

DEEPHAVEN PLANNING COMMISSION
TUESDAY, JUNE 21, 2011
7:00 P.M.
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CALL TO ORDER: Chairman Werneiwski called the meeting to order at 7:00 p.m.

PRESENT: Chairman Bob Werneiwski, Commissioners Kent Carlson, Walter Linder, John McGary, Barbarajean Brandt and Pete Onstad

ABSENT: Commissioner Scott Hemink

OTHERS PRESENT: Council Liaison Josh Hackney and City Administrator Dana Young

1. MAY 17, 2011 MINUTES

Motion by Commissioner Onstad to approve the minutes of May 17, 2011 as presented. Seconded by Commissioner McGary. Motion carried 6-0.

2. PUBLIC HEARINGS

Special Use - Special Use request from the Deephaven Academy to place a twenty-four square foot free standing sign along the east side of Minnetonka Boulevard on the St. Therese property, 18325 Minnetonka Boulevard. Though the sign is located on the St. Therese property, it is intended to identify the Deephaven Academy which is a K-8 private school which leases space from the Parish.

Section 1115.09(a) permits signage of up to one hundred square feet with the issuance of a special use permit. The proposed sign would be five foot in height and have a sign area three foot in height by four foot in width. The proposal is for a v-shaped sign with no illumination. The lettering would be dark blue set on a white background.

City Administrator Young provided a summary of the request. He stated that the Deephaven Academy, located within St. Therese Parish, is requesting a Special Use Permit to construct a twenty-four square foot, v-shaped sign along the east side of Minnetonka Blvd. He stated that the proposed sign would be a total of five feet tall with a three foot by four foot sign area. The proposed lettering would be dark blue set upon a white background and would not be illuminated.

He added that St. Therese currently has two eleven foot, seven inches wide by seven foot high monument signs on the property and the ordinance does not have any requirements on the total amount of signage permitted on individual properties.

He stated that Zoning Coordinator Gus Karpas recommended approval of the special use request. He stated that staff could find no negative impact on the development of the community, the character of the community or on the health, safety and general welfare of the surrounding properties, and the proposal would not impact traffic conditions or impact property values.

Jim Hadley, School Board representative for Deephaven Academy, was present to answer questions from the Commission members.

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Commissioner McGary noted that the aerial map seems to indicate that there are two sign locations and wanted Mr. Hadley to confirm that there was only one sign to be erected. Mr. Hadley confirmed that there will only be one sign and he has already installed the posts.

Commissioner Linder asked about the characteristics of the sign. Mr. Hadley stated that it would be a wood sign with a white background and blue lettering.

Commissioner Carlson asked if there would be any ground lighting. Mr. Hadley stated that there would not be any lighting on the sign.

Chairman Werneiwski opened the public hearing. Hearing no comments, the public hearing was closed.

Chairman Werneiwski asked the Commissioners for their comments regarding the request.

Commissioner McGary stated that he was in support of the request.

Commissioner Onstad stated that he also supported the request. He stated that he felt that the sign would have no impact and there were be no plan for there to be any lighting with the sign.

Chairman Werneiwski stated that he generally supported the request but was concerned about a homemade sign and his only concern was that he would prefer the sign to look professionally done.

Commissioner Linder agreed that the Commission usually has much more details concerning the sign itself than what is shown with this request. He stated that it looks like a painted plywood sign.

Chairman Werneiwski stated that he would also prefer a professionally constructed sign.

Commissioner Linder stated that while he supports the request in concept, he would not approve the request due to the lack of a clear description and details on the sign.

Commissioner Brandt stated that she would also prefer a professionally constructed sign.

Administrator Young stated that the Commission could approve the request upon the condition that the applicant submit professional renders of the sign for the City Council at the July 6th Council meeting.

Commissioner Carlson stated that the Commission would have to include a request for material description and specifications on the proposed style of the sign as part of the motion.

ACTION: Motion by Chairman Werneiwski to recommend the City Council approve the Special Use Request of Deephaven Academy to place a twenty-four square foot free standing sign along the east side of Minnetonka Boulevard on the St. Therese property at 18325 Minnetonka

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Boulevard subject to the applicant provided a detailed description and specifications on the proposed sign. The applicant complies with the requirements outlined in the ordinance for signs. Commissioner McGary seconded the motion. Motion carried 6-0.

Ordinance Amendment - To consider the amendment of Section 1306 of the Deephaven Code, permitting the sale, lease, trade or other transfer of firearms or ammunition by a licensed firearms dealer as a special home occupation.

Administrator Young provided a brief summary of the Ordinance Amendment. He stated that the ordinance would amend Section 1306, Subd. 8 of the Home Occupation Ordinance to enable a federally licensed firearms dealer to conduct this activity as a Home Occupation upon the issuance of a Special Use Permit.

Chairman Werneiwski asked if there were any questions from David Garber, 18880 Ridgewood Road, who had initiated this proposed ordinance amendment with his request to run a business from his home selling firearms and ammunition.

David Garber stated that he had no comments.

Chairman Werneiwski opened the public hearing.

Jay Tucker, 4550 Linwood Lane, stated that he was concerned about what the applicant had in mind regarding the sale of firearms and ammunition from his home.

