

CALL TO ORDER: Chairman Carlson called the meeting to order at 7:00 p.m.

PRESENT: Chairman Kent Carlson and Commissioners Jim Anderson, Bob Werneiwski, Brandon Gustafson, Gen McJilton, Bill Sharpe and John Studer

ABSENT: None

OTHERS PRESENT: Council Liaison Darel Gustafson and Zoning Coordinator Dale Cooney

MINUTES OF MAY 19, 2015

Motion by Commissioner Werneiwski, seconded by Commissioner McJilton, to approve the minutes of May 19, 2015. Motion carried 7-0.

PUBLIC HEARINGS

Conditional Use Permit request, Hendrickson Enterprises, Inc., 19300 State Highway 7 –

Request for a Conditional Use Permit to install and upgrade building signs, illuminated monument signs, and illuminated freestanding signs on the building and the property.

Section 1115.04 of the Deephaven Sign Ordinance states that no sign shall be erected, altered, reconstructed, maintained or moved in the city without first securing a conditional use permit from the city in accordance with Section 1320 of the City's Ordinances. The content of the sign shall not be reviewed or considered in determining whether to approve or deny a sign permit.

Zoning Coordinator Cooney summarized the request. He said the property formerly housed a Kennedy Transmission business, and will now be occupied and rebranded as Speedee Oil Change and Auto Services. The business, located in the C-1 zoning district, would operate under an existing Conditional Use Permit for auto repair. Hendrickson Enterprises also owns and operates the existing Midas auto shop on the adjacent parcel at 19340 State Highway 7.

The applicant proposes that all existing permanent and temporary signage related to the Kennedy Transmission be removed. The signage for the new tenant would total 238.41 square feet of signage.

Cooney said that the Deephaven Sign Ordinance limits the amount of signage based on area for each individual type of sign, i.e. ground sign and wall sign, but does not limit a property to just one type of sign. Nor does the Sign Ordinance set an overall limit for square footage of signage. Recent Conditional Use Permits for signage in Deephaven have been interpreted by staff to limit signage to 200 square feet in total for all types of signs.

Cooney also referenced Section 1115.09(a) of the Deephaven Sign Ordinance that stated that the size of a sign may not exceed 15 percent of the wall area of the front façade of the structure in which it is located and in no case exceed 100 square feet for all other types of signs. Since the ordinance only references the front façade, Cooney asked for Planning Commission guidance on interpreting the ordinance based on the fact that the applicant proposes signage on three facades.

Cooney referenced Section 1305.03 of the City Code that regulates business hours. Section 1305.03(1) limits the hours a business can sell goods and services to consumers to only between the hours of 6 AM and 9:30 PM. Section 1305.03(3) states that interior and exterior lighted signs permitted to businesses may operate during business hours only. Cooney stated that any illuminated signage must be in compliance with this ordinance.

Cooney noted that the proposed LED ground sign was to be constructed on the adjacent parcel at 19340 State Highway 7. The LED ground sign was also proposed to have changeable copy, which would change twice every twenty-four hours. Both the off-premise location and the changeable copy of the LED sign rendered this a prohibited sign under Section 1115.06 of the Deephaven Sign Ordinance. Cooney said that the Deephaven City Council has the authority under this Conditional Use Permit to authorize any prohibited signs.

Cooney said that he recommended conditional approval of the Conditional Use Permit of Hendrickson Enterprises, Inc. to install and upgrade the commercial signage at 19300 State Highway 7. While the proposed signage exceeded recent interpretations by staff of a 200 square foot sign limit, the applicant is proposing to remove signage from the existing pylon sign. Additionally, all existing neon signage and tubing will be removed from the property. Cooney said that, as proposed, he believes the signage and associated façade and landscaping improvements will enhance the overall appearance of the property.

Cooney said he recommended conditional approval for the request based on the criteria there would no negative impact on the development of the community, the character of the community or on the health, safety and general welfare of the occupants of surrounding lands. The proposal would not impact traffic conditions or impact property values. The recommendation is conditioned that: 1) the hours of illumination be as outlined in Section 1305.03 of the ordinance; 2) the LED changeable copy ground sign not change more than twice in a twenty-four hour period; and 3) that the new location for the LED changeable copy ground sign not encroach into the State Highway 7 right-of-way.

