

**OSSEO PLANNING COMMISSION MINUTES  
REGULAR MEETING  
7:00 p.m.  
October 19, 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., Monday, October 19, 2009.

2. ROLL CALL

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

Others present: Jeffrey Dahl, Development Services Director, Loren Magsam, and Mark Schulz.

3. APPROVAL OF AGENDA

**A motion was made by Plzak, seconded by Larsen Sinouthasy, to approve the Agenda. The motion carried 6 – 0.**

4. APPROVAL OF MINUTES

**a. Approve August 17, 2009 Minutes**

Commission member RJ Wiley arrived 7:05

**A motion was made by Clarke, seconded by Hansen, to approve the August 17, 2009 minutes. The motion carried 7 - 0.**

5. PUBLIC COMMENTS – None.

6. PUBLIC HEARINGS

**a. Conditional Use Permit Application to allow on-sale liquor service at the Kopper Kettle Restaurant---225 Central Avenue**

**A motion was made by Cochran, seconded by Plzak, to open the Public Hearing. The motion carried 6 –0.**

RJ Wiley stated he will be abstaining from any conversation and voting on this matter as he had an interest with the subject property.

Dahl stated that Cleto Aguero, owner of the Kopper Kettle, submitted an application for a Conditional Use Permit (CUP) to allow for a restaurant with on-sale liquor at 225 Central Avenue. The property is under the ownership of Wiley Enterprises, is zoned CBD, Central Business District and is guided as Downtown Core Mixed Use in the Land Use Plan.

The 3,300 sq. ft building on the 4,716 sq. ft. property was built in 1955 and has been a restaurant ever since the mid 1960's. The property is completely surrounded by the CBD Zoning District. Approximately 240 feet to the west across 1<sup>st</sup> Avenue NW, there are properties that are zoned R-2, Multi-family Residential District and are guided as stacked residential. Some of the existing uses adjacent to the property include a restaurant and retail to the north, retail to the east, a bar/grill and retail to the south, and a parking lot and church to the west.

The business' new owner, Cleto Agüero, has indicated he would like permission to serve (on-sale) beer and wine. While a restaurant is a permitted use in the CBD, any 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)). With its charm and pedestrian oriented environment, the intent of the CBD is to accommodate central business type uses that include joint-use parking areas and business uses primarily oriented to the walking public.

Dahl indicated that the main issues to consider with this application are:

#### Parking

For Restaurants/Bars/Cafés, at least one parking spot is required per three seats based upon the design capacity of the seating area. Because the seating plan indicates 147 permanent seats, the number of parking stalls required would be 49.

To this end, there are approximately 61 off-street parking stalls for employees and customers (owned by Wiley Enterprises) located within 150 feet of the subject property and an additional 27 on-street parking stalls for a total of 91 available stalls within 150 feet.

#### On-Sale Liquor License

Because the applicant is pursuing a beer and wine license and outdoor seating with on-sale liquor service is not planned at this time. When the last CUP allowing on-sale service of intoxicating liquor was approved by the Council in April, there was some discussion regarding the number of on-sale liquor licenses within the City. Staff indicated that this issue would be further analyzed when the Zoning Code is revised. While work on the Zoning code will commence in the near future, staff does not believe that this CUP application conflicts with the previous discussion as the applicant is applying for wine and beer license, versus an intoxicating license, and because the Kopper Kettle is located in what might be the most suitable location for an on-sale establishment (abutting Central Avenue in the Downtown Core land use category).

#### Trash Enclosure

Over the past couple of years, when the opportunity has presented itself, the city has been requiring property owners, specifically in the CBD, to enclose their outside trash containers. The property owner has indicated that a trash enclosure would be constructed within the next 3 months on the west side of the building.

In conclusion, allowing on-sale liquor service (beer and wine) at the Kopper Kettle Restaurant will allow a long time Osseo business to provide customers with a more diversified menu and hopefully draw more people to the business and downtown Osseo.

Assuming the Planning Commission is comfortable with the available parking in the area; it would appear that this use would be acceptable as a conditional use in the CBD and meet its intent.

