

**OSSEO PLANNING COMMISSION MINUTES  
REGULAR MEETING  
June 20, 2016**

1. CALL TO ORDER

The regular meeting of the Osseo Planning Commission was called to order by Chair Woods at 6:00 pm, Monday, June 20, 2016.

2. ROLL CALL

Present: Commission members Dee Bonn, Deanna Burke, Barbara Plzak, Alden Webster, Ken Zopfi and Chair Todd Woods

Absent: None.

Others present: Larry Stelmach, Daniel LaRouche, Cathy Rosenberg, Scott Hauck, Harold E. Johnson, City Planner Nancy Abts

3. APPROVAL OF AGENDA

**A motion was made by Bonn, seconded by Webster, to approve the Agenda as presented. The motion carried 6-0.**

4. APPROVAL OF MINUTES

A. Approve May 16, 2016, Minutes

**A motion was made by Plzak, seconded by Zopfi, to approve the May 16, 2016, minutes. The motion carried 6-0.**

5. PUBLIC COMMENTS

Chair Woods advised this is the time for public comments for items that are not on the agenda for tonight's meeting. There were no comments from the public.

6. PUBLIC HEARINGS

A. Public Hearing for Conditional Use Permit Request by Cathy Rosenberg to Conduct a Massage Therapy Use at 100 Central Avenue Unit 2

Abts stated the property located at 100 Central Avenue is located in the CBD (Central Business District) and is owned John F. Englund. The applicant proposes to occupy an existing office space with a business that will provide massage therapy. (The proposed business location was formerly occupied by the Osseo Foot Clinic. Current tenants of the larger office condominium include John Englund, DDS and SEEK Home, Inc.) The applicant proposes to make improvements to the existing space, which is located on the first floor of the existing building. The business would include four rooms used for therapeutic massage and additional space for a reception area. The building include a bathroom shared among tenants.

Abts explained the applicant's business plan includes the eventual hiring of four experienced Licensed Massage Therapists (with 500+ hours of training in massage therapy) to provide

clients with professional therapeutic massage services. The proposed hours of operation would be no earlier than 10 am and no later than 10 pm, Monday through Friday. (City Code does not identify any restrictions on the hours of operation for this type of use.) Services in the new space will include many types of therapeutic massage, including Deep Tissue, Swedish, and Sports massages, Myofacial Release, hot stone massage, and aromatherapy. The applicant is enthusiastic about bringing her business to Osseo after previously operating in Anoka and Ramsey. Many of the business's existing clients work for Osseo Area Schools and will find the Osseo location convenient.

Abts reported under the current proposal, the City will require that any employee of this business who will be conducting massage therapy to undergo a simple criminal background check, with the fee paid by the business. This has been historically common in the City with these types of uses. No one under the age of 18 will be allowed to work at this business. Massage therapists will be required to have their license in plain view of the front desk at all times. Historically, the City of Osseo has not required City-issued licenses for these types of business uses. Instead, the City has relied on any State of Minnesota requirements. However, Staff is now considering creating a Massage Therapy license. The applicant has been informed that the City may consider Massage Therapy licensing in the near future. Staff reviewed the City's CUP requirements with the Planning Commission and recommended approval of the request with conditions.

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

Cathy Rosenberg, applicant, thanked staff for providing the thorough report. She explained she previously worked in Anoka for five years and then moved to Ramsey. She indicated she was looking forward to opening her business in Osseo and loved this City's small town feel.

Woods questioned how Ms. Rosenberg would differentiate herself. Ms. Rosenberg explained she worked to create relationships with her clientele by offering different wellness packages, along with offering reasonable massage rates.

Plzak asked how many employees Ms. Rosenberg would have. Ms. Rosenberg indicated she had one employee at this time. It was her hope to bring on three to five more therapists in the future.

Plzak inquired if Ms. Rosenberg would be offering any internship programs. Ms. Rosenberg stated she has done this in the past, however, she believed there were not many massage therapists going to school at this time.

Plzak supported Ms. Rosenberg being allowed to offer an internship program at her establishment. Abts commented she could amend the conditions to allow for an intern. Ms. Rosenberg explained that an intern would have enough hours to comply with the City's requirements.

**A motion was made by Plzak, seconded by Webster, to close the public hearing at 6:13 p.m. The motion carried 6-0.**

**A motion was made by Bonn, seconded by Burke, to approve the Conditional Use Permit request to operate a massage therapy use at 100 Central Avenue, Unit 2 to the City Council, subject to the seventeen (17) conditions listed below, revising the conditions to allow for an intern. The motion carried 6-0.**

- 1) Applicable Provisions. This permit is subject to the requirements of the City’s ordinances and the Applicant is required to comply with all applicable federal, state, and local laws, rules, regulations, and ordinances, and to obtain such other permits and permissions as may be required. Local and state regulations and ordinances shall include but are not limited to the following:
  - a. The business must at all times meet all requirements of the Hennepin County Community Health Department and the Minnesota Department of Health as it relates to massage and beauty spa business uses;**
  - b. Any trash enclosure must be properly screened from public view, per Osseo City Code;**
  - c. The building appearance shall be maintained so that it adheres to Osseo City Code; and**
  - d. Signage relating to the use, including temporary signage, shall adhere to Osseo City Code;****
- 2) Rates posted. Price rates for all services shall be prominently posted in the reception area in a location available to all prospective customers;**
- 3) Employee training. The business must have in its employment at all times a massage therapist who has a minimum of 500 hours of class credits from a massage therapist school accredited by an organization of therapeutic massage professionals which has a written code of ethics, and the massage therapist’s certification shall be prominently displayed within the business near the front desk area;**
- 4) Employee age. No person less than eighteen (18) years of age shall be employed as a massage therapist;**
- 5) Employee criminal history. No person shall be employed as a massage therapist who has any prostitution or prostitution-related criminal convictions or any controlled substance criminal convictions;**
- 6) Employee background check. The business owner shall pay the cost of an Osseo Police Department issued criminal background search for each massage therapist employed by the business. Any new employment of a massage therapist shall be reported to the Osseo Police Department within 10 days of such employment and the fee shall be paid at that time;**
- 7) Employee covered. Any employee giving a massage shall at all times have his/her breasts, buttocks, anus and genitals covered with a non-transparent covering, and no other person shall touch any such area;**
- 8) Recipient covered. A person receiving a massage shall at all times have his/her breasts, buttocks, anus and genitals covered with a non-transparent covering, and no other person shall touch any such area, except male breasts need not be covered and portions of the breasts and buttocks may be uncovered when such portion of the body is being massaged. At no time shall any other person touch the nipples, genitals or anus of the person receiving a massage;**

- 9) **Recipient age.** All individuals under the age of eighteen (18) years of age shall have written parental permission and the parent must accompany the minor for the first visit for massage services. All signed parental permission forms shall be kept on file with the applicant and be made available for inspection by the City when requested;
  - 10) **Open to inspection.** During any hours at which the business is open, the business shall be open to any State or County official and to any City official or police officer for inspection to determine compliance with the stated conditionals of approval;
  - 11) **Drugs dispensed.** No person