Chairman Carlson asked if the Minnetonka Glass signage was included in the overall calculation of signage square footage, or if any of the existing door and window signage was included in the overall calculation. Cooney said that he did not include that information in his calculations since there were no proposed changes to that signage. Chairman Carlson asked if we had granted variances for signage on this property in the past. Cooney said that he did not know.

Sandy Hendrickson, applicant, owner of the property and the adjacent property at 19340 State Highway 7, said that one objective was to enhance the appearance of the corner. Hendrickson also spoke to the fact that the LED sign would not flash or be animated. Hendrickson said that overall the signage would be a slight reduction from existing conditions.

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

Commissioner Sharpe said that he felt the request would be an upgrade.

Commissioner Werneiwski said he generally agreed with Commissioner Sharpe. Commissioner Werneiwski asked about the LED sign and what types of animations and flashing were proposed. Hendrickson said that the sign has that capability, but that the graphics for this proposal would be static and would only change twice a day. Commissioner Werneiwski asked if the sign would be operable 24-hours a day. Hendrickson said that it would only be on during permitted business hours.

Commissioner McJilton was concerned that there would be a net increase in signage on the property. She felt it would have been helpful to understand what the overall signage on the property would be, including the Minnetonka Glass signage. Commissioner McJilton said that it was hard for her to judge what the appropriate amount of signage is without knowing more completely what the existing conditions are. She said she was happy that the property was being cleaned up.

Commissioner Studer asked how to determine what the front façade is, and should there only be one façade with signage? He noted that there were a number of signs not listed on the staff report and was concerned that the overall signage would be increasing. Commissioner Studer also wanted to take into account the Minnetonka Glass signage in the 15% façade limitation.

Commissioner Anderson said that he was happy with the improvements and the cleaning up of the building. He asked about what landscaping improvements were proposed. Cooney clarified that they were just at the base of the LED sign. Hendrickson said that salt and sand from State Highway 7 have made it difficult to maintain landscaping.

Commissioner Anderson noted the garbage by the pylon sign. Hendrickson said that Minnetonka Glass was leaving the garbage there and that he would have a conversation with the tenant. Commissioner Anderson said he was generally in favor of the improvements, but he did have concerns about the overall number of signs. He said he recognized it was a business, but felt there was a lot of square footage of signage.

Commissioner Gustafson shared the concerns about the overall square footage of signage and the Minnetonka Glass signage needing to be accounted for. He also asked about the location of the LED sign and how far it would need to be moved to be on the 19300 property. Cooney said the current sign was on the far southwest corner of the 19340 (Midas) property.

Commissioner McJilton asked if the LED sign should be considered under this application since it is on a separate parcel. Chairman Carlson confirmed that, since the Conditional Use Permit runs with the land, the LED sign would need to be located on the parcel under which the Conditional Use Permit was approved.

Chairman Carlson said he appreciated the clean-up of the building and the new tenant. He had concerns about the overall signage of the proposed signage as compared to the existing signage. He said that it would be beneficial for the City Council to have the dimensions of the existing signage to determine whether or not this would be a reduction in signage. Chairman Carlson said he was supportive of the application, but felt the City Council should have the requested additional facts in front of them to help make a determination.

Council Liaison Gustafson asked the planning commission to make some kind of determination on what they consider to be the front of the building. The Planning Commission discussed the façade issue as it relates to visibility and road frontage and determined that they considered all three facades with existing signs to be the front façade.

Commissioner Werneiwski said that in the case of this unique property, a plat or a survey might be useful in helping give a sense of the locations of the two parcels, the buildings, the facades, and the location of site signage.

Chairman Carlson asked if it would be helpful to have the item come back to the Planning Commission with additional information. Commissioner McJilton said that she supported that idea and that she was uncomfortable recommending approval without the additional information. Hendrickson expressed concerns about having his building remain vacant and the 6 to 8 week lead time with ordering the signage. Cooney asked if it was possible to make a recommendation conditioned on a net reduction of signage. Commissioner Werneiwski said that he would be comfortable with a net reduction of signage overall and made a motion to approve the Conditional Use Permit application.

