

**OSSEO PLANNING COMMISSION MINUTES  
REGULAR MEETING  
7:00 pm.  
MARCH 15, 2010**

1. CALL TO ORDER

The regular meeting of the Osseo Planning Commission was called to order by Chair Hanson at 7:00 pm., March 15, 2010.

2. OATH OF OFFICE

Resident Larry Menzel was appointed to a three-year term on the Planning Commission. Dahl administered the Oath of Office to Menzel.

3. ROLL CALL

Present: Commission members Melanie Larsen Sinouthasy, Barbra Plzak, RJ Wiley, Chair Susan Hanson, John Cochran, Dorothy Clarke, and Larry Menzel.

Others present: Jeffrey Dahl, Development Services Director; Steve Menth, Mayor; Harland Anderson, Fred Cummings, Dee Bonn, and Ron Barger.

4. APPROVAL OF AGENDA

**A motion was made by Larsen Sinouthasy, seconded by Clarke, to approve the Agenda. The motion carried 7-0.**

5. APPROVAL OF MINUTES

a. Approve January 19, 2010 Minutes

**A motion was made by Plzak, seconded by Larsen Sinouthasy, to approve the minutes of the January 19, 2010 meeting. The motion carried 7-0.**

6. PUBLIC COMMENTS – None.

7. PUBLIC HEARINGS –

a. Consider CUP request from Osseo American Legion for Expansion

**A motion was made by Cochran, seconded by Menzel, to open the Public Hearing. The motion carried 7-0.**

Dahl stated that applicant Harland Anderson, representing the Osseo/Maple Grove American Legion, has submitted an application for a Conditional Use Permit (CUP) to allow expansion of a facility with intoxicating liquor sales at 260 4<sup>th</sup> Avenue SE.

The Legion is asking permission to construct an outdoor patio for additional liquor/food service and a smoking area. As a result of the expansion of use, the Legion is proposing to slightly alter and expand its parking lot in order to provide additional ADA accessible units and meet the city's parking requirements.

The property is zoned C-2, Highway Commercial District and is guided as Bottineau Boulevard Commercial in the Land Use Plan. Existing uses surrounding the property consist of: single-family residential to the north and east; gas station and retail to the southeast and west; and high-density residential (apartments) to the west and northwest.

Some background information about the Osseo/Maple Grove American Legion is that the Legion has been in Osseo since 1921. In 1991, the Legion remodeled and expanded its very small building to its current size of approximately 10,000 sq. ft. One half of the building is occupied by a "club" with a restaurant/bar area, while the other half is used as an assembly hall or banquet facility.

In 1996, the Legion acquired two adjacent properties in order to expand its parking area from 37 spaces to 81 spaces. The entire property is now .99 acres which includes both the building and the parking lot.

There is currently no CUP on record for the Legion. While a restaurant is a permitted use in the C-2 District, any club or establishment that offers on-sale liquor as a part of regular business may only be allowed by obtaining a CUP (See Chapter 153.037(C)(11)). Therefore, the Legion is currently a legal, non-conforming use. A legal, non-conforming use may not be expanded without a variance or until the use is made conforming. This CUP process essentially makes non-conforming use a conforming use.

Per Section 153.038(A) of the Zoning Ordinance, the intent of the C-2 district is to accommodate service type businesses uses primarily oriented to the driving public with needed facilities provided on site by the owner. Because this is the intent of this district, we have three types of uses; the permitted uses, conditionally permitted uses and the non-permitted uses. This type of use is a conditionally permitted use, which means the City has the ability to add conditions to ensure it is appropriate and fits in with the surrounding neighborhood.

Dahl stated that there were three main issues with the application: parking, outdoor patio operations, and service of liquor.

While the Legion added a significant amount of parking in 1996, on nights when the assembly hall is full and the club is busy parking typically overflows onto adjacent streets and sometimes onto neighboring private properties. However, based on the 153.079 (Appendix of this Chapter), 81 spaces are required and 81 stalls are provided.

The proposed outdoor seating area, located on the east side of the front of the building, would take out the existing handicap ramp as well as the three parking stalls. Because of the elimination of these stalls AND the expansion of seating area, the applicant is proposing to reorganize the parking lot to include:

- 5 ADA spaces that meet code (van accessible);
- The addition of back row parking on the north side of the lot (the horseshoe pit will be taken out);
- Re-striping of the lot in order to bring the dimensions of the spaces to code (currently stalls are 8.5 ft in width, required 9 feet) with the exception of 12 marked compact spaces (8 feet in width); and
- Add 8 motorcycle spaces parallel to the front patio.

The proposed addition of the outdoor patio and other interior work increases the parking requirement to 85 spaces. Including the 8 motorcycle spaces, the proposed expanded and reorganized parking area will contain 89 spaces and meet required setbacks. The motorcycle spaces are seasonal, however, being that the patio will be seasonal as well is why they are included in the computation in meeting the parking requirements.

