



CITY HALL

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October 8, 2014

Planning Commissioners
Winona, Minnesota 55987

Dear Commissioner:

The next meeting of the Planning Commission will be held on **Monday, October 13, 2014, at 4:30 p.m. in the Wenonah Room** of the Winona City Hall.

1. Call to Order
2. Minutes – September 22, 2014
3. Public Hearing – CUP Ordinance Amendments
4. Nominating Committee Recommendations – Officers for 2015
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: September 22, 2014

TIME: 4:30 p.m.

PRESENT: Chairperson Porter, Commissioners Boettcher, Buelow, Fritz, Ballard, L. Olson, M. Olson, and Hahn

ABSENT: Commissioner Davis

STAFF PRESENT: Assistant City Planner, Carlos Espinosa

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

Approval of Minutes – September 8, 2014

The minutes for September 8, 2014 were approved without changes upon motion by Commissioner Buelow and second by Commissioner Boettcher.

Discussion – Draft CUP Ordinance Amendments

Mr. Espinosa stated that the CUP ordinance amendments were being brought back to the Planning Commission for discussion before being forwarded to a public hearing. Mr. Espinosa stated that he'd like to discuss the proposed CUP requirement related to substantially diminished property values.

Commissioner Hahn stated it would be difficult to determine the future diminished value of neighboring properties when a project is going through the approvals process.

Commissioner Boettcher asked if the word "substantially" could be replaced with "necessarily." Mr. Espinosa responded that the City Attorney suggested "substantially" because there was some legal precedent supporting it.

Commissioner Buelow asked if there was a definition of neighborhood. Mr. Espinosa said there wasn't.

Commissioner Hahn asked if staff had a recommendation. Mr. Espinosa stated that he would be most comfortable eliminating the reference to substantially diminished property values altogether.

Commissioner Fritz asked if the Commission could still bring up potential issues with the use and enjoyment of neighboring properties. Mr. Espinosa replied affirmatively – that portion of the condition would remain in the ordinance.

Chairperson Porter asked if the language could be softened instead of removed. Mr. Espinosa stated that was an option.

After continued discussion, it was suggested that the phrase "and may not adversely affect neighboring property values" be used instead of "will not substantially diminish the

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value of such property.” In this manner, the commission could still consider property values in a CUP application.

Commissioner Hahn motioned to forward the CUP ordinance amendments to a public hearing with abovementioned change. The motion was seconded by Commissioner Fritz and passed unanimously upon vote.

Approval of 2015 – 2019 Capital Improvement Program

Mr. Espinosa explained that per state statute, the Commission is required to approve the CIP to ensure that it's in-line with the Comprehensive Plan.

Chairperson Porter asked if there was a motion on the item prior to discussion.

Commissioner Olson made a motion to approve the CIP as written. The motion was seconded by Commissioner Boettcher.

Chairperson Porter stated that this year's review meeting was a little hurried and suggested that next year's meeting not be scheduled before a City Council meeting. Mr. Porter also suggested providing more detail on how proposed projects align with the Comprehensive Plan.

Commissioner Olson stated that more detail on local street improvements would be a good addition to the plan.

Commissioner Fritz stated that perhaps next year's CIP could include a line item for beautification efforts related to sidewalks, medians, and trees.

Following further discussion, the motion to approve the CIP as written was passed unanimously.

Next, Commissioner Fritz made a motion to recommend that next year's CIP process include:

1. More time for questions and discussion at the CIP review meeting with the Planning Commission and City Council.
2. More detail on proposed improvements including whether a proposed project is based on the Comprehensive Plan or if it's required maintenance.

The motion was seconded by Commissioner Olson and passed unanimously upon vote.

There being no further business to come before the Commission, the meeting was adjourned at 5:25 p.m.

Carlos Espinosa
Assistant City Planner

PLANNING COMMISSION

AGENDA ITEM: 3. Public Hearing – CUP Ordinance Amendments

PREPARED BY: Carlos Espinosa

DATE: October 13, 2014.