Dahl stated staff recommends approval of the CUP to the City Council to allow for a restaurant with on-sale liquor service at 225 Central Avenue, subject to the following six (6) conditions:

1. This approval considers impacts of only allowing a wine and beer license. If the applicant wishes to obtain an on-sale intoxicating license, the applicant shall apply for an amended CUP prior to applying for the new liquor license;
2. The on-sale of wine and beer shall adhere to all applicable federal, state, and county statutes and regulations in addition to local ordinances;
3. Any outdoor seating, whether on public right-of-way or on private property, shall be approved first by City staff prior to operation; Approval will be contingent upon the applicant submitting a plan, providing a barrier around the seating area if alcohol is to be served, and prohibiting television, video, music, etc;
4. A trash enclosure shall be constructed near the west end of the building within 90 days of this approval. City staff shall approve the design and materials of the structure prior to construction;
5. The applicant shall obtain all necessary building and sign permits related to the proposed use; and
6. Violation of any condition shall result in revocation of the CUP in accordance with the provisions of the Zoning Ordinance.

Dahl advised that the applicant was not in attendance tonight. Plzak and Larsen Sinouthasy referenced the handwritten note from the owner stating he would have a security person on staff. Dahl thought this would be for special events, but there may be some confusion because for beer or wine this is not required. Cochran added that it is a family restaurant and he wants to be able to serve alcohol like all the other food establishments in town. Cochran asked Dahl if there were any comments received from the published notice. Dahl advised that there were none.

**A motion was made by Larsen Sinouthasy, seconded by Clarke, to close the Public Hearing. The motion carried 6 – 0. (Wiley abstained)**

**A motion was made by Cochran, seconded by Clarke, to recommend approval of the CUP to allow for a restaurant with on-sale liquor service at 225 Central Avenue subject to the six (6) conditions listed below:**

- 1. This approval considers impacts of only allowing a wine and beer license. If the applicant wishes to obtain an on-sale intoxicating license, the applicant shall apply for an amended CUP prior to applying for the new liquor license;**
- 2. The on-sale of wine and beer shall adhere to all applicable federal, state, and county statutes and regulations in addition to local ordinances;**
- 3. Any outdoor seating, whether on public right-of-way or on private property, shall be approved first by City staff prior to operation; Approval will be contingent upon the applicant submitting a plan, providing a barrier around the seating area if alcohol is to be served, and prohibiting television, video, music, etc;**

4. **A trash enclosure shall be constructed near the west end of the building within 90 days of this approval. City staff shall approve the design and materials of the structure prior to construction;**
5. **The applicant shall obtain all necessary building and sign permits related to the proposed use; and**
6. **Violation of any condition shall result in revocation of the CUP in accordance with the provisions of the Zoning Ordinance.**

**The motion carried 6 - 0. (Wiley abstained)**

7. OLD BUSINESS – None.
8. NEW BUSINESS – None.

**a. Update of Sign Code Revisions**

Dahl advised that once the City approved its draft 2030 Comprehensive Plan Update in the spring 2008, the next task of the Planning Commission was to discuss issues with the City's Sign Code.

It was a priority because signs act as a very important means of expression and also promote the economic viability of the business community. It is the City's responsibility to balance expression/economic viability while, at the same time, protecting itself and its citizens from a proliferation of signs of a type, size, location and character that would adversely impact upon the aesthetics of the community and/or threaten the health, safety and welfare of the community. Regulations set forth need to be fair, consistent and enforceable.

With this background, the Planning Commission started to review the Sign Code shortly after the Comprehensive Plan was approved. Issues, especially dealing with dynamic signs, temporary signs, and off-premise signs, were further analyzed when League of Minnesota Cities Land Use Attorney, Paul Merwin, spoke at the August 17, 2008 work session. As a result, the Planning Commission decided to update Osseo's existing Sign Code (153.090) entirely.

Over the past year, the Commission has:

- Held monthly work sessions to discuss all the Sign Code related issues;
- Went through the entire existing Sign Code and noted issues;
- Reviewed several other municipalities' Sign Codes and noted their pros and cons; and
- Decided to merge the format and key elements of the City of Hopkins' Sign Code with the City's existing Sign Code.

Because the City's Zoning Code will be revised in the near future, staff recommends forwarding the draft Sign Code to the City Council for their information. Then the draft Sign Code can be inserted in to the revised Zoning Code when it is ready.

Cochran questioned the definition of dynamic signs and wanted to make sure the way the information transitions and animation was appropriately addressed. Dahl will check the previous notes on this and advise the Commission by email.

