

OSSEO PLANNING COMMISSION MINUTES
REGULAR MEETING
7:00 p.m.
Tuesday, February 17, 2009

1. CALL TO ORDER

The regular meeting of the Osseo Planning Commission was called to order by Chair Susan Hanson at 7:00 p.m., February 17, 2009.

2. ROLL CALL

Present: Commission members Melanie Larsen Sinouthasy, Chair Susan Hanson, Brad Hansen, John Cochran, Dorothy Clarke.

Members absent: R.J. Wiley, Barb Plzak.

Others present: Jeffrey Dahl - City Planner, Greg Withers - City Administrator, Steve Menth, Kristin Spangler, Jason Spangler, and Ron Barger.

3. APPROVAL OF AGENDA

A motion was made by Cochran, seconded by Hansen, to approve the Agenda. The motion carried 5-0.

4. OATH OF OFFICE FOR NEW MEMBERS

City Planner Jeffrey Dahl administered the Oath of Office to John Cochran, Melanie Larsen Sinouthasy, and Dorothy Clarke.

5. APPOINTMENT OF OFFICERS

A motion was made by Clarke, seconded by Hansen, to elect Susan Hanson as the Chair of the Planning Commission. Motion carried 5-0.

A motion was made by Larsen Sinouthasy, seconded by Clarke, to elect John Cochran as Vice Chair of the Planning Commission. Motion carried 5-0.

6. APPROVAL OF MINUTES

a. Approve January 20, 2009 Minutes

Chair Hanson noted that on page 2, first paragraph, the sentence "Any business in the city of Osseo whether it is on- or off-sale requires a CUP" was incomplete and noted to insert "that sells alcohol." Also, after the 3rd paragraph on page 2, it appeared that a few sentences were missing. Larsen Sinouthasy also noted that her name was spelled wrong. Dahl indicated that he would follow-up on the noted issues.

A motion was made by Clarke, seconded by Larsen Sinouthasy, to approve the minutes of the January 20, 2009 meeting as amended. The motion carried 5-0.

7. PUBLIC COMMENTS – None.

8. PUBLIC HEARINGS

- a. Amended Conditional Use Permit Request from Lilly's Café and Wine Bar to allow for on-sale intoxicating liquor sales at 33 2nd Street NW

A motion was made by Cochran, seconded by Larsen Sinouthasy to open the Public Hearing. The motion carried 5-0.

Dahl stated that applicant Kristin Spangler has submitted a request to amend a previously approved CUP in order to allow on-sale intoxicating liquor sales as a part of Lilly's Café and Wine Bar at 33 2nd Street NW. The property is under ownership of Osseo Historic Redevelopment, LLC and is zoned CBD, Central Business District, and guided as Commercial in the Land Use plan.

Three sides of the subject property are also zoned CBD. The properties to the west across 1st Ave. NW are zoned multi-family residential. Some of the existing uses adjacent to the property include a single-family home immediately adjacent to the east as well as a veterinary clinic and bar to the east, a parking lot and church to the north, a senior condominium project to the west, post office to the southwest and a sign company to the south.

On September 28, 2008, the City Council approved a CUP application from the applicant in order to allow for a café and wine bar with on-sale beer and wine service at 33 2nd Street NW. Approval of the application was subject to 12 conditions. Condition #1 specifically refers to service of intoxicating liquor:

The approval considers impacts of only allowing a wine and beer license. If the applicant wishes to obtain an on-sale intoxicating liquor license, the applicant shall apply for an amended CUP prior to applying for the new liquor license.

Per Minnesota Statutes, statutory cities with populations between 500 and 2,500 may issue no more than four intoxicating liquor licenses. Currently, the City of Osseo has issued three such licenses (Duffy's, Dicks and Lynde's for catering). The American Legion also has a license but because of the legions special status, they have a "club" status that does not count as the fourth.

There were three main areas of concern brought up by the staff in September: parking, trash enclosure, and on-sale liquor service.

Parking was an issue because there is no private off-street parking available for Lilly's customers. Because the applicant isn't proposing any additional seating as a result of obtaining an intoxicating liquor license, there should not be any additional issues as parking requirements are based on the number of seats.

If the applicant wishes to store garbage outside, a trash enclosure per review of staff, is required. This requirement should remain regardless of a change in the liquor license.

In its September 21, 2008 Report to the Planning Commission, staff noted several concerns associated with the **on-sale liquor service** in general. As the business will be adjacent to both multi-family and single-family dwellings, conditions of approval specifically regarding noise and patio operations were added in order to limit negative impact on those areas. The Planning Commission should take an even closer look at

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these concerns with the addition of an intoxicating liquor license. The specific conditions that indirectly or directly addressed the serving of alcohol were:

Condition #3—A landscaping plan with a privacy fence along the east and north side of the property shall be approved by staff and fully implemented prior to operation of outdoor seating area;

Condition #4—Outdoor television, video, or similar projection shall not be allowed in the patio area;

Condition #5—Any outdoor music shall be at a noise level such that it cannot be heard more than 50 feet from the premises and at the premises shall not exceed 60 decibels of intensity on site. Additionally, the rules and regulations set forth in the nuisance code shall be strictly enforced;

Condition #7—The outdoor seating area shall be contained within the property and be enclosed by some sort of barrier (fence, rope, etc.) if alcohol is to be served outdoors;

Condition #8—Alcoholic beverages shall not be allowed to be taken out of the outdoor seating area.