At the last Planning Commission meeting, this item was forwarded to a public hearing. Highlights of the ordinance include:

1. New general CUP standards - These standards would apply to all CUP applications. They are in addition to the specific standards for each conditional use. There are 10 general standards in the proposed ordinance. At the last meeting, the Commission made the following change to number 3:

(3) Considering existing circumstances and potential uses under existing zoning, the conditional use will not substantially impair the use and enjoyment of other property in the neighborhood and will not substantially diminish the value of such property may not adversely affect neighboring property values.
2. Planning Commission review of CUPs – Currently CUPs are reviewed by the Board of Adjustment.
3. Detail on CUP amendment procedure – Minor amendments to CUPs may be approved by staff. Staff notifies Commission of minor amendment approval. More significant amendments which may affect neighborhood compatibility or public health, safety, and welfare must be approved by the Planning Commission through the full CUP process.
4. CUP time limits – CUPs must be put to use within one year of approval or receive an extension by the City Council.

Following the public hearing, options available to the Commission include:

1. Approving the ordinance as presented.
2. Making additional modifications prior to approval.
3. Tabling the ordinance for further consideration at a future meeting.

Attachments:

- 1) Draft CUP Ordinance

AN ORDINANCE TO AMEND
THE CODE OF THE CITY OF
WINONA, MINNESOTA
1979

The City of Winona does ordain:

Section 1. That Article II of Chapter 43 of the City Code of Winona, Minnesota, 1979, which Article is entitled "Enforcement of Chapter" be amended by adding thereto the following:

DIVISION 4. CONDITIONAL USE PERMITS

43.31.1 CONDITIONAL USE PERMITS.

- (a) Purpose of Conditional Use Permits. Conditional uses are specific land use designations that are allowed in particular zoning districts under certain conditions and provided certain general and specific standards and criteria as contained in City ordinance pertaining to the conditional use are observed. A conditional use permit (CUP) is a zoning permit a City issues because of unique characteristics, hazards inherent in the conditional use, or special problems the proposed location of the conditional use may present, provided the general and specific standards and criteria contained in this Chapter have been met by the applicant.

- (b) Conditional Use Permit Required. It is unlawful for any person to engage in a conditional use without having first obtained a conditional use permit therefore.

- (c) Application. An application for a CUP shall be made in writing signed by the owner of the property for which the conditional use permit is sought on a form provided by the City. Should a CUP application also require variance/s, approval of the variance/s shall occur prior to submittal of the CUP application. The application shall be filed with the City and shall address each of the general requirements in this section and the specific criteria listed under a specific conditional use within a zoning district, as applicable. Following receipt of a CUP application, City staff will provide written notification to the applicant within 15 business days if the application for a CUP is determined to be incomplete and telling the applicant what information is missing. An application determined to be incomplete by City staff, following the above written notice procedure shall not be forwarded to the Planning Commission for consideration until it is resubmitted with the missing information. If an application is determined incomplete by City staff because it that does not contain all required

information, the 60-day review period applicable under Minnesota Statutes, section 15.99 shall not restart until an application is resubmitted in the same manner as the original incomplete application.

The process for the Planning Commission to consider an application for a CUP is contained in Section 41.01 (e).

- (d) General Requirements for All Conditional Use Permits. In addition to meeting all conditions listed under a specific use within a zoning district, as applicable, the general standards and criteria, which must be met for all CUPs, are as follows:
- (1) The extent, location and intensity of the conditional use will be in substantial compliance with the Winona Comprehensive Plan.
 - (2) The conditional use will conform to all applicable zoning regulations for the district in which the property is located.
 - (3) Considering existing circumstances and potential uses under existing zoning, the conditional use will not substantially impair the use and enjoyment of other property in the neighborhood and may not adversely affect neighboring property values.
 - (4) The conditional use will not impede the normal and orderly development and improvement of the surrounding property.
 - (5) Considering existing circumstances and potential uses under existing zoning, the conditional use will not be detrimental to the existing character of the development in the immediate neighborhood or be incompatible with or endanger the public health, safety and general welfare.
 - (6) The conditional 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 conditional use will not adversely affect neighboring property and dwellings because of excessive traffic generation, glare, noise or other nuisance characteristics.
 - (8) A conditional use located on property having significant historical and architectural resources shall preserve such resources, and a conditional use shall not substantially diminish other neighboring property having significant historical and architectural resources.

