

**THE REGULAR MEETING OF THE PLANNING COMMISSION BOARD HELD ON FEBRUARY 21,
2012, AT 7:00 P.M., AT THE CITY HALL COUNCIL CHAMBERS**

The meeting was called to order at 7:00 P.M., by Dave Thompson. Members present were Dick Dobson, Jack Edmonds, and Mitzi Mellott. Staff present were Carie Fuhrman and Mary Lou DeWitt.

Absent was Ben Hanson

OATH OF OFFICE:

Mitzi Mellott and Jack Edmonds took the Oath of Office.

ELECTION OF OFFICERS:

DOBSON MOVED, SECOND BY MELLOTT, TO NOMINATE DAVE THOMPSON AS CHAIRPERSON FOR THE PLANNING COMMISSION BOARD. UPON THE CALL OF MOTION, THERE WERE 4 AYES, 0 NAYS. MOTION CARRIED.

THOMPSON MOVED, SECOND BY DOBSON, TO NOMINATE MITZI MELLOTT AS VICE CHAIRPERSON FOR THE PLANNING COMMISSION BOARD. UPON THE CALL OF MOTION, THERE WERE 4 AYES, 0 NAYS. MOTION CARRIED.

MELLOTT MOVED, SECOND BY DOBSON, TO NOMINATE JACK EDMONDS AS SECRETARY FOR THE PLANNING COMMISSION BOARD. UPON THE CALL OF MOTION, THERE WERE 4 AYES, 0 NAYS. MOTION CARRIED.

APPROVAL OF MINUTES OF THE REGULAR MEETING ON DECEMBER 19, 2011

DOBSON MOVED, SECOND BY MELLOTT, TO APPROVE THE MINUTES OF DECEMBER 19, 2011. UPON THE VOTE, THERE WERE 4 AYES, 0 NAYS. MOTION CARRIED.

PUBLIC HEARING:

A. Rezoning from R-2 to R-3 at 701 5th Avenue North

John Kopacek has submitted an application to rezone the property at 701 5th Avenue North from R-2 Residential to R-3 Multiple Family Residential. In addition, an amendment to the Comprehensive Plan's Future Land Use Plan is also required. The property is described as Lot 1, Block 45, Princeton Original Townsite and is located on the northwest corner of the intersection of 7th Street North and 5th Avenue North.

Fuhrman said currently the home contains three rental units, two on the main floor and one on the second floor, and the applicant would like to add a fourth rental unit in the lower level/basement. The current zoning of R-2 allows up to two family dwellings as a permitted use, along with townhouses, up to four units, and condominiums, up to four units, as conditional uses. Multi-family units are not allowed in the R-2 District. The R-3 District does allow multi-family structures as a permitted use. Therefore, when the applicants inquired about adding a fourth unit, staff informed them that it would require a rezoning to R-3.

The applicants have submitted a letter explaining their rezoning request. According to the letter, the applicants purchased the property as an existing triplex in the fall of 2004; it was vacant and run down at the time of their purchase. They then proceeded to renovate the house, installing a new basement and foundation, new roof, and new siding. They added four egress windows and utilities for a potential future unit in the lower level, and off-street parking was installed for four units with the hope of providing an additional rental unit.

The neighborhood in which the house is located contains mostly single family homes and some two-family homes. To the southwest of the property is an area zoned for R-3 Multiple Family Residential, which includes what appear to be at least one twinhome and four-unit apartment.

The City engaged in a Comprehensive Plan update back in 2009 that identified the long range goals for development within the City. The Future Land Use Plan identifies this property and surrounding area as Traditional Residential. According to the Comprehensive Plan, the Traditional Residential land use category allows mixed housing styles, including duplexes and some townhomes with a density between four and eight units per acre. The proposed use is neither a duplex nor a townhome. In addition, four units on this parcel would put the density at approximately 16.5 units per acre. This parcel is 10,500, well above the density that is called for in this land use category.

Fuhrman continued that if the rezoning were approved, the Future Land Use Plan would also need to be amended to designate this property as Mixed Residential. However, at the Comprehensive Plan indicates this land use category is generally located along major transportation corridors, which is not the case as the adjacent roads are local roads. Amending the Future Land Use Map to designate this property as Mixed Residential would not be compatible with the future land uses in the area as well.