Dahl suggested more attention be given to these issues, even though Lilly's is still a wine and café bar, because allowing intoxicating liquor sales does allow for a more "bar" type atmosphere. Establishments that serve intoxicating liquor tend to be open later and also have more instances of intoxicated persons. Regardless, the business owner will still have to abide by all local, county, state, and federal ordinances, laws and statues in addition to the conditions the City may include.

Staff feels that the previously approved CUP included conditions that appropriately addressed most of the issues associated with serving intoxicating liquor. Staff recommends approval of the request and adding two conditions: one that prohibits service (food and liquor) to the outdoor seating area after 12 am one that prohibits outdoor music after 10 pm. Because this is in more of a residential area than some of the businesses along Central Avenue, there needs to be regulation of the hours of the outdoor area in order to minimize negative impact on the residential properties.

Hansen questioned if there were any limitations set on how large the outdoor area can be. Dahl stated that based on the previous approval there is no number in square feet or restriction on the seating numbers; only that the landscaping and seating plan would have to be submitted for prior approval. Hansen asked if there were to be a change hands with the property and no limitations set on the number of outdoor seating, could this affect the parking issue once again. Dahl advised that a condition may need to be added in order to address this issue.

Chair Hanson asked if any limitations were given with Duffy's and Dick's regarding their outdoor patio. Dahl stated that when Duffy's and Dick's created outdoor patios, they did not go through the normal CUP process.

Larsen Sinouthasy questioned the benefits of limiting serving times for food and alcohol versus the need for the business to remain competitive. Cochran made clarification that the proposed limits on serving times would only be applicable to the outdoor seating area.

Applicant, Kristin Spangler, stated that current customers have been asking for liquor service. In one instance, a customer left and went to Dick's Bar. Kristin stated she would like to have the ability to meet her customer's requests.

Clarke wondered what would happen if Spangler moved on and what control the city would then have to keep an upscale atmosphere. Dahl stated that if Lilly's would close, Spangler would keep the actual liquor license for a period of time, but the CUP would stay with the building.

Spangler stated that there are noise ordinances and other ordinances in place and the city departments will uphold them. Spangler asked why would there be limits at Lilly's and not Duffy's and Dick's. She noted that she didn't think it was fair that she has to pay the same amount for a liquor license yet are half the size and may have to limit the hours.

Larsen Sinouthasy expressed concern at the possibility of loud noises next to the neighboring apartments and home on the east side. Dahl reiterated that though the City does have a noise ordinance, it can be difficult to enforce and that is why conditions can be added on a CUP. Chair Hanson referenced two sides of the building – one to the west and one to the south are streets, and the third side – to the north is a parking lot. Also, on the east where the home is located, there will be the patio and privacy fence as well. There is quite a bit of buffering between the other properties.

Spangler advised they would be adding trees and a six (6) foot privacy fence along two sides of the property. She would like to have an upscale, calm, and cozy atmosphere for her business. They have some rough drafts for the outdoor landscaping which would include a step-up patio with a handicap landing, 5 or 6 tables on the patio, sidewalks, benches, and a garden table in the corner with a fountain. The gating and fencing will go up this summer.

Chair Hanson confirmed that Lilly's currently has some live music and asked if this would be outside as well. Spangler said there is potential for this, but only on special occasions----nothing loud. They would still have to meet the noise ordinance. Chair Hanson then confirmed that the condition prohibiting outside music after 10:00 pm isn't an issue. Spangler confirmed that it wasn't an issue.

Dahl asked for the commission to look at possibly putting a cap on the outdoor seating of not exceeding 30 – 35 due to lack of parking. Much discussion was held as to whether a limit should be set or the suggestion to use special wording be used for special occasions,

Ronnie Barger asked why the City is limiting Lilly's business because of what someone else might do if she were to move on. Don't we approve a new liquor license at that time and put the limits on it. Dahl stated the CUP stays with the land so businesses could come and go and we wouldn't have any authority. The City would not necessarily have the ability to make any changes to the conditions.

Larsen Sinouthasy stated that it appeared that Osseo's population is currently very stable; however, the Met Council projects us at 3,000 by the year 2020. If over 2,500, Dahl indicated that the City would be able to have 1 or 2 more intoxicating liquor licenses.

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Dahl stated that the Church of the Nazarene did express some concern, just as they did with the Olympia Café when they applied for a CUP. However, the Church has not made any other specific comments.

Steve Menth, City Council is also questioning why the City cares so much about the the outdoor seating area. Cochran reiterated because the CUP stays with the building and there is a resident directly to the east and apartment buildings to the west and southwest. Dahl specified that back in September, based on a parking perspective, that 50 inside seats and approx. 10 – 30 outside were discussed.

Spangler stated she would prefer to have the same number of outside seats (50), as she does indoor seating (50). She also indicated she would like Lilly's to host wedding receptions.