**A motion was made by Cochran, seconded by Wiley, to forward the draft Sign Code on to the City Council for their review. The motion carried 7 - 0.**

**b. Architectural Design Guidelines Financial Assistance Request from Loren Magsam---33 4<sup>th</sup> Street NW**

Dahl stated that Loren Magsam, owner and applicant of 33 4<sup>th</sup> Street NW (also known as the “Ivy Cottage”), is proposing to add awnings to his building and is requesting \$1,093.75 (25% of the \$4,375.00 project) through the Architectural Design Guidelines (ADG) Financial Assistance Program.

The Planning Commission’s role is to determine if the proposed project meets the intent of the ADG document and make a recommendation to the Economic Development Authority (EDA).

The applicant is proposing to add a total of ten (10) awnings over the windows on the south and west facades of the building. The awnings are proposed to be acrylic with welded aluminum frames. The color of the awnings are proposed to be maroon, which complements the existing building’s beige stucco and brown framed exterior along with the beige and maroon signage.

The intent of the ADG Financial Assistance Program is to encourage commercial businesses in Osseo’s CBD to upgrade their existing front facades through the use of the ADG. The ADG was created in 2000 to provide architectural and aesthetic guidance for future improvements of downtown Osseo. Its main purpose is to “enhance the preservation of the unique atmosphere of the community.” Awnings are specifically referred to in the ADG as an element that enhances the character of “Main Street”.

In January 2009, the EDA revised the perimeters of the ADG Financial Assistance Program. While one of the main modifications dealt with the amount of reimbursement (25% eligible project costs up to \$10,000), the EDA also updated qualifications for prospective applications.

In conclusion, comparatively speaking this request is fairly simple. The applicant is asking for approximately \$1,000 assistance in adding awnings to his building. The proposed improvements also appear to meet all of the qualifications listed on the ADG with the exception of the lot size and available off-street parking. Dahl believes these exceptions to be minimal. Staff recommends approval of the application. Dahl stated that while Mr. Magsam is the City Attorney; he is applying as a business owner.

**A motion was made by Wiley, seconded by Cochran, to recommend approval of the Architectural Design Guidelines Financial Assistance Application from Loren Magsam as the project proposed at 33 4<sup>th</sup> Street NW is consistent with the ADG. The motion carried 6 - 0.**

9. DEVELOPMENT UPDATE

**a. Development Update Report**

Ryan Development Update

Dahl indicated that the project at 108 Broadway Street is moving along quickly. Excavating work should be finished before December. The exterior work is almost complete on the small building and beginning on the larger building.

Central Avenue Project

Dahl stated that due to the wet weather over the past two weeks, work has slowed however most of the concrete has been poured. Current plans are to have the project substantially completed the beginning of November.

Rental Housing

Dahl advised that the registration of the single-family, duplex, and townhome units is going quite well. There are currently about 50 units with approximately 90% being registered.

Other

Chair Hanson asked for an update on the wine bar opening at 204 Central Avenue. Dahl stated that it was originally supposed to open the beginning of October; however, the interior improvements are taking a bit longer than anticipated. Dahl believes the plan is to open the beginning of November.

10. OTHER BUSINESS – None

a. **Future Agenda Items**

Chair Hanson referenced some information from the Department of Health that Dahl had forwarded to the commission. Chair Hanson explained they were notices that the city will be receiving on Housing with Service's (group home, foster home, etc). Dahl stated this is something the Commission may want to consider either adding or deleting language pertaining to these types of uses with the Zoning Code. The language is vague at this time. Chair Hanson suggested researching this information.

Chair Hanson also discussed the information copied from the City of St. Louis Park regarding wind turbines. Dahl stated that St. Louis Park is going to allow them, but will require an acre of land. Chair Hanson believes the commission should be proactive on this issue.

Clarke reminded everyone that Veteran's Day is in the month of November and that we should remember to say "thank you" to those who have served and continue to protect our country as we wouldn't have the opportunities we have today without them.

Chair Hanson encouraged everyone to vote at the upcoming election in November.

Dahl added October is National Planning month.

11. ADJOURNMENT

**A motion was made by Clarke, seconded by Wiley, to adjourn at 7:45 p.m. The motion carried 7 - 0.**

Respectfully submitted,

Dawn Tessman

Recording Secretary