Fuhrman is in favor of providing affordable housing in the City of Princeton and supports investment in the existing housing stock in order to improve neighborhoods and the quality of life for residents. However, the City's Comprehensive Plan needs to be taken into account when considering requests such as a rezoning that would increase density. It is clear that the long range plan for this area is to remain Traditional Residential. Although the category does allow for mixed housing styles, the specific proposed use is not consistent with the specific policies and provisions of the Comprehensive Plan.

Fuhrman would recommend denial of the rezoning request from R-2 to R-3 based on the findings that the request is not consistent with the City's Comprehensive Plan, and the request is not compatible with future land uses of the area. The Planning Commission's recommendation will be brought to the City Council for final decision at their next meeting.

Dobson asked what the previous Comprehensive Plan had this site classified.

Fuhrman did not know.

Thompson thought it was the same as now.

Edmonds asked if there are any other options instead of rezoning.

Fuhrman said no.

Thompson commented that if we were to rezone this site from what the Comprehensive Plan states then we are setting a precedent.

John Kopacek, applicant said that he purchased the property in 2004. It has been a triplex since the 1930's.

Fuhrman said it is an exiting nonconforming use. It is grandfathered in. Issue on hand is the fourth unit. This would alter the Comprehensive Plan.

Kopacek commented that in the next block to his property it is zoned R-3.

Fuhrman said yes that is true, but we need to follow the City Comprehensive Plan that is in place. This property can continue existing as they are now.

Edmonds said each Zoning District needs to have a dividing area.

EDMONDS MOVED, SECOND BY DOBSON, TO CLOSE THE PUBLIC HEARING. UPON THE VOTE, THERE WERE 4 AYES, 0 NAYS. MOTION CARRIED.

Edmonds and Thompson both commented that they would like to say yes, but do not want to open flood gates to the future with residents wanting to rezone their property. They want to try to conform to what the City Comprehensive Plan is. Dobson agreed.

EDMONDS MOVED, SECOND BY DOBSON, TO DENY THE REZONING REQUEST FROM R-2 RESIDENTIAL ZONING DISTRICT TO R-3 MULTIPLE FAMILY RESIDENTIAL DISTRICT AT 701 5TH AVENUE NORTH, BASED ON THE FINDINGS THAT THE REZONING REQUEST IS NOT CONSISTENT WITH THE CITY'S COMPREHENSIVE PLAN AND THE REQUEST IS NOT COMPATIBLE WITH THE FUTURE LAND USES OF THE AREA LAND USE MAP WHICH IS DESIGNATED AS TRADITIONAL RESIDENTIAL. UPON THE VOTE, THERE WERE 4 AYES, 0 NAYS. MOTION CARRIED.

Kopacek asked for a document saying this property is a legal triplex residence. The County has it listed as such since 1990 and he would bring that paper in for Fuhrman so she can write a memo stating it is a conforming use.

The Planning Commission Board reviewed the Findings of Fact:

1. Is the zoning amendment consistent with the Princeton Land Use Plan? No. It changes it from low density to high density occupancy of structure. Non-conforming already exists.
2. Have there been changes in the character of development in the vicinity? No. No Comprehensive Plan and Zoning rules put into effect after property was already in existence. Based on the findings, a recommendation to deny the zoning Amendment will be made to the Princeton City Council.

B. Amendment to Chapter IV (Conditional Use Permit) of Zoning Ordinance

Fuhrman said that recent concern expressed with the expiration language in the CUP ordinance requiring that 80% of construction must take place within one year after the date of a Conditional Use Permit issuance, otherwise the permit is void, has prompted staff to research the City's CUP ordinance more in depth. After discussing the issue with the City Administrator and City Attorney, Fuhrman has prepared the proposed amendment to the CUP section of the Zoning Ordinance.

Staff has published a public hearing notice and prepared a draft Ordinance that amends the existing CUP language. The proposed language is based off of numerous factors, including: the review of other communities CUP standards; discussion with the League of Minnesota Cities Attorney; and discussions with the City Administrator and City Attorney.

The amendment proposes some housekeeping changes, including;

- Re-wording of the "Standards" subsection
- Removing the "Denial for Noncompliance" subsection and moving the language under the "Public Hearing" subsection
- Reference to the revocation proceedings under the "Conditions" subsection
- Adding "hours of operation" as an additional possible condition for approval

The Ordinance proposes the following amendments:

- Removal of the existing expiration language requiring that substantial construction (80%) take place within one year after the date of the CUP
- Adds requirement that an applicant apply for all necessary permits within 12 months of the CUP approval and that the project must be substantially completed within 24 months of issuance of the first permit
- Planning Commission may grant extensions where reasonably necessary
- Adds revocation proceeding language

Fuhrman recommends the Planning Commission recommend approval to the City Council of Ordinance #681. Staff would then bring the Ordinance to the next City Council meeting for its first reading.