The outdoor patio is approximately 918 sq. ft. It will be setback 10 feet from the property line and 10 feet from the alley that runs north and south on the property line. The applicant is proposing landscaping as a buffer between the alley and parking lot. The patio will take the spot of the handicap spaces and ramp. The Legion recently put in a lift so the handicap ramp is no longer needed. The patio would also include a covered semi-enclosed area for smoking with the current unauthorized covered area to be removed.

The proposal would allow outdoor service next to a residential area. Because the applicant is requesting expansion of a legal, non-conforming use, the City is allowed to place conditions on the use in order for it to mesh well with the existing neighborhood. The City should take into consideration the impacts associated with the service of intoxicated liquor. Staff has received two calls and one letter from local residents with concerns mostly focused around loud noise and garbage that can spill over to the adjacent residential properties. Staff believes that two conditions should be added to the approval in order to mitigate these concerns effectively:

1. Alcohol beverages may not be consumed outside the building or patio area; and
2. The outdoor patio service of food and liquor is prohibited after midnight (or other agreed upon time, i.e. 10:00 on weekdays; 12:00 on weekends).

Dahl believes that with beverages not being taken beyond the building or the patio that is enclosed and removing the horseshoe pit area, that this should eliminate any wondering with the drinks and loud noises that may currently be occurring.

Harland Anderson, Chair of the Osseo American Legion Board, indicated that the patio railing will be made of anodized aluminum and will be 50" to the top of the patio itself and would be 36" or 39" high from the base of the patio. There will be no entrance or egress from the deck to the ground. The only access to the deck is through the main building. And in order to get into the building, you have to be a member and/or sign in.

Cochran asked for clarification regarding the planters that have been crossed out. Anderson explained the size of the deck will not change, but a final decision has not yet been reached on the cement planter. He confirmed that all of the horseshoe pits will be removed.

Anderson also stated that to eliminate some of the parking overflow issues, a moratorium has been placed from May 1 – October 1 for “donated functions” in the assembly hall---with the exception of the events that have already been scheduled. This is primarily when the patio will be used.

Menzel and Wiley questioned the regimen for cutting the grass, cleaning the parking lot and emptying of the debris container, as well as snow removal in the winter. Anderson stated the container is to be emptied the day after a function. In regard to snow removal, the motorcycle area will be the storage area and there is still a 10’ setback to put snow on the north end.

Anderson stated he would be sure that any issues regarding the cleanliness of the site would be taken care of. Plzak stated the community needs to be assured of this.

Larsen Sinouthasy referenced the seating capacity on the documentation for the hall as 192, but nothing was listed for the club and/or patio enclosure. Anderson stated the club area increased from 112 to 130 with some changes made inside and 40 for the patio.

Dee Bonn, 225 5<sup>th</sup> Avenue SE, indicated that the outside noise made from smokers, mainly during the summer months, can be extremely loud. She was concerned that the time restriction of 12:00 am for the patio was too late as there would be even more outside traffic/noise and those people would be even closer to the residential properties to the east. In addition, motorcycles are also located near the residential properties and they get loud as they are started. She added that the Lookout Restaurant in Maple Grove is located in a residential area requires that all patrons to move inside after 10:00 pm.

Cochran referenced the comment made about cleaning the parking lot the day after the event and asked if the lot is cleaned even when there are no large events. Anderson stated there is a Club Manager and he has someone assigned to do the cleaning. Anderson indicated that he bring these concerns to the Club Manager. The enclosed patio will hopefully eliminate some of those issues.

Larsen Sinouthasy mentioned an anonymous letter that referenced noise and obscenities among other things that are not acceptable. Larsen asked for the Legion, as well as the City of Osseo, that a better job be done to enforce what is acceptable. Anderson was in agreement.

In conclusion, Dahl stated that staff recommends approval of the CUP application with 11 conditions. Specifically, two of the conditions refer to issues that seem to be most significant:

- o Condition #5: “Service of liquor and food shall be prohibited on the outdoor patio after 10 pm from Sunday through Thursday nights and midnight on Friday and Saturday nights.” This recommendation has not yet been discussed with the American Legion. In order to prohibit some of the conditions discussed tonight regarding the noise, this should be reviewed (service can stop at a certain time); and

- Condition #8: “The applicant agrees to make revisions to its parking plan per an amended CUP request if significant parking overflow problems exist.” With the changes the legion is making in the parking area, this should not be a concern. However, if the parking problems were to continue to exist, the legion would have to come back with a plan and a change would have to be made.

Dahl mentioned that if the Commission is concerned about the snow removal issue, another condition could be added. Larsen Sinouthasy raised concern about there only being one catch basin for stormwater. Dahl stated there is only minimal surface change as a result of the parking lot improvements and that drainage has not been an issue to date.

Chair Hanson mentioned that signs could be installed to prevent “revving” of motorcycles. Plzak asked if a fine could also be applied for violators. Dahl stated that the sign could reference the noise ordinance.

Cochran said that the City values the Legion;s presence in the community. The Legion has been here since in 1921. However, the legion is a membership. It is not just the public coming and going; there are club policies and if members are not following them, there should be consequences.

