



**CITY HALL**

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February 19, 2014

Planning Commissioners  
Winona, Minnesota 55987

Dear Commissioner:

The next meeting of the Planning Commission will be held on **Monday, February 24, 2014, at 4:30 p.m. in the Wenonah Room** of the Winona City Hall.

1. Call to Order
2. Minutes – January 27, 2014
3. Commission Bylaws
4. Discussion – General CUP Requirements
5. Other Business
6. Adjournment

Sincerely,

A handwritten signature in black ink, appearing to read "Mark Moeller".

Mark Moeller  
City Planner

## **PLANNING COMMISSION MINUTES**

**DATE:** January 27, 2014

**TIME:** 4:30 p.m.

**PRESENT:** Chairperson Porter, Commissioners Davis, Boettcher, L. Olson, Ballard, English, M. Olson, and Hahn

**ABSENT:** Commissioner Buelow

**STAFF PRESENT:** City Planner, Mark Moeller

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The meeting was called to order at 4:30 p.m. by Chairperson Porter.

### **Approval of Minutes – January 13, 2014**

The minutes for January 13, 2014 were reviewed. It was noted by Commissioner Mandi Olson that in line one of paragraph two under Commission Bylaws, the words “timelime” should be changed to “timeline”. Given this change, a motion to approve the minutes was presented. The motion was seconded by unanimous vote of those present.

### **Discussion – Proposed Floodplain Management Ordinance Amendments**

Chairperson Porter called on Mark Moeller, City Planner, to provide a summary of this item.

Mr. Moeller noted that during the past several months, staff has been in contact with representatives of the MN Department of Natural Resources relative to an effort to upgrade the City’s present Floodplain Management Ordinance. He explained that the ordinance was initially adopted in the late 60s and since that time, has been updated on a number of occasions. In summary, the current effort would result in the adoption of several flood maps, needed to ensure total map coverage of the City, and to bring ordinance text in line with Federal Emergency Management Agency (FEMA) and state model ordinance standards/language. Given discussion occurring to date, Mr. Moeller stated that proposed ordinance modifications have been prepared. Additionally, these were shown on the draft ordinance that was presented in the Commission’s agenda package.

Mr. Moeller emphasized that today’s discussion is designed to simply inform the Commission that this effort was being undertaken, and to provide a summary of its expected outcomes/changes.

Following this afternoon’s meeting, final corrections, along with a final draft ordinance will be prepared. Ultimately, this will be followed by both Commission and Council hearings and actions.

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Mr. Moeller stated that the City's Floodplain Management Ordinance is mandated pursuant to MN Statutes 103F. Generally, through the document, floodplain areas of the City are identified, and methods of managing these areas are presented. He stressed that a properly prepared and approved ordinance, along with minimizing potential flood hazards, also paves the way for citizens to obtain Federal Flood Insurance, when the need exists.

In reviewing proposed ordinance changes, Mr. Moeller explained that many modifications are superficial in nature and involve minor language changes. Outside of those, significant amendments will include:

1. As referenced under Section 43.67 of the draft ordinance, new Flood Insurance Rate Maps (FIRMS) and Flood Boundary and Floodway Maps (FBFM) are proposed to be adopted in order to ensure that the entire City is covered by adequate flood mapping. In short, the need for this mapping relates to annexations occurring over the past number of years. Although some of these annexed areas were previously covered under County maps and regulations, once brought into the City, they need to be covered by City regulations. Again, the adoption of new maps would ensure that these areas are properly covered. Mr. Moeller explained that a downside of new maps is that they were all prepared in 1984 making them approximately 30 years old now. With this, recent communications with DNR officials have included a discussion to encourage updating of these maps. Given this, he had been told that efforts were currently underway to update flood maps throughout the state and that Winona County was part of this effort. Outside of that, he currently had no detail as to how far along the agency may be in updating present maps.
2. The draft ordinance proposes to incorporate a new flood hazard district. This would be called the General Floodplain District, and would be in addition to Floodway and Flood Fringe districts that exist under the structure of the City's present ordinance. Mr. Moeller stated that this new zoning district was necessary in that some of the floodplains, incorporated within new maps to be adopted, did not include specific floodway or fringe delineations.
3. As previously noted, more superficial changes would be made to certain ordinance definitions and various section numbers. In part, some are dictated by the Federal Emergency Management Agency, while others evolve from the states model flood plain ordinance. He again emphasized that outside of the adoption of new maps, and the creation of a new flood hazard district, remaining amendments are not designed to change the purpose and intent of present language.