EDMONDS MOVED, SECOND BY DOBSON, TO CLOSE THE PUBLIC HEARING. UPON THE VOTE, THERE WERE 4 AYES, 0 NAYS. MOTION CARRIED.

Mellott asked if this gives the project two years to be completed and if so, why give that extension.

Fuhrman said to allow more flexibility to get the work done.

Edmonds commented it is hard to define if 80% of construction has been completed on a project. That is wide open for interpretation.

Thompson said that the Walmart project has a lot of dirt work that needs to be done before they start to build so where would you define the 80% when there is also site improvements needed.

Fuhrman agreed. That is why staff is addressing this.

Mellott asked if it is the time the dirt work starts is when the permit begins.

Fuhrman said 24 months from the first building permit being pulled.

Edmonds asked why not leave it somewhat as it is. Do 18 months instead of two years. If the project is not completed let the applicant come back to the Planning Commission and explain why they need a six month extension.

Thompson said he understands what Edmonds is saying, but there are electrical permits or other type of permits that may take quite a bit of this time to get their portion done.

Mellott said they can come back in 18 months and explain why they were unable to get the job done. The Planning Commission would understand if they had good reason.

Edmonds agreed.

Thompson likes the 24 months where it would eliminate them from having to come back in the 18 month time period if the job was not completed.

Richard Snyder, Walmart's Attorney said he likes this ordinance change where it helps eliminate some uncertainty of putting funds in a project with a chance of a Conditional Use Permit expiring.

Mellott said her concern is having a project not completed in over an 18 month time period.

Fuhrman said the applicant or property owner shall make a complete application for all permits necessary for operation of the Conditional Use Permit within 12 months of the Conditional Use Permit approval, and the project shall be substantially complete within 24 months of issuance of the first such permit. The Planning Commission has the authority to grant extensions where reasonably necessary. On tonight's agenda Walmart applied for a six month extension on their Conditional Use Permit.

Dobson said that the new language makes anyone who wants to come in our City to build something new this would help them without taking out more extensions. He supports this wording especially with the City Attorney and the League of Minnesota Attorneys in favor of it.

DOBSON MOVED, SECOND BY EDMONDS, TO RECOMMEND APPROVAL TO THE CITY COUNCIL FOR AN ORDINANCE AMENDING SECTION 3 (CONDITIONAL USE PERMIT) OF CHAPTER IV (ADMINISTRATION AND ENFORCEMENT) OF TITLE 11 (ZONING) OF THE PRINCETON CODE OF ORDINANCES IN ORDER TO REVISE THE STANDARDS FOR THE REGULATION, EXTENSION, AND EXPIRATION OF CONDITIONAL USE PERMITS. UPON THE VOTE, THERE WERE 4 AYES, 0 NAYS. MOTION CARRIED.

C. Conditional Use Permit Extension for Walmart

Walmart has submitted an application requesting to extend/amend the existing Conditional Use Permit approved by the Planning Commission on August 15, 2011.

The Planning Commission approved a CUP for a retail business more than 50,000 square feet in total building area, including those with outside display in a B-3 Highway Business Zoning District at their August 15, 2011 meeting with the following conditions:

1. A six month extension not to exceed six months beyond one year from the date of the Conditional Use Permit.
2. The City Engineer's comments and conditions shall be met.
3. All conditions listed under the Site Plan Review shall be met, and any other conditions recommended by staff, PUC, and Planning Commission.

Regarding CUP expirations, the Ordinance currently reads: If substantial (80% of construction) has not taken place within one year after the date of the Conditional Use Permit, the permit is void except that, on application with one year, the Planning Commission may extend the permit for an additional period not to exceed six months.

Based on the Planning Commission's approval of the original six month extension, 80% of construction would be required to be completed by February 15, 2013. Walmart is concerned the CUP would be void if this deadline were not met. Therefore, they have requested an additional six month extension, moving the 80% completion date to August 15, 2013.

The concern with the expiration language in the CUP ordinance spurred staff to research City's CUP ordinance in detail. After significant research, staff prepared the proposed amendment to the CUP standards regarding CUP expirations.

