAYS. MOTION CARRIED.

F. Zoning Ordinance Amendment: Chapter VII (Floodplain Management)

Fuhrman informed the Planning Commission Board that the Federal Emergency Management Agency (FEMA) has recently updated the Flood Insurance Study (FIS) and Flood Insurance Rate Map (FIRM) panels for the areas within Sherburne County. In order to comply with the rules and regulations of the National Flood Insurance Program (NFIP) and to maintain eligible in the NFIP, the city is required to update its Floodplain Ordinance and adopt new floodplain maps.

The study/map effective date for Sherburne County is November 16, 2011, meaning that the revised floodplain ordinance must be adopted, published, and sent to FEMA no later than November 16, 2011.

The updated FIRM panels, or floodplain maps, are now separated by County. Being Princeton is located within both Sherburne and Mille Lacs counties, the City must adopt both updated FIRM panels. At this time, Sherburne County is ahead of Mille Lacs County in the process; therefore, the City must adopt the updated Floodplain Ordinance and Sherburne County maps now and adopt the Mille Lacs County maps at a later date.

The revised floodplain regulations are compliant with 44 Code of Federal Regulations, Section 60.3 and also adopt the updated Sherburne County floodplain maps. The Ordinance proposed to repeal the existing Floodplain regulations in its entirety and replace it with a new ordinance. An entirely new ordinance is being proposed as the DNR suggest utilizing their sample floodplain ordinance to ensure compliance with state and federal regulations. There are no significant changes that staff is aware of between the City's existing floodplain ordinance and the proposed ordinance.

The following lists the changes from the existing to the proposed floodplain ordinance:

1. Adopts the updated Flood Insurance Study (FIS) and Flood Insurance Rate Map (FIRM) for Sherburne County.
2. Adds specific definitions of the following terms: lowest floor; manufactured home; recreational vehicle; substantial damage; and substantial improvement. The current Zoning Ordinance already contains definitions for some of these terms. FEMA has very specific wording in the Federal Regulations, and these definitions must be adopted as part of the Floodplain Ordinance. A note has been added to the Floodplain Ordinance that the floodplain definitions shall only apply to the floodplain chapter of the Zoning Ordinance.
3. Addresses annexed areas.
4. Adds normal maintenance and repair to the list of items addressed for nonconforming structures and uses.
5. Adds the General Flood Plain District.
6. Lists Railroads and the Construction of Fences as conditional uses within the Floodway District.
7. Adds specific standards for flood-proofing accessory structure conditional uses in the Floodway District.
8. Adds specific standards for flood-proofing techniques for Flood Fringe conditional uses.
9. Changes Travel trailers/vehicles to Recreational Vehicles.
10. Adds requirements for circumstances when permits are required.
11. Add notification requirements for altering/relocating a watercourse and for physical changes to the 100 Year Flood Elevation.
12. Adds additional review criteria for variances located in any Floodplain District.
13. Adds specific requirements for historic nonconforming structures and substantial improvements to nonconforming structures.

Fuhrman recommends the Planning Commission recommend approval to the City Council of the Ordinance amending Chapter VIII (Floodplain Management) of the Zoning Ordinance.

There was no one present for the public hearing so the Planning Commission Board made the motion.

MELLOTT MOVED, SECOND BY HANSON, TO RECOMMEND APPROVAL TO THE CITY COUNCIL OF AMENDING CHAPTER VIII (FLOODPLAIN MANAGEMENT) OF THE ZONING ORDINANCE IN ORDER TO BRING THE FLOODPLAIN MANAGEMENT REGULATIONS IN COMPLIANCE WITH 44 CODE OF FEDERAL REGULATIONS, SECTION 60.3 AND TO ADOPT THE UPDATED FLOOD INSURANCE STUDY (FIS) REPORT AND FLOOD INSURANCE RATE MAP (FIRM) PANELS FOR THE PORTION OF THE CITY LOCATED IN SHERBURNE COUNTY. UPON THE VOTE, THERE WERE 5 AYES, 0 NAYS. MOTION CARRIED.

G. Zoning Ordinance Amendment: Section 2 (Variances) of Chapter IV (Administration and Enforcement) and Chapter II (Definitions)

Fuhrman informed the Planning Commission Board that in May 2011, the State amended Minnesota Statute, Section 462 to restore municipal variance authority in response to the Krummenacher vs. City of Minnetonka case. The law also provides consistent statutory language between City and County variance authority.

The new law renames the municipal variance standard from “undue hardship” to “practical difficulties,” but otherwise retains the familiar three factor test of (1) reasonableness, (2) uniqueness, and (3) essential character. Also included is a sentence new to city variance authority that was already in the county statutes: “Variances shall only be permitted when they are in harmony with the general purposes and intent of the ordinance and when the terms of the variance are consistent with the comprehensive plan.” In addition, the new law clarifies that conditions may impose on granting of variances if those conditions are directly related to and bear a rough proportionally to the impact created by the variance.

The Ordinance proposes the following amendments to the Zoning Ordinance:

1. Removes the definition of “hardship”
2. Adds a definition for “practical difficulties”
3. Amends the definition of “variance”
4. Amends the variance review standards

In January 2011, the Planning Commission recommended that the City Council adopt a resolution in support of the proposed legislative bill that redefined the term hardship to practical difficulties. The proposed Ordinance amendment supports this motion by the Planning Commission.

Fuhrman said the City Attorney reviewed the proposed Ordinance amendment and removed the wording "practical difficulties" in the first sentence of the first paragraph. Under Standards on line six, the word difficulties should be replaced with difficulty.

There was no one present for the public hearing so the Planning Commission Board made the motion.

EDMONDS MOVED, SECOND BY DOBSON, TO RECOMMEND APPROVAL TO THE CITY COUNCIL TO AMEND THE ZONING ORDINANCE VARIANCE LANGUAGE TO BE CONSISTENT WITH THE STATUTORY LANGUAGE. UPON THE VOTE, THERE WERE 5 AYES, 0 NAYS. MOTION CARRIED.

OLD BUSINESS: None

NEW BUSINESS: None

COMMUNICATION AND REPORTS:

A. Verbal Report

Edmonds asked Fuhrman if she would look at the McDonalds parking lot and see if the parking spaces meet the regulations of the Zoning Ordinance. Staff will check on that.

B. City Council Minutes for July, 2011

The Planning Commission Board had no comments.

HANSON MOVED, SECOND BY EDMONDS TO ADJOURN THE MEETING. UPON THE VOTE, THERE WERE 5 AYES, 0 NAYS. THE MEETING ADJOURNED AT 9:22 P.M.

ATTEST:

Dave Thompson, Chairperson

Mary Lou DeWitt, Comm. Dev. Assistant