Dahl advised that the applicant had never mentioned having wedding receptions before. He reminded the Planning Commission that this request is to allow intoxicating liquor sales at Lilly's Wine Bar and Café and to make sure there is the least amount of negative impact to the surrounding neighborhoods. The parking issue would need to be reexamined if the scope and size of the outdoor seating area changes.

Spangler asked again about the wording of "special event". Dahl stated that when they are serving alcohol in an area that doesn't normally serve alcohol, you would need a special sales permit that would have to be approved by the City Council.

Jason Spangler, asked if the City has any special arrangements or permits for gatherings at its parks? Dahl stated there are special permits available in order to use the park however, there is no drinking allowed in the city parks.

Dahl indicated that allowing larger receptions could affect increase the impact on the neighborhood. Greg Withers added the Planning Commission is here to amend a CUP that has already been given and to set conditions based on the amended use.

A motion was made by Cochran, seconded by Hansen, to close the Public Hearing. The motion carried 5-0.

A motion was made by Cochran, seconded by Clarke, to recommend approval of the amended CUP application to allow intoxicating liquor sales at Lilly's Café and Wine Bar, 33 2nd St NW, subject to the following 14 conditions of approval:

- 1. This approval considers impacts of only allowing a wine and beer license. If the applicant wishes to obtain an on-sale intoxicating liquor license, the applicant shall apply for an amended CUP prior to applying for the new liquor license;**
- 2. The on-sale service of liquor shall adhere to all applicable federal, state, and county statutes and regulations in addition to local ordinances;**
- 3. A landscaping plan, which may include a privacy fence along the east and north side of the property shall be approved by staff and fully implemented prior to operation of outdoor seating area;**

4. **Outdoor television, video, or similar projection in the patio area shall not be visible or audible beyond the property line;**
5. **Any outdoor music shall be at a decibel level such that it cannot be heard more than 50 feet from the premises, and at the property line shall not exceed 50 decibels of intensity. Additionally, the rules and regulations set forth in the nuisance code shall be strictly enforced;**
6. **The indoor seating plan shall not exceed 50 seats. Any expansion shall be approved by staff. If the applicant wishes to expand the indoor seating plan by more than 20 percent, the applicant shall apply for an amended CUP;**
7. **The outdoor seating area shall be contained within the property and be enclosed by a barrier fence if alcohol is to be served outdoors;**
8. **Alcoholic beverages shall not be allowed to be taken outside of the designated consumption areas---which consist of the inside of building and the outdoor seating area;**
9. **If trash for the building is to be located outside the main structure, a trash enclosure fully shielding the receptacles from view and latched to prevent accidental opening, shall be constructed prior to the commencement of normal business operations;**
10. **The applicant shall obtain all necessary building and sign permits related to the proposed use;**
11. **Violation of any condition shall result in revocation of the CUP in accordance with the provisions of the Zoning Ordinance;**
12. **The applicant shall submit an outdoor seating plan to be reviewed and approved by the Planning Commission and City Council prior to any outdoor seating;**
13. **The outdoor seating plan shall not exceed 50 seats; and**
14. **Outdoor music of any level shall be prohibited after 10 pm.**

The motion carried 5-0.

9. OLD BUSINESS – None.
10. NEW BUSINESS – None.
11. DEVELOPMENT UPDATE
 - a. City Planner Report

Central Avenue Reconstruction

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Dahl stated that the first of two additional open houses, which are intended to keep the community informed of design progress of the Central Avenue Reconstruction Project and to obtain feedback, will be held on Wednesday, February 18, from 5:00 p.m. to 7:00 p.m. in the Community Center. At this point, plans are approximately 50% complete.

Postcards for the February 18 meeting were mailed to all of the city commissions and Central Avenue businesses and property owners. Dahl stated that the meeting was also mentioned on Cable 12. Cochran asked if the current city web page be kept up-to-date with new information as well as deleting some old information that is no longer necessary. Dahl stated that staff is currently in the process of creating a new city web site and hopefully will be launched to the public on April 1. Withers added that tonight's meeting is the first official meeting being web streamed for those to view on-line. The NW Cable Commission website is the hosting site of our web streaming meetings.

Dahl noted that the Council still anticipates holding a meeting on Monday, March 23rd in order to consider the Central Avenue plans and advertise for bids. If the plans and financing are ultimately approved, construction could start as early as the beginning of June.

Architectural Design Guidelines (ADG) Financial Assistance Program

Dahl stated that the EDA approved a new policy for the ADG Financial Assistance Program at its February meeting.

Comprehensive Plan Update

Dahl reported that the Met Council has notified the City that they consider the City's draft 2008 Comprehensive Plan complete and will commence their review. The Met Council has indicated that their review could be completed as early as March.

12. OTHER BUSINESS

a. Future Agenda Items

Chair Hanson stated that the Planning Commission is making progress on the Sign Code and will continue at the next work session at 6 p.m. on Monday, March 16.

13. ADJOURNMENT

A motion was made by Clarke, seconded by Cochran, to adjourn at 8:33 p.m. The motion carried 5-0.

Respectfully submitted,

Dawn Tessman
Recording Secretary