PLANNING COMMISSION ACTION:

The Planning Commission requested that further information be provided to the City Council in order fully understand the amount and location of exiting signage on the property in order to make a thorough comparison of proposed and existing signage. The information should include an inventory of all existing signage for the 19300 State Highway 7 property, including the existing Minnetonka Glass signage square footage calculations. The Planning Commission also asked to show a plan view of the property to allow for a better understanding of the multiple building facades and the location of the different signs throughout the property.

On the question of Section 1115.09(a) of Deephaven Sign Ordinance: That section of the code states that *“the size of a sign may not exceed 15 percent of the wall area of the front façade of the structure in which it is located and in no case exceed 100 square feet for all other types of signs.”* The code does not specify how to proceed in the case of signage on multiple facades. The Planning Commission determined that due to the visibility of three of the building facades from State Highway 7, all three of the facades in this case should be considered the front facade.

With delivery to the City Council of the additional information requested by the Planning Commission, and the determination that the all three of the building facades in question should be considered the front facade, the Planning Commission offered the following recommendation:

Planning Commission Recommendation:

Commissioner Werneiwski moved the Planning Commission recommend the council approve the Conditional Use Permit request to replace and add commercial signage at 19300 State Highway 7. The applicant complies with the criteria for approval outlined in Section 1320.03 in that:

(a) The proposal will have no impact on the overall development of the community; (b) there will be no impact on the character and development of the neighborhood; (c) there will be no impact on the health, safety and welfare of the occupants of surrounding lands; (d) there will be no impact on traffic or parking conditions due to this signage; and (e) there will be no negative impact on property values on the subject property or those in the surrounding area.

The motion is conditioned:

- a) that there be no net increase in overall signage for the property;
- b) that to be considered as a part of this Conditional Use Permit the location for the LED ground sign on 19340 State Highway 7 be moved to 19300 State Highway 7;
- c) that the hours of illumination be as outlined in Section 1305.03 of the ordinance;
- d) that the LED changeable copy ground sign not change more than twice in a twenty-four hour period; and
- e) that the new location for the LED changeable copy ground sign not encroach into the State Highway 7 right-of-way

Commissioner Gustafson seconded the motion. Motion carried 5-1. Motion was opposed by Commissioner Studer. Commissioner McJilton abstained.

Discussion related to the City’s Shoreland Management District and other hardcover limitations.

Zoning Coordinator Cooney introduced the discussion topic as an issue that continues to come before the Planning Commission and City Council. Cooney said that Chairman Carlson had requested that this topic be a focal point on this and upcoming Planning Commission agendas.

Cooney said that the city currently regulates stormwater primarily through the Shoreland Management District by limiting hardcover to 25% within the district. Cooney said that, apart from plan review by staff and the city engineer, hardcover is not regulated outside of the Shoreland Management District. Cooney estimated about two-thirds of the city is not regulated by the Shoreland Management District.

Cooney mentioned the background research that he had provided to the Planning Commission related to similar regulations currently enacted by other Lake Minnetonka cities. The background research included a summary of existing regulations for these cities as well as a copy of relevant sections of code from these cities.

Cooney asked if the goal was to augment the existing regulations, or to expand the hardcover regulations to include the entire city. Commissioner Werneiwski asked if the City Council shouldn't define the direction for the Planning Commission. Chairman Carlson stated that there had been some direction given at the January joint City Council/Planning Commission meeting. He said that at that meeting there was a stated desire to get a consistent policy direction on allowing variances for cisterns and other hardcover mitigation systems. Chairman Carlson also stated that another issue raised at the meeting was the often negative stormwater impacts from homebuilding in those areas not currently regulated by the Shoreland Management District.

Commissioner Sharpe asked if the discussion would be free-flowing. Chairman Carlson said that he would like to see some definition come out of this meeting in order to make a recommendation to the City Council at an upcoming meeting.

Commissioner Sharpe asked if the type of recommendation the Planning Commission might propose be, as an example, if a threshold were reached should a cistern or some type of mitigation system be required. Sharpe asked if that was the type of protocol the Planning Commission was looking to recommend. Chairman Carlson confirmed that this was the type of protocol the discussion was meant to address.

Commissioner McJilton said that the city has a number of small lots that are currently difficult to build on which creates the need for a number of variance requests. She stated that this would allow the city to proactively manage the trade-offs rather than to try and evaluate the proposals on a one-off basis. Commissioner McJilton said that this also would allow for more consistent approvals or denials from the city.