**A motion was made by Cochran, seconded by Clarke to close the public hearing. The motion carried 7-0.**

Plzak indicated that she would like to have more time to determine the wording for recommendations necessary, review some of the public comments made tonight regarding the noise, and determine the appropriate language on the aforementioned signs.

**A motion was made by Plzak to table the public hearing and not taking action on the CUP until next month. No second was given to the motion.**

Clarke stated she is a member of the American Legion and therefore, not sure she should be voting. Dahl recommended Clarke abstain from voting.

Larsen Sinouthasy indicated that she would like to be proactive and include a recommendation for another condition relating to wording on signage relating to the noise and also the containment of trash.

Wiley indicated that patio services should be prohibited after 10:00 pm 7 days a week. Menzel stated that perhaps 11:00 pm on weekends would be more acceptable.

Anderson stated that the Legion is fine with the 10:00 pm closing time during the week, but would like 11:00 on Friday and Saturday.

Chair Hanson clarified that the discussion would change: condition #5 to read “Service of liquor and food shall be prohibited on the outdoor patio after 10 pm;” add condition #12 addition of signs around the parking lot addressing the nuisance; and condition #13 regarding maintenance and upkeep of the parking lot.

Dahl recommended the following language: Add condition indicating that signage with language referring to Osseo's noise ordinance shall be posted near the motorcycle area and other parking lot locations around the perimeter of Osseo's noise ordinance and a condition indicating that the property shall be free of debris and manicured per city nuisance ordinance.

Larsen Sinouthasy thanked Anderson for proceeding with the building upgrade. Clarke thanked them for their service to the Country and suggested the members talk with the resident here tonight and be open to working with the neighborhood.

**A motion was made by Cochran, seconded by Menzel, to approve the CUP to allow for the expansion of a facility with intoxicating liquor sales at the Osseo/Maple Grove American Legion, 260 4<sup>th</sup> Avenue SE, subject to the 13 conditions listed below. The motion carried 6-0. Clarke abstained.**

- 1. The alley shall not be used for parking, loading, or unloading for Legion operations;**
- 2. The parking lot shall be improved, expanded, and re-stripped per the submitted in the staff report to the Planning Commission;**
- 3. The on-sale of intoxicating liquor shall adhere to all applicable federal, state, and county statutes and regulations in addition to local ordinances;**
- 4. Service of any food or beverages shall not be allowed to be taken outside the building or outdoor patio area;**
- 5. Service of liquor and food shall be prohibited on the outdoor patio after 10 p.m.;**
- 6. With the exception of Council-approved events, no music or television shall be allowed on the outdoor patio area at all times;**
- 7. The applicant shall pay all applicable Service Availability Charges (SAC) to the Met Council;**
- 8. The applicant agrees to make revisions to its parking plan per an amended CUP request if significant parking overflow problems exist as determined by the City;**
- 9. The applicant shall obtain all necessary building and sign permits related to the proposed use;**
- 10. Any significant changes to the presented plans must be approved by staff or through an amended CUP;**
- 11. Signage shall be added at visible locations in the parking lot and shall reference the City's Noise Ordinance in order to limit noise of motor vehicles;**
- 12. The property shall be kept orderly at all times with no weeds, long grass, or trash per City Code; and**

**13. Violation of any condition shall result in revocation of the CUP in accordance with the provisions of the Zoning Ordinance.**

8. OLD BUSINESS – None.

9. NEW BUSINESS – None.

10. DEVELOPMENT UPDATE

a. January and February Development Services Report

Dahl briefly reviewed the key areas that his department is working on: rental housing licensing and inspections; grant applications; development in the Central Business District (new facades and new developments to spring up soon along Central Avenue and County Road 81); and the zoning code revisions.

Chair Hanson asked for an update on the Calico Barn building. Dahl stated that the property was potentially being foreclosed. Chair Hanson stated that “Fashionista” is staying. Dahl confirmed they would like to stay in Osseo.

11. OTHER BUSINESS

a. Future Agenda Items

b. Commissioner Report

Cochran stated the Planning Commission has reviewed a variety of CUP’s over the last few years for restaurant establishments serving alcohol. He reminded everyone that CUP’s do not stay with the business, rather they stay with the property regardless of the business name.

Chair Hanson mentioned she had the opportunity to attend the Strategic Planning Meeting the end of February. Issues facing the city were discussed with good facilitators which gave people the opportunity to talk. Dahl stated Mr. Withers is working a summary of this meeting and will pass it along to everyone so the Commission knows where the City is headed over the next couple of years.

Larsen Sinouthasy questioned what is happening with Osseo Elementary School. Dahl stated a meeting was held recently with staff from District 279. The school district is looking at all of their facilities and are currently analyzing their needs

Dahl welcomed Menzel to the Planning Commission Committee. He has been in the area for many years. Chair Hanson welcomed Menzel as well.

12. AJOURNMENT

PC Minutes

3/15/2010

**A motion was made by Larsen Sinouthasy, seconded by Wiley, to adjourn at 8:10 pm.  
The motion carried 7-0.**

Respectfully submitted,

Dawn Tessman  
Recording Secretary