At this point, Chairman Porter introduced Commissioner Boettcher who noted that his townhome property is presently located within a designated floodplain. Given that, his mortgage holder does require him to maintain flood insurance on the property. Although he understood the need for this insurance, its downside is significant cost. In his case, his policy will exceed \$3,000 for the coming year. This policy comes with a

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\$5,000 deductible, while claims are triggered only when flood waters reach certain thresholds within the home.

Commissioner Boettcher stated that, to his knowledge, the area where his townhouse is located has never flooded and suggested that this may be one area where flood maps could be revised. He further noted that the cost factor is something that all, having flood insurance, have to deal with.

Commissioner Davis reaffirmed Commissioner Boettcher's comments by noting that in her real estate dealings, flood insurance requirements can make or break a sale.

Mr. Moeller noted that, as part of the Commission's consideration of the amended ordinance, it could request that the Minnesota DNR accelerate its flood map amendment process within Winona County.

Following further discussion, Commissioner Davis suggested that it might be wise to determine the origination/source of flood map data. With this, the Minnesota DNR should be encouraged to update the data process with the intent of preparing updated flood maps. Following brief discussion, this idea was presented in the form of a motion by Commissioner Davis. Following a second by Commissioner Ballard, the vote of the Commission was unanimous to approve the motion.

In concluding, Mr. Moeller explained that although he was not looking for specific action on the amended ordinance this afternoon, he encouraged any Commissioner who did have comments to provide them as soon as possible. With that, the next time the Commission would see the draft proposal would be during a designated public hearing.

### Other Business

Mr. Moeller noted that during the Commission's last meeting, it had initiated discussion regarding Commission Bylaws. From that meeting, the Commission had presented a couple of questions to the City Attorney for response. Since that time, the City Attorney had responded with ideas pertaining to establishing a maximum meeting time, along with the Commission's public hearing process.

With regard to establishing an outside meeting time for Commission meetings, the City Attorney had concluded that this could be done by generally stating that no official agenda item will be initiated prior to a specific meeting and time. In that event, the meeting would be continued to another date and time, following proper notice.

With regard to hearings, current Commission Bylaws generally require that once a public hearing is closed, discussion between the Commission and the public may not again occur unless the hearing is again opened. During recent Commission discussion, some had asked if it would be possible to promote additional discussion between Commissioners and those in attendance, outside of a hearing. In response, the City Attorney strongly suggested that all efforts be made to generate feedback and

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discussion with public hearing participants prior to closure of a hearing. Additionally, once the hearing is closed, such discussion should not occur unless the hearing is reopened.

Following discussion, the consensus of those present was to retain current language relative to the hearing process (Section 3). With regard to Section 1, the consensus of those present was to modify language, as recommended by the City Attorney, with the provision that (Section 1, D) be changed to read that no new agenda item would be commenced later than 7:00 p.m.

### Citizen's Handbook

Commissioner Mandi Olson noted that, given her role as a new Commissioner, she was wondering what City actions had been taken to implement various recommendations of the Comprehensive Plan. Given this, it was suggested that a portion of the Commission's next meeting be devoted to initiating this discussion. She suggested that for study purposes, table 5 of the plan entitled summary of major implementation actions could be used in leading discussion. Again, she felt that such an exercise could benefit all in defining future implementation strategies by the Commission.