David Garber stated that his intent was to facilitate the sale of firearms and ammunition to local or statewide law enforcement agencies. He stated that it would not be a retail business.

Jay Tucker asked if this would give him permission to load up on guns and ammunition. He stated that many cities regulate how many guns and how much ammunition can be stored on a property. He asked if this request would have to be approved through the special use permit requirements.

Chairman Werneiwski stated that the Commission's actions tonight would be to amend the Home Occupation ordinance to potentially permit the sale of firearms and ammunition, not to grant Mr. Garber a special use permit.

David Gerber reiterated that the special use permit would enable him to buy and assemble guns that would eventually be demonstrated and offered for sale to law enforcement agencies.

Chairman Werneiwski closed the public hearing.

Chairman Werneiwski stated that he supports the ordinance amendment and could see no reason why licensed firearms dealers were excluded from the Home Occupation Ordinance.

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Commissioner Linder stated that he supports the amendment allowing for a special use permit requirement, which would allow for fairly strict requirements to be put in place.

Commissioner Brandt asked how these requirements would be enforced.

Commissioner Linder stated that Special Use Provisions within the ordinance grants the City the discretion to inspect the premises to ensure compliance.

Commissioner Brandt asked if the state or federal authorities also inspect the premises.

David Garber stated that the federal authorities have the right to inspect upon advance notice.

Commissioner Carlson stated that he likes the teeth that have been suggested so far by the Commission members but has some concerns about the sale of guns in a residential area. He stated that he would expect a large number of people to show up for the Special Use Permit request.

Commissioner Onstad stated that he is somewhat torn on this issue. He stated that although he doesn't particularly support the sale of guns and ammunition in a residential area from a public safety standpoint due to concerns regarding potential break-ins and theft, in principal he doesn't have an issue with someone selling guns from their home. He stated that that the ordinance is very clear that the business cannot be a retail operation.

Commissioner McGary stated that he thought after last month's discussion on this issue the Commission would have the opportunity to review some of the federal firearm requirements. He stated that he still feels comfortable with the federal, state and local oversight on firearm's dealers.

Commissioner Linder stated that a Special Use Permit would allow the Commission to place whatever restrictions on the permit that the Commission determined to be appropriate.

Commissioner Brandt asked why Mr. Gerber requires these changes from the City.

Mr. Gerber stated that he stated that he needs the City to make the necessary changes in the ordinance in order to obtain approval for his federal firearm's permit. He stated that Orono and Deephaven are the only two cities that do not permit firearm's dealers in a residential area.

Administrator Young further explained that a federal firearm's license requires zoning approval from the City before a license can be issued. He stated that the current zoning regulations do not permit the sale of firearms in a residential area.

ACTION: Motion by Commissioner Linder to recommend the City Council adopt Ordinance 13-57, an Ordinance Amending Section 1306 of the Deephaven City Code, as presented. Chairman Werneiwski seconded the motion. Motion carried 6-0.

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3. NEW BUSINESS

Concept Review – Review conceptual plan for the redevelopment of Deephaven Court. Administrator Young provided a brief review of the proposed senior housing / retail project that has been proposed to City staff on the Deephaven Court property. He stated that the main goal of tonight's discussion is to simply familiarize the Commission with the proposed project, review the number of requests that would be needed to accommodate the project, and to provide the Commission the opportunity to formulate questions on such a significant project well in advance of any application, if one is submitted.

Council Liaison Hackney stated that the Council intended this as an informational meeting only, with the intent to enable the Commission to get a feel for the scale of the project and the significant number of changes in the Zoning Code and variance requests that would be required.

Commissioner Linder stated that he thought it would be a mistake to consider this request in a vacuum.

G.T. Mark, a real estate consultant, stated that the primary reason his group is interest in a senior housing project in Deephaven is due to the fact that they believe the community and the seniors in Deephaven are under served. He stated that Deephaven would be a great market for senior housing, the site is already commercially zoned and would be a good fit for a senior housing complex.

He stated that due to the need to remove so many existing commercial properties, the project is an expensive proposition. He stated that this has led to the need to maximize the density. He stated that the economics have dictated the need for 100 housing units. He stated that their investment group would manage the senior housing property.

He added that their investment group wouldn't have an interest in advancing the project if the City wasn't interested. He stated that a similar project was built recently in Edina that is almost exclusively serving Edina residents. He concluded by stating that this would be a great site in Deephaven.

Adrian Johnson added that the investment group believes this commercial site is a more suitable site than the St. Therese site, which is surrounded by residential properties.

Commissioner Carlson asked for the size of the area to be developed.

G.T. Mark stated that it was approximately 2.2 acres.

Commissioner Carlson noted that this would result in approximately 50 units per acre.

Chairman Werneiwski asked if there was any more discussion on this proposed project. He stated that he appreciated the discussion and now has more general knowledge of this proposal.

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Commissioner Brandt stated that she agrees with the economic need for the 100 units of senior housing but her sense is that this project is too large for the site. She stated that she doesn't believe the community would be prepared for the magnitude of this project.