Fuhrman would recommend approval of the extension/amendment to the Walmart CUP, subject to the City Council approving Ordinance #681 and subject to the following conditions:

1. The applicant or property owner shall make a complete application for all permits necessary for operation of the Conditional Use Permit within 12 months of the Conditional Use Permit approval, and the project shall be substantially complete within 24 months of issuance of the first such permit.
2. The City Engineer's comments and conditions shall be met.
3. All conditions listed under the Site Plan Review shall be met, and any other conditions recommended by staff, PUC, and Planning Commission.

Richard Snyder said that he believes this will be workable for them.

Dylan Howard, Howard Homes asked if this is tying in with amending the Zoning Ordinance regarding the Conditional Use Permit that was just discussed. If so, what if the Conditional Use Permit amendment is not approved by the City Council would it hinder this application request.

Fuhrman said that the amendment to the Zoning Ordinance is subject to the City Council approving it. If the Planning Commission Board were to approve this Conditional Use Permit extension, they could approve it with a condition that even if the City Council does not approve the Zoning Ordinance amendment for CUP's, that this application for Walmart extension will be still approved.

THOMPSON MOVED, SECOND BY EDMONDS, TO CLOSE THE PUBLIC HEARING. UPON THE VOTE, THERE WERE 4 AYES, 0 NAYS. MOTION CARRIED.

DOBSON MOVED, SECOND BY MELLOTT, TO APPROVE ITEM #02-12 EXTENSION OF THE CONDITIONAL USE PERMIT FOR A RETAIL BUSINESS MORE THAN 50,000 SQUARE FEET IN TOTAL BUILDING AREA, INCLUDING THOSE WITH OUTSIDE DISPLAY IN A B-3 HIGHWAY BUSINESS ZONING DISTRICT, WITH THE CONDITION THAT IF THE CITY COUNCIL DOES NOT APPROVE THE AMENDMENT TO SECTION 3 (CONDITIONAL USE PERMIT) OF CHAPTER IV (ADMINISTRATION AND ENFORCEMENT) OF THE ZONING ORDINANCE AMENDING THE STANDARDS FOR THE REGULATION, EXPIRATION, AND EXTENSION OF CONDITION USE PERMITS, THAT THIS CONDITIONAL USE PERMIT EXTENSION WILL STILL BE APPROVED. UPON THE VOTE, THERE WERE 4 AYES, 0 NAYS. MOTION CARRIED.

The Planning Commission Board 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 Planning Commission believe that the potential adverse impacts will be mitigated by placing the following conditions on the granting of the Conditional Use Permit: We are only issuing an additional six month extension to substantial completion.

OLD BUSINESS:

A. Building Material Ordinance Amendment Discussion

Fuhrman informed the Planning Commission Board that they have been discussing amending the Zoning Ordinance in regards to allowable building materials. Currently, the Ordinance language states that in the residential zoning districts, only “conventional, residential-type siding and roofing shall be permitted or other materials approved by the Planning Commission.”

At the December 2011 meeting, the Planning Commission discussed the possibility of maintaining a list of “approved building materials” without having to go through an Ordinance amendment every time the list was updated. The Planning Commission requested that staff seek the City Attorney’s opinion regarding the matter.

Mr. Schieffer, City Attorney has responded with his opinion in a memo that was included in the Planning Commission packets, but in regards to the questions of whether or not exterior building material regulations could be adopted by resolution rather than ordinance – his opinion is that this would not be enforceable as the amendment procedures should be followed.

Mr. Schieffer has suggest that a positive or permitted standard, that lists the allowed materials, is more easily defended than a negative standard that prohibits certain types of materials, is more easily defended than a negative standard that prohibits certain types of materials. Such as no galvanized or unfinished steel or aluminum materials. He suggests the following language as it is similar to the present standard, but eliminates some of the current languages pitfalls:

All residential siding and roofing shall consist of building materials in common use, but may also include building materials which the Planning Commission finds to be similar in form, function, and esthetics to building materials in common use.

If the Planning Commission prefers to list specific allowed materials in the Ordinance, that would be defensible and language could be added at the end of the list similar to “and any

other materials which the Planning Commission finds to be similar in form, function, and esthetics.”

Dobson suggested removing the word common use and replace it with residential use.

Mellott said the wording is covered in that paragraph, but could be changed to residential common use. If we do not have a list, it still leaves it open to assumption.

Fuhrman said yes it does leave it open, but with a list there would need to be an amendment change each time the list changed. If we keep it as the City Attorney stated it would then be staff who would decide whether it is permitted and not have to be brought to the Planning Commission each time.

Mellott said a blanket statement is too broad. If there were a list then you know what is allowed and it would not be as easy to take the City to court. Do we want to keep it vague or have a list of approved materials.

