

PLANNING & ZONING COMMISSION MINUTES
October 13, 2015 - 6:00 p.m.

CALL TO ORDER

The regular meeting of the Planning and Zoning Commission was called to order at 6:00 p.m.

MEMBERS PRESENT: Chair Bob Kinzel, Commissioners Howie Oswald, Gwen Carleton, Bob Ryan and Council Liaison Steve Barrows

MEMBERS ABSENT: Steve Lund

STAFF PRESENT: Community Development (CD) Director Josh Doty and Planner Matthew Gindele

OTHERS PRESENT: Eric Uebelhor, Bob Vonderhaar, Kurt Overmyer, Kevin Watenston and Paul Koering

APPROVAL OF MINUTES

MOTION by Commissioner Ryan, seconded by Commissioner Carleton to approve the minutes from the September 8, 2015 meeting as presented. Motion carried unanimously.

PUBLIC HEARINGS

*All items under old and new business items will go to City Council on
October 20, 2015 if not tabled, continued or otherwise noted.*

Chair Kinzel stated that this Commission is advisory and the final approval/denial is given at the City Council Meeting on October 20, 2015 at 7:00 pm.

OLD BUSINESS

None

NEW BUSINESS

1. PUBLIC HEARING. Conditional Use Permit for shared access and parking between the properties currently located at 14230 and 14242 Dellwood Dr. and a variances to the required 10-foot side yard parking setback on the southerly property line and to the required 35-foot front yard building setback of 14230 Dellwood Dr. LOT 2, BLOCK 1 CITIZEN'S ADDITION (City file 15-27)

Requested by: KW Properties 14242 Dellwood Dr. Baxter, MN 56425

Chair Kinzel asked staff to review the conditional use permits and variance request with the Commission. Planner Gindele indicated the applicant is requesting a conditional use permit to allow shared access and parking between the properties currently located at 14230 and 14242 Dellwood Dr. and variances to the required 10-foot side yard parking setback on the southerly property line and to the required 35-foot front yard building setback of 14230 Dellwood Dr. to allow for a 6,000 square foot building with parking. Planner Gindele referenced a map in the packet/power point and pointed out 50% of the site is parking lot

with a 240 square foot building. The building will be torn down for the new development. He stated there was a need to vacate easements, removed two existing pylon signs and the southernmost access would be removed/closed. With the site plan he reviewed the setback variances needed, landscaping, parking lot and parking lot landscape islands. It was noted that architectural review has been met and approved administratively. Planner Gindele reviewed the need for a conditional use permit for joint access and parking requirements and the need for a cross-access easement to be submitted and recorded against the property. The Utilities Commission has reviewed the application on October 7, 2015 and had no concerns. Staff is recommending approval of this application with the attached findings and conditions of the revised resolution. The conditions of the resolution were reviewed with the Commission.

Chair Kinzel asked for a few clarification regarding the setbacks. Planner Gindele reviewed the setbacks with Chair Kinzel. Commissioner Carleton asked why the building could not be built to meet the current setbacks. Planner Gindele stated that the building would have to be pushed back 11 feet which would reduce the number of parking and the drive isle would need to be reduced and they are already at the minimal for each item. Chair Kinzel stated that the variances are needed to meet the minimal setbacks, Planner Gindele stated that was correct.

Chair Kinzel opened the public hearing.

Eric Uebelhor with InSite Real Estate, indicated that they are purchasing the property from KW Properties. He reviewed the proposed project with the Commission, much of the same information was given by Planner Gindele in his staff report. Mr. Uebelhor indicated that they would move the trash enclosure as requested. He agreed with the closing of one of the entrances it will clean the site up and ease maintenance. Mr. Uebelhor indicated that the signage removal/relocation is being worked through with staff and potentially a conditional use permit will be requested to satisfy all parties. Chair Kinzel asked if Mr. Uebelhor could disclose the type of retail that the building is being built for. At this time Mr. Uebelhor was not aware of a specific tenant and stated that the building is just being marketed at this time.