- (9) The conditional use shall either preserve or not significantly negatively affect natural and environmental resources.
 - (10) The conditional use will comply with other applicable city, state, and federal regulations, as applicable.
- (e) Additional Conditions. In addition to the general standards and criteria, the Planning Commission or the City Council, as applicable, may impose such other additional conditions on conditional uses as it deems reasonable and necessary; (i) to ensure compliance with the comprehensive plan, this Chapter, the general standards contained herein, and the specific criteria listed under a specific conditional use in a zoning district; and (ii) to protect the health, safety, morals, and general welfare of the public.
- (f) Amendments to Approved Conditional Use Permits. Approved conditional use permits may be amended as follows:
- (1) Minor Amendments. Minor amendments shall include changes in the site design of the applicable property that do not affect neighborhood compatibility or the public health, safety or welfare and that do not violate any of the approved conditions of the CUP. The City Planner may review and make a decision on a minor amendment. The City Planner shall notify the Planning Commission of the minor amendment approval.
 - (2) Major Amendments. Major amendments shall include all changes that are not classified as minor amendments above and shall be subject to Planning Commission approval under the same procedure as the original CUP.
 - (3) Accessory Uses to a Conditional Use. Uses and structures that are accessory to a conditional use shall be allowed without requiring a CUP amendment unless specifically required as a condition of CUP approval.
- (g) Re-submitting Denied Applications. No application which has been denied wholly or in part may be resubmitted for at least one year from the date of its denial, unless substantial changes have been made which warrant reconsideration, as determined by the City Planner.
- (h) Enforcement and Revocation. Failure to comply with any condition set forth in a CUP shall constitute sufficient cause for termination of the CUP by the City Council following a public hearing. Written notification of the public hearing shall be mailed at least ten days prior to the hearing to the current holder of the CUP. The notice shall outline the violation(s)

considered by the City to be grounds for revocation and inform the current holder of the CUP of the opportunity to be heard at the public hearing,

- (i) Cancellation of Conditional Use Permits. The following conditions shall be part of every CUP unless otherwise specified by the Planning Commission or City Council at the time a CUP is granted:
- (1) In instances where a building permit is required for the conditional use that is the subject of the CUP, but subject to an extension of time granted by the City Council, an approved CUP shall expire and become null and void unless a building permit is issued by the City for the conditional use for which the CUP was granted within twelve (12) months of the date of final approval of the CUP.
 - (2) In instances where a building permit is NOT required for the conditional use that is the subject of the CUP, but subject to an extension of time granted by the City Council, an approved CUP shall expire and become null and void unless the property is put to the conditional use for which the CUP was granted and in compliance with all CUP conditions, within twelve (12) months of the date of final approval of the CUP.
 - (3) Where a CUP has been granted and the conditional use for which the CUP was approved is discontinued or abandoned for any reason for a period of one (1) year or more, the CUP shall expire and become null and void provided there is a preponderance of evidence demonstrating discontinuance or abandonment of the conditional use.
 - (4) Where a CUP has been granted and a conditional use has been changed to a permitted use or to any other conditional use, the CUP shall expire and become null and void.

(j) Applicability. The provisions of this ordinance shall apply to all new, pending and existing Conditional Use Permits.

Section 2. That all references to "Board of Adjustment" and "the board" be amended to read "Planning Commission" and all references to "Section 22.21 of this code" be amended to read "Section 41.01 of this code" in the following sections of the Code:

- 43.30 – Performance Standards Procedure
- 43.48 – Extraction Pits

- 43.55 – R-S Residential Suburban District
- 43.56 – R-1 One-Family Residence District
- 43.56.1 – R-1.5 One to Four Family Medium Density Residential
- 43.57 – R-2 One to Four Family Residence District
- 43.58 – R-3 Multi-Family Residence District
- 43.58.2 – R-R – Rural Residential District
- 43.59 – B-1 Neighborhood Business District
- 43.60 – B-2 Central Business District
- 43.60.1 – Mixed Use Business District
- 43.63 – M-2 General Manufacturing District
- 43.65 – Conservancy District
- 43.65.1 – Ag – Agricultural District
- 3.86 – WSU Campus Overlay (Main)

Section 3. That Section 41.01 of the Code, which section is entitled “Planning Commission” be amended by adding thereto the following:

- (e) Conditional Use Permits (CUP).
 - (1) Application. An application for a CUP shall be made in writing signed by the owner of the property for which the conditional use permit is sought on a form provided by the City. Should a CUP application also require variance/s, approval of the variance/s shall occur prior to submittal of the CUP application. An application for a CUP determined to be complete by City staff shall be transmitted to the Planning Commission for consideration. The application shall address each of the general requirements and standards and criteria set forth in Section 43.31.1 and the specific criteria listed under a specific conditional use within a zoning district, as applicable, and shall be accompanied by the fee as set forth in Section 51.01. Following receipt of a CUP application, City staff will provide notification to the applicant within 15 business days if the application for a CUP is determined to be incomplete. An application determined to be incomplete by City staff shall not be forwarded to the Planning Commission for consideration.
 - (2) Public Hearing. Upon receipt of a completed application, the Planning Commission shall hold a public hearing. The consideration of the CUP application shall be made by the Planning Commission in accordance with the provisions of Minnesota Statutes, Section 15.99. Notice of the time, place and purpose of the hearing shall be published in the official newspaper and be mailed to the applicant and owners of all real property situated wholly or partly within 350 feet of the subject property at least ten (10) days prior to the hearing. If the application pertains to land

within a Flood Plain District or shoreland under local management control, a copy of the application and notice of hearing shall be provided to the DNR. The notice may be sent by electronic mail or U.S. Mail to the respective DNR area hydrologist.

- (3) Planning Commission Consideration. Upon the conclusion of the public hearing, the Planning Commission shall either grant the CUP, grant the CUP subject to amended or additional conditions, table further consideration of the CUP pending receipt of additional information necessary to consider the application, or deny the CUP. If the Planning Commission tables consideration, City staff shall provide notice to the applicant of the information needed and the reasons for the extension of the original 60-day review period, which extension may not exceed 60 days unless approved by the applicant.
- (4) Findings. The Planning Commission shall make findings supporting its decision following the close of the public hearing and its deliberations and adopt the same at the meeting or directing City staff to come back to the Planning Commission with recommended findings at a subsequent meeting. In granting a CUP, the Planning Commission or the City Council, as applicable, may impose such conditions and require such guarantees on conditional uses as it deems reasonable and necessary; (i) to ensure compliance with the comprehensive plan, this Chapter, the general standards contained herein, and the specific criteria listed under a specific conditional use in a zoning district; and (ii) to protect the health, safety, morals, and general welfare of the public. If a CUP is granted and the CUP pertains to land within a Flood Plain District or shoreland under local management control, a copy of the CUP shall be provided to the DNR. The decision may be sent by electronic mail or U.S. Mail to the respective DNR area hydrologist.
- (5) Appeal. Any party in interest aggrieved by a decision of the Planning Commission may appeal to the City Council by filing a written notice of appeal with the City Clerk within ten (10) days after the date of the decision of the Planning Commission accompanied by the filing fee as set forth in Section 51.01.
- (6) City Council Action on Appeal. The City Council shall hear and decide the appeal not more than 30 days after it is filed with the City Clerk, unless in the judgment of the City Council a good and sufficient reason exists for postponement of the hearing or decision or both, in which case a postponement may be made. The City Clerk shall cause notice of the appeal hearing to be published in the official newspaper and be mailed to the appellant. At the

appeal hearing, the appellant, and his or her agent or attorney, shall be given an opportunity to be heard and to show why the decision of the Planning Commission should be overruled or amended; a representative of the Planning Commission and Planning Commission City staff shall be given an equal opportunity to be heard. After the close of the appeal hearing, the City Council shall deliberate and may make motion and take action adopting findings and an order affirming, amending or overruling the decision of the Planning Commission, or defer a decision on the matter to a subsequent meeting. A copy of the findings and order shall be served on the appellant, and his or her agent or attorney, by mail by the City Clerk. If a CUP is granted and the CUP pertains to land within a Flood Plain District or shoreland under local management control, a copy of the CUP shall be provided to the DNR. The decision may be sent by electronic mail or U.S. Mail to the respective DNR area hydrologist.

Section 4. That Section 51.01 of said Code, which section sets forth the fees and charges to be charged by the City, be amended by adding thereto the following:

“Conditional Use Permit application: \$197.00; Appeal of Decision of Planning Commission: \$197.00”

Section 5. That this ordinance shall take effect upon its publication.

Dated this _____ day of _____, _____.

Mayor

Attested By:

City Clerk

PLANNING COMMISSION

AGENDA ITEM: 4. Nominating Committee Recommendations – Officers for 2015

PREPARED BY: Mark Moeller

DATE: October 13, 2014

The Nominating Committee will present a recommended list of officers for 2015.