Thompson likes the vague language.

Fuhrman said if there were to be a list, she would have the Building Inspector come to the meeting and talk about the materials.

Edmonds commented that the City Attorney wrote this suggestion of wording and believes it should be okay. The list could be very long.

Mellott said if the wording is vague it would still be nice for the Planning Commission to have a list of new materials to be aware of them.

Thompson suggested the Planning Commission could have a special meeting once a year to discuss new products and be educated on them.

Fuhrman said this could be on the Planning Commission agenda for the March 19, 2012 for a public hearing.

Thompson recommends to bring it back next month for more discussion.

Edmonds suggested that the City Attorney be present to discuss the wording.

NEW BUSINESS:

A. Wall Sign at 519 First Street

Denise Frank of Rum River Promotions has applied for a permit for a lighted wall-mounted sign to be placed on the front elevation of Rum River Promotions located at 519 First Street. The

property is zoned B-1, Central Business, and is owned by the applicant.

The Zoning Ordinance requires wall-mounted business signs be permitted by the Planning Commission if they meet the ordinance requirements.

The proposed wall sign is 10 feet by 2 feet, or 20 square feet in size, six inches in depth, lighted, and will be located on the building elevation facing First Street. The colors of the proposed sign are not known.

The Ordinance requires that the sign area cannot exceed 10 percent of the area of the building wall, including doors and window, or 200 square feet, whichever is smaller. The 20 square foot sign area is approximately three percent of the 600 square foot (30 ft by 20 ft) building wall, well under the Ordinance requirement.

As the sign is proposed to be lighted, it shall be subject to the lighted sign provisions. The Ordinance allows illuminated signs with the following provisions:

*Signs may be illuminated but the source of light must be hidden. Outside lights shall be deemed part of the sign. Illumination of any sign must be kept in good repair, provided that no sign be erected involving flashing lights or lighting which constitutes a traffic hazard.

*Signs must be constructed of a durable exterior material and meet all applicable building and electrical codes at the time of installation or repair or replacement.

Fuhrman said the proposed sign appears to meet Zoning Ordinance requirements, and so staff would recommend approval of the wall-mounted business sign, subject to the conditions that a sign building permit be issued prior to installation, and the illuminated sign regulations be adhered to.

EDMONDS MOVED, SECOND BY DOBSON TO APPROVE THE WALL SIGN AT 519 FIRST STREET WITH THE CONDITION THAT A BUILDING PERMIT BE ISSUED PRIOR TO INSTALLATION AND THE ILLUMINATED SIGN REGULATIONS BE FOLLOWED. UPON THE VOTE, THERE WERE 4 AYES, 0 NAYS. MOTION CARRIED.

B. Temporary Accessory Building Discussion

Fuhrman said a resident had asked about putting up a temporary structure and wanted to know the Ordinance regarding them. There is nothing in the Zoning Ordinance regarding temporary accessory buildings. She had spoken to the City Building Inspector and he said there is no building permit for these temporary structures because they do not meet building code. She showed the Planning Commission photos she had taken of a few temporary structures that are in the City of Princeton. Fuhrman has not had complaints about them, but is wondering if there should be some type of regulations on them. She would like to see them meet the setbacks.

Another area that could address these is they can not occupy more than a total of 25 percent of a rear yard, or exceed 800 square feet of total floor area.

Dobson said the number of them on a property should be addressed.

Mellott suggested the wording read that all structures combined not exceed 25% of their yard.

Fuhrman will look at changing the Accessory Buildings Ordinance where the temporary accessory structures could be included. Maximum lot coverage is in the ordinance now.

C. Subdivision Ordinance Discussion

Fuhrman said that the City Attorney would like her to update the Subdivision Ordinance. The current Ordinance does not address lot splits and the number of them. The Ordinance is very vague. She will put new wording together and bring it back to the Planning Commission to discuss at a future meeting.

COMMUNICATION AND REPORTS:

A. Verbal Report

Fuhrman has nothing to report at this time.

B. City Council Minutes for January, 2012

The Planning Commission Board had no comments.

MELLOTT MOVED, SECOND BY EDMONDS, TO ADJOURN THE MEETING. UPON THE VOTE, THERE WERE 4 AYES, 0 NAYS. MOTION CARRIED. THE MEETING ADJOURNED AT 8:50 P.M.

ATTEST:

Dave Thompson, Chairperson

Mary Lou DeWitt, Comm. Dev. Assistant