Commissioner Ryan asked that since they do not know what is going there, why are they requesting a variance. What if the building is a Jiffy Lube or a small Caribou Coffee that wouldn't require variances. Planner Gindele stated that they plan on building a 6,000 square foot retail building, with that size of retail building the variances are needed to meet setbacks. Planner Gindele stated that if the building size were to change it would trigger additional review by staff. Commissioner Ryan stated that they could sell the property and the new owner could only want a 4,000 or 5,000 square foot building. Chair Kinzel questioned if a 7,000 square foot building could go on the site. Commissioner Carleton asked why 6,000 square feet was the size they were requesting. Mr. Uebelhor stated that 6,000 square feet would max out the potential use for the site and at 7,000 square feet they would be looking at additional variances. It was suggested that a condition indicating the size requirement be added to the resolution. Commissioner Ryan asked if staff had reviewed the calculations for retail parking on this site. Planner Gindele stated that staff has reviewed the site for retail parking. CD Director Doty added that different uses do require different parking requirements in C-2, this design is currently for retail uses and it is maxed out at this point. If the use changed to a potential restaurant that is allowed in C-2 the site would not allow for additional parking and they would not be allowed to place a restaurant on that site without acquiring more parking. CD Director Doty reiterated that the site is maxed out for this size building. Commissioner Ryan asked about the drive isle and possible congestion with the current businesses. CD Director Doty stated that closing the one access will help and the access meet code/zoning requirements. CD Director Doty added that a lot of different retail uses would fall into this parking situation.

Chair Kinzel closed the public hearing.

Motion by Commissioner Oswald, second by Commissioner Carleton to recommend the City Council approve the conditional use permits for shared access and parking between the properties currently located at 14230 and 14242 Dellwood Dr. and variances to the required 10-foot side yard parking setback on the southerly property line and to the required 35-foot front yard building setback of 14230 Dellwood Dr. with all of the staff recommended conditions.

Commissioner Ryan stated that he is not a fan of having a picture of a building and not knowing what is going into the building and having an applicant request a conditional use permit and a bunch of variances for an unknown use. He asked that next time the applicant comes forward with a solid plan rather than a loose idea. Chair Kinzel stated that he would like to see a condition added requiring a 6,000 square foot building. CD Director Doty indicated that the resolution does not specifically have a “cap” of 6,000 square feet. Chair Kinzel asked for an amended motion placing a “cap” on the building size of 6,000 square feet.

Motion by Commissioner Oswald, second by Commissioner Carleton to recommend the City Council approve the conditional use permits for shared access and parking between the properties currently located at 14230 and 14242 Dellwood Dr. and variances to the required 10-foot side yard parking setback on the southerly property line and to the required 35-foot front yard building setback of 14230 Dellwood Dr. with all of the staff recommended conditions plus the additional condition that if, at time of building permit, the structure is over 6,000 square feet, the variances shall be null and void. Motion carried with Commissioner Ryan opposed.

2. **PUBLIC HEARING.** Conditional Use Permit to allow for a non-conforming structure on a riparian lot to be enlarged and to allow grading in a shoreland area for a home addition and accessory structure to be constructed on a lot on White Sand Lake at 5220 Fairview Road and a variance to allow a non-conforming use to be enlarged to occupy a greater area of land within the required 75 foot setback to White Sand Lake. **THAT PART OF GOVERNMENT LOT 3, SECTION 11, TOWNSHIP 133, RANGE 29** (complete legal on file at City Hall) (City file 15-29)

Requested by: Brian Thompson 131 Norman Ave. N Box 454 Foley, MN 56329

Chair Kinzel indicated that this item was tabled until the next meeting.

Motion by Commissioner Carleton, second by Commissioner Ryan to table the conditional use permit to allow for a non-conforming structure on a riparian lot to be enlarged and to allow grading in a shoreland area for a home addition and accessory structure to be constructed on a lot on White Sand Lake at 5220 Fairview Road and a variance to allow a non-conforming use to be enlarged to occupy a greater area of land within the required 75 foot setback to White Sand Lake. as requested. Motion carried unanimously.