Commissioner Linder stated that it is his assumption that St. Therese is still looking at maximizing its site and should be included in any planning.

Commissioner McGary stated that he would like to see a more thorough plan before he could make a decision on a project that is so close to residential properties.

Chairman Werneiwski noted that Mr. Johnson had stated that the plans presented were part of a concept plan only.

Commissioner Onstad stated that the Commission needs to take a look at the big picture and noted that St. Therese might want to build senior housing as well. He added that he thought senior housing would be a real asset to the community.

Commissioner Carlson agreed that everyone supports senior housing but felt that this project is trying to fit 10 pounds into a 5 pound bag, despite the fact that economics might dictate that number of housing units. He stated that there are so many issues to address with this proposal – the building height, stormwater considerations, to the number of parking spaces needed to accommodate the staff. He stated that there is a lot to consider with this proposal. He added that while he supports senior housing, he believes it looks like too much in too small an area.

Further discussion was held regarding the properties owned by Adrian Johnson in and around the Deephaven Court site.

G.T. Mark stated that there have also been discussions with the other two commercial properties abutting the Deephaven Court area to see if they would have any interest in participating in the senior housing venture. He stated that they indicated that they might have an interest in including their properties as well.

Ordinance Amendment – Discuss amendment of Zoning Ordinance provisions to address the adoption of the Intoxicating Liquor Ordinance.

Discussion was held regarding the appropriate changes that would be needed in the Zoning Code to accommodate restaurants selling intoxicating liquor and off-sale liquor stores. Specific changes could include the distance between restaurants selling intoxicating liquor and residential structures, business hours, interior and exterior lighting requirements, and parking requirements.

Commissioner Brandt stated that she thought that the reason why businesses weren't permitted to be open past 9:30 p.m. was specifically due to the proximity of the businesses to the residential district.

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Commissioner Carlson stated that the Commission had looked at an aerial map of the business district that seemed to confirm that very few of these businesses would be allowed to open under stringent setback requirements.

Commissioner Linder stated that the Commission specifically tried not to exclude any potential business properties from qualifying as a restaurant or off-sale liquor establishment due to setback requirements.

Chairman Werneiwski agreed that the attempt should be to keep the setbacks minimal.

Council Liaison Hackney stated that he was more concerned about requests for outdoor dining.

Commissioner McGary stated that the Commission needs to see aerial maps before an attempt can be made to establish setback distances.

Commissioner Linder agreed that we need to be as precise as possible with our standards.

Chairman Werneiwski stated that the Commission needs aerial maps showing the distances from residential properties for each of the three commercial areas.

Further discussion was held regarding parking requirements.

Commissioner Linder stated that he doesn't have a sense of what to establish in regards to parking requirements.

Commissioner Carlson stated that he believes the City will receive more requests for restaurants than for drinking establishments. He stated that a 1 per 75 per s.f. of gross floor area standard might be fine.

Council Liaison Hackney asked if an off-sale business would need more parking spaces than a normal retail business.

Commissioner Carlson stated that our current requirement is 1 per 300 per s.f. of gross floor area for an office building and 1 per 150 per s.f. of gross floor area for a retail business.

Commissioner Brandt asked if we would be restricting the overall size of the establishment.

Commissioner Carlson stated that we are mostly likely going to see requests from businesses offering between 2,500 - 3,000 s.f. of overall space, with seating for 60 customers at most. He stated that this would likely require approximately 39 parking spaces.

Chairman Werneiwski noted that we have a large public parking lot to consider, which might require less parking spaces.

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Commissioner Carlson stated that you would definitely want to list parking requirements on the Special Use Permit application in order to have the applicant document where they would plan to provide parking.

Commissioner Linder suggested that language could be incorporated in the ordinance requiring so many spaces within 60 feet of the establishment.

Commissioner Carlson stated that a lot of the parking considerations could be addressed in the Special Use Permit.

Commissioner Linder stated that providing the Commission with aerial mapping of the commercial areas would be very useful. Commissioner Carlson stated that he knows a civil engineer who could help put some mapping together.

Commissioner Carlson asked about the potential impact of odor on setbacks. He stated that odor can vary greatly depending on whether the restaurant specializes in BBQ, Italian or pizza.

Commissioner Onstad stated that is why establishing the appropriate distance requirements between the businesses and residential properties is so critical.

Further discussion on this issue will be held next month when aerial mapping information is provided.

4. LIAISON REPORT

Council Liaison Hackney stated that the City Council reviewed the proposed Liquor Control Ordinance last month and decided to table further discussion until the Zoning Amendments were completed so that the Council could review both ordinances as a complete package. He stated that none of the Council saw the need for any significant changes in the Liquor Control Ordinance with the exception of possibly reducing the number of on-sale liquor licenses from five to three. He added that he didn't foresee any major revisions from the Council.

Further discussion was held on requiring more professional sign design standards and renderings with the submittal of Special Use Permits. Administrator Young stated that this can be requested from any future applicant requesting a Special Use Permit for a sign.

5 ADJOURNMENT

Motion by Chairman Werneiwski to adjourn the meeting. Commissioner Carlson seconded. Motion carried 6-0. The meeting adjourned at 8:37 p.m.