Following discussion, the consensus of those present was that a discussion of Comprehensive Plan accomplishments would be beneficial. Given this, it was suggested that the next meeting include an agenda item relating to this subject. Mr. Moeller noted that it would be included.

### Adjournment

There being no further business to come before the Commission, the meeting was adjourned.

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Mark Moeller  
City Planner

## **PLANNING COMMISSION**

**AGENDA ITEM: 3. Commission Bylaws**

**PREPARED BY: Mark Moeller**

**DATE: February 24, 2014**

Given discussion occurring during its meeting of January 27<sup>th</sup>, the attached Commission Bylaws are being presented for final adoption.

Attachment

**BYLAWS OF  
CITY PLANNING COMMISSION  
WINONA, MINNESOTA**

The following rules of procedure are hereby adopted by the City Planning Commission in order to facilitate the performance of its duties, and the exercising of its function, as a Commission created under Section 2.02 of the City Home Rule Charter and City Code Chapter 41.

Section 1. COMMISSION MEETINGS.

- (A) Time. Unless otherwise noted, regular meetings of the Commission will be held on the second and fourth Monday of each month at 4:30 p.m. When the regular meeting day falls on a legal holiday, no meeting shall be held and Commission business shall be carried to the next regularly scheduled meeting.
- (B) Each meeting of the Commission shall convene at the time and place appointed. All public hearings shall commence at the advertised time.
- (c) ~~Adjournment.~~ A meeting may be adjourned, by the Chair, to a specified time and place without additional published, or other, notice.
- (C) Commission business shall be conducted in the order of the prepared agenda, unless an alteration is approved by a majority of the Commission. The prepared agenda may also be altered by the presiding officer to accommodate the advertised time of the public hearing.
- (D) Unless otherwise agreed to by a majority of those Commissioners present, no new agenda item will be commenced later than 7:00 p.m.
- (E) If all business has not been completed, the meeting may be adjourned to another date and time following notice.
- (F) Quorum. Five Planning Commission members shall constitute a quorum for the transaction of business. Whenever a quorum is not available, no official action may be taken, and the Chair may adjourn the meeting to a future date and time, following notice.
- (G) Place. Regular meetings will be held in City Hall.
- (H) Vote. Unless otherwise requested by the Chair, voting shall be by voice. All members shall have his or her vote recorded. Official action may be taken upon a vote of a majority in attendance.
- (I) Special Meetings. A special meeting may be called by the Chair, two or more Commission members, or by the Secretary, following consultation with the Chair.

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Section 2. ORGANIZATION.

- 2.1 Election of Officers. At the first regular meeting in September of each year, the Chair shall appoint a nominating committee of three Commission members who will present a slate of officers for the positions of Chair and Vice-Chair. The election of officers will be held at the first regular meeting in October.
- 2.2 Tenure. The Chair and Vice-Chair shall take office immediately following their election and shall hold office until their successors assume office.
- 2.3 Duties. The Chair or in his/her absence, the Vice-Chair shall preside at meetings, appoint committees, and perform such other duties as may be requested by the Commission. The Chair shall not move for action or second a motion, but shall have all voting privileges of any Commission member.
- 2.4 Secretary. The City Planner shall serve as secretary to the Commission. The secretary shall be responsible for providing clerical and technical services to the Planning Commission. All official records of the Commission shall be kept in the City Department of Community Development Office.

Section 3. PROCEDURE.