3. **PUBLIC HEARING.** Conditional Use Permits to allow a drive-through motor vehicle repair business and multiple frontage signs and a variance to allow drive through lanes facing public streets for Jiffy Lube to be located on vacant property north of 13442 Elmwood Drive. **LOT 2, BLOCK 1, NBFA ADDITION TO BAXTER** (City file 15-30)

Requested by: Guggenheim Retail Real Estate Partners, Inc. on behalf of NBFS Properties, LLC
11065 Leisure Lane, Brainerd, MN 56401

Chair Kinzel asked CD Director Doty to review the application with the Commission. CD Director Doty reviewed the site location and identified buildings around the proposed Jiffy Lube site. He explained the revised landscaping plan that was handed out with changes showing more trees being saved on the site. CD Director Doty reviewed the site plan with the Commission pointing out the drive lanes, stacking, storm water area, screening and proposed building. CD Director Doty noted that the proposed building has been reviewed for architectural standards and has been met and approved administratively. He indicated that there were three conditional use permits being requested, they were 1-drive-through business, 2-motor vehicle repair and 3-multiple frontage signage. All standards have been met and the findings/conditions have been met as well. CD Director Doty stated that the stacking was not a concern, the screening of headlights from the highway has been met, there was a condition regarding used parts not being stored outside and the signage request for two pylon signs along both frontage has been met regarding size and distance from each sign. The variance request is to allow the drive through lanes to face public right-of-way. Chair Kinzel stated that when he thinks of a drive through business he doesn't typically think of a business like this that has two fronts and vehicles drive *through* the building to be serviced. Community Director Doty stated that although the proposed drive through use is not the typical retail type of drive through that the code intended to restrict from having drive through lanes facing public right-of-way that wrap around the building where customers place and pick up orders similar to a fast-food restaurant, it is, by definition of the code, a drive through business. It is for this reason that a variance is required. Chair Kinzel suggested that in the future the Commission consider amending the drive through definition to exclude drive through businesses similar in nature to this applicant.

CD Director Doty stated the Utilities Commission has reviewed the application on October 7, 2015 and had no concerns. Staff is recommending approval of this application with the attached findings and conditions of the resolution.

Chair Kinzel opened the public hearing.

Mr. Kurt Overmyer of Guggenheim Retail Real Estate Partners, approached and stated this is the first operation with this franchise owner out of California, they have family in Minnesota and Baxter is going to be their first store. He explained the site plan and noted the saving of the trees. Jiffy Lube has taken into account the smaller and larger sites and the average daily count is 29 cars per day over 10-11 hours a day, therefore the stacking is minimal with maybe 2 cars at a time. This site will offer oil changes, brakes, windshield wiper blades and smaller types of service work in the fourth bay.

Chair Kinzel closed the public hearing.

Motion by Commissioner Carleton, second by Commissioner Ryan to recommend the City Council approve the conditional use permits to allow a drive-through motor vehicle repair business and multiple frontage signs and a variance to allow drive through lanes facing public streets for Jiffy Lube to be located on vacant property at 13472 Elmwood Drive.as recommended by staff.

Commissioner Ryan questioned the drive through lane for this applicant. He stated that a drive through lane is driving up to the building and receiving something such as food or money from a bank. This is not a true drive up and maybe a housekeeping issue should be looked at to define the different uses. CD Director Doty stated that he agreed and staff had looked and struggled with this portion of the review.

CD Director Doty technically is it a drive through business but could be clarified better. He also indicated that the variance request is also a clean-up item as there are business that do face public streets.

Motion carried unanimously.

OTHER BUSINESS

None

ADJOURNMENT

MOTION by Commissioner Ryan, seconded by Commissioner Oswald to adjourn the meeting at 7:00 p.m. Motion carried unanimously.

Approved by:

Submitted by:

Chair Bob Kinzel

Shanna Newman CD Administrative Assistant