Chairman Carlson asked Zoning Coordinator Cooney to walk through the discussion questions on the handout. Cooney asked what the scope of the regulations would be. Cooney asked if the regulations would be city-wide, would they only be related to further shoreland regulations, or would they only be related to stormwater mitigation systems?

Commissioner Anderson stated that he felt any proposed regulations should address the city as a whole. Commissioner Werneiwski asked if there wasn't already a staff and engineering review that addressed potential impacts on new construction. Cooney said that there is this level of review, but that staff can find it difficult to restrict a building if it meets the existing code requirements.

Chairman Carlson gave the example of a property that is built outside of the shoreland area that meets zoning requirements, and setbacks, but also included a significant amount of hardcover in the form of sport courts and other hardcover. Commissioner McJilton said that a property like this might be allowed since grade isn't altered, but that the stormwater impact could be problematic. Commissioner Werneiwski said that engineering and staff review shouldn't approve these types of projects. Chairman Carlson agreed, but also said that some overall direction about what is a reasonable amount of hardcover on these properties would be a useful guideline.

Council Liaison Gustafson said it doesn't matter if the water is affecting the lake or the neighbor, it needs to be managed. He said that he would like a defined formula that is the standard for any stormwater calculation. Council Liaison Gustafson said that he thought that an infiltration-based system should get a higher rating than a cistern. He said that since a cistern could fill up after a large rainfall, if it rained again the next day, the cistern would not function. Commissioner Werneiwski thought that cisterns shouldn't count at all since they don't work if the water is not pumped out. Chairman Carlson said that the water that comes off of the roof of a house is cleaner than water that runs off of the lawn.

Council Liaison Gustafson said that he would like to make the regulations cost effective for the average citizen since not everyone has the cash flow to handle a fancy system. He said we need to be careful not

to overburden the average resident. Council Liaison Gustafson said that he would like to see some kind of performance bond for these projects and systems. He said that we have seen too many cases from builders and architects that claim to have a problem figured out, but that the solution doesn't work.

Cooney said that the city water engineer has stated that, prior to development, existing land is approximately capable of retaining the first 1 inch of rainfall before stormwater begins to runoff. Cooney suggested that this could be a baseline for any city stormwater equation.

Commissioner Studer asked if swales and raingarden might be a cost-effective method. Commissioner Gustafson asked if we should have a meeting with the engineer. Commissioner Studer asked if the Planning Commission has the opportunity to review the engineer's comments. Chairman Carlson stated that the city engineer reviews it prior to going to the City Council.

Commissioner Werneiwski asked about credit for pervious pavers. Chairman Carlson said that the city should be open to any system that is effective, now or in the future.

Chairman Carlson said that staff direction for the next Planning Commission meeting would be to get a list of recommended mitigation methods from the city engineer as to which are most effective. Chairman Carlson said that there should also be a recommendation on what types of hardcover percentages would be reasonable for different sized lots. Commissioner Sharpe said that Orono had a tiered system that might be worth looking at a bit more.

Cooney asked about what a threshold might be for existing properties that are not currently under the hardcover limits. He asked about the cost and time implications for residents who would have a new list of requirements for smaller projects such as deck expansions. Chairman Carlson said that, as an example, a house had recently added a patio and a fire pit area where the residents had voluntarily put in a stormwater management system after becoming aware of the impervious area on their property. Commissioner Sharpe said that the city should be sensitive to the budget considerations.

Chairman Carlson closed the discussion at this point.

LIAISON REPORT

Council Liaison Gustafson summarized the discussions held by the Council on four variance requests. He said that all four variance requests were passed. He mentioned that the property on Day Lane was interesting since the road that services the property should determine the front yard, but that this would have made the property unbuildable. Council Liaison Gustafson said the Council determined that the east side of the property was the front. He also mentioned that as a part of Matters from the Floor, there was a request for the Council to allow for massage parlors. The Council said, having recently reviewed the issue, that they would not take it up again.

ADJOURNMENT

Motion by Commissioner Carlson to adjourn the meeting, Gustafson seconded. The meeting adjourned at 8:38.

Respectfully submitted,
Dale Cooney
Zoning Coordinator