- 3.1 Parliamentary Procedure. Parliamentary procedure, governed by Roberts Rules of Order Revised, shall be followed at all meetings.
- 3.2 Hearing Procedure. When hearings, pertaining to any issue, are required, the Commission shall be guided by the following procedure:
  - A. Chair shall state the case to be heard.
  - B. Chair shall ask the applicant to present his/her case.
  - C. Chair shall call on the City Planner, or his representative, to present staff comments.
  - D. The hearing shall be opened and interested persons, upon giving their name and address, are invited to speak to the Commission. Following recognition by the Chair, Commission members may ask questions of persons addressing the Commission in order to clarify facts. Any statement by a member, other than to question, may be ruled out of order.
  - E. After all new facts and information have been brought forth, the hearing shall be closed, and interested persons shall not be heard again unless the hearing is reopened and unless

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all interested parties shall be allowed to be heard again. Upon completion of the hearing, the Commission shall discuss the item at hand and render a decision or recommendation.

- F. The Chair shall have the responsibility to inform all parties of their rights to appeal on any decision or recommendation which has been rendered by the Planning Commission.

Section 4. MISCELLANEOUS.

- 4.1 Suspension of Rules. The Commission may suspend any of these rules by a unanimous vote of those members present.
- 4.2 Amendments. These rules may be amended at any regular or special meeting by a majority of the members of the Commission.
- 4.3 Review. At the first January meeting of each year, these rules of procedure shall be reviewed and adopted by the Commission.

Adopted \_\_\_\_\_, at a regular meeting of the Commission.

\_\_\_\_\_  
Chair

Attested by:

\_\_\_\_\_  
Secretary

# PLANNING COMMISSION

**AGENDA ITEM: 4. Discussion - General CUP Requirements**

**PREPARED BY: Carlos Espinosa**

**DATE: February 24, 2014**

During the silica sand moratorium, staff reviewed the Conditional Use Permit process in the City Code and found no general CUP requirements. According to state statute:

## **462.3595 CONDITIONAL USE PERMITS.**

### *Subdivision 1. Authority.*

*The governing body may by ordinance designate certain types of developments, including planned unit developments, and certain land development activities as conditional uses under zoning regulations. Conditional uses may be approved by the governing body or other designated authority by a showing by the applicant that the standards and criteria stated in the ordinance will be satisfied. The standards and criteria shall include both general requirements for all conditional uses, and insofar as practicable, requirements specific to each designated conditional use.*

Although the zoning code contains specific requirements for conditional uses, there are no general requirements. General requirements would increase the City's discretionary power when reviewing Conditional Use Permit applications. As such, staff recommends considering the addition of general CUP requirements to the City Code.

Attached to this agenda item is a summary of proposed general CUP requirements. The proposed requirements are based on examples from Saint Paul, MN; Mankato, MN; Rochester, MN; and Red Wing, MN (attached).

Staff is seeking the Commission's input regarding the proposed requirements.

Attachments:

- 1) Summary of Proposed General CUP Requirements
- 2) Examples from St. Paul, Mankato, Rochester, and Red Wing

# Attachment 1

## General Requirements for Granting Conditional Use Permits

In addition to meeting all conditions listed under a specific use, general conditions which must be met for all Conditional Use Permits are as follows:

1. The extent, location and intensity of the use will be in substantial compliance with the Winona Comprehensive Plan.
2. The use will conform to all applicable zoning regulations.
3. Considering existing circumstances and potential uses under existing zoning, the proposed use will not severely impair the use and enjoyment of other property in the neighborhood and will not significantly diminish or impair the values of such property.
4. The use will not impede the normal and orderly development and improvement of the surrounding property for uses permitted in the district.
5. Considering existing circumstances and potential uses under existing zoning, the use will not be detrimental to the existing character of the development in the immediate neighborhood or endanger the public health, safety and general welfare.
6. The use will not create an excessive burden on existing parks, schools, streets/roads and other public facilities which serve or are proposed to serve the area.
7. The use will not cause excessive traffic congestion.
8. The use preserves significant historical and architectural resources.
9. The use preserves significant natural and environmental resources.
10. The proposed use will comply with other applicable city, state, and federal regulations.

The Board of Adjustment may impose additional conditions on developments subject to a CUP in order to satisfy the criteria above and protect the health, safety, morals, and general welfare of the public. The conditions must be directly related to and must bear a rough proportionality to the impact created by the development.

## Limitations

Subject to an extension of time granted by the City Council, no CUP approval shall be valid for a period longer than twelve (12) months, unless a building permit is issued. In instances where a building permit is not required, the subject property must be put to use in compliance with the CUP within twelve (12) months, unless an extension has been granted by the City Council.

## Procedure

An application for a CUP shall be made to the Board of Adjustment and processed in accordance with Section 22.21. The application shall address each of the general criteria above and specific criteria listed under a specific use. City Staff will provide notification to the applicant within 15 business days if the application for a CUP is incomplete.

# Attachment 2

## Saint Paul

### Code Requirements

In addition to meeting all conditions listed under a specific use, there are general conditions that must be met for all Conditional Use Permits as follows:

- The extent, location and intensity of the use will be in substantial compliance with the Saint Paul Comprehensive Plan and any applicable subarea plans which were approved by the city council.
- The use will provide adequate ingress and egress to minimize traffic congestion in the public streets.
- The use will not be detrimental to the existing character of the development in the immediate neighborhood or endanger the public health, safety and general welfare.
- The use will not impede the normal and orderly development and improvement of the surrounding property for uses permitted in the district.
- The use shall, in all other respects, conform to the applicable regulations of the district in which it is located.

The Planning Commission may impose such reasonable conditions and limitations in granting an approval as are determined to be necessary to fulfill the spirit and purpose of the zoning code and to protect adjacent properties.

Conditions may be modified by the Planning Commission when strict application of such conditions would unreasonably limit or prevent the otherwise lawful use of a piece of property or an existing structure and would result in exceptional undue hardship to the owner of such property or structure; provided, that such modification will not impair the intent and purpose of such condition and is consistent with health, morals and general welfare of the community and is consistent with reasonable enjoyment of adjacent property.

## Mankato, MN

### 10.92: Conditional Use Permits.

#### 5.000 Standards.

The Planning Agency shall only recommend the granting of the Conditional Use Permit, granting the Conditional Use Permit subject to conditions, or denying the conditional use based on written findings of fact with regard to each of the standards set forth below and, where applicable, any special standards for specific uses set forth in the provisions of a specific zoning district.

- A. It is one (1) of the conditional uses listed in the particular district.
- B. It is in keeping with the comprehensive planning policies of the City and this Chapter as amended from time to time.
- C. It does not interfere with or diminish the use of property in the immediate vicinity.
- D. It can be adequately served by public facilities and services.
- E. It does not cause undue traffic congestion.
- F. It preserves significant historical and architectural resources.
- G. It preserves significant natural and environmental features.
- H. It will not cause a negative cumulative effect, when considered in conjunction with the cumulative effect of various special uses of all types on the immediate neighborhood, and the effect of the proposed type of conditional use upon the City as a whole.
- I. It complies with all other applicable regulations of the district in which it is located and other applicable ordinances, except to the extent such regulations have been modified through the planned development process or the granting of a variance.
- J. It will not jeopardize the public's health, safety, or general welfare.

#### 10.000 Limitations on Conditional Uses.

Subject to an extension of time granted by the City Council, no conditional use permit shall be valid for a period longer than twelve (12) months, unless a Building Permit is issued, or unless a Certificate of Occupancy is issued and the conditional use commenced within that period of time.

Except when otherwise provided in the resolution approving a conditional use, a conditional use shall be deemed to relate to, and be for the benefit of, the use and lot in question, rather than the owner or operator of such lot.

## **Rochester, MN**

### **CHAPTER 61 - LOT AND SITE DEVELOPMENT APPROVAL PROCEDURES**

#### **61.140 CONDITIONAL USE PERMIT**

A document authorizing an applicant to proceed with application for zoning certificate approval where the development involves a use which, because of its potential impact, has been identified as a use requiring review through the Type II or Type III procedure. The intent of the Conditional Use Permit is to provide for the review of such use so that the community is assured it is compatible with its location and surrounding land uses.

#### **61.146 Standards for Conditional Uses:**

Subdivision 1. The zoning administrator, Commission or Council shall approve a development permit authorizing a conditional use unless it determines one or more of the following findings can be made with respect to the proposed development.

Subd. 2. Provisions for vehicular loading, unloading, parking and for vehicular and pedestrian circulation on the site and onto adjacent public streets and ways will create hazards to safety, or will impose a significant burden upon public facilities.

Subd. 3. The site plan fails to provide pedestrian access to any customer/tenant ingress/egress of the building, including from a public right-of-way and off-street parking area that serves the use in a manner which minimizes non-vehicular/vehicular conflicts.

Subd. 4. The intensity, location, operation, or height of proposed buildings and structures will be detrimental to other private development in the neighborhood or will impose undue burdens on the sewers, sanitary and storm drains, water or similar public facilities.

Subd. 5. The provision for on site bufferyards and landscaping does not provide adequate protection to neighboring properties from detrimental features of the development.

Subd. 6. The site plan fails to provide for the soil erosion and drainage problems that may be created by the development.

Subd. 7. The provisions for exterior lighting create undue hazards to motorists traveling on adjacent public streets or are inadequate for the safety of occupants or users of the site or such provisions damage the value and diminish the usability of adjacent properties.

Subd. 8. The proposed development will create undue fire safety hazards by not providing adequate access to the site, or to the buildings on the site, for emergency vehicles.

Subd. 9. In cases where a Phase I plan has been approved, there is a substantial change in the Phase II site plan from the approved Phase I site plan, such that the revised plans will not meet the standards provided by this section.

Subd. 10. The proposed conditional use does not comply with all the standards applying to permitted uses within the underlying zoning district, or with standards specifically applicable to the type of conditional use under consideration, or with specific ordinance standards dealing with matters such as signs which are part of the proposed development, and a variance to allow such deviation has not been secured by the applicant.

# Red Wing, MN

## 90-040 Conditional Use Permit

- A) **Purpose of Conditional Use Permits.** A conditional use permit (C.U.P.) is a zoning permit that is intended as a means of reviewing uses which, because of their unique characteristics, cannot be permitted as a right in a particular zoning district, but can be permitted upon showing that such use in a specific location meets the standards specified in this zoning ordinance.
- E) **Required Findings for Conditional Use Permits.** The City Planning Commission shall consider the following before making its recommendation to the City Council:
- 1) The establishment, maintenance or operation of the conditional use will not be detrimental to or endanger the public health, safety, morals, comfort or general welfare.
  - 2) The conditional use will not be injurious to the use and enjoyment of other property in the vicinity and will not impede the normal and orderly development and improvement or surrounding property for uses permitted in the district, or substantially diminish property values.
  - 3) Adequate utilities, access roads, drainage, or other necessary facilities have been or will be provided.
  - 4) Adequate measures have been or will be taken to minimize traffic congestion in public streets.
  - 5) The conditional use permit is consistent with the applicable policies of the Comprehensive Plan.
  - 6) The conditional use shall, in all other respects, conform to the applicable regulations or the district in which it is located.
- F) **Council Action.** The City Council shall consider the report of the Planning Commission and any other information provided. The City Council shall make findings of fact before granting the conditional use permit based on the findings listed in E) above. The City Council may impose such conditions on any proposed conditional use permit and require such guarantees as it deems reasonable and necessary to protect the public interest and to ensure compliance with the standards and purposes of this zoning ordinance and policies of the comprehensive plan.
- G) **Discontinuance of Conditional Use Permits.** Where a conditional use has been established and is discontinued for any reason for a period of one (1) year or longer, or where a conditional use has been changed to a permitted use or to any other conditional use, the conditional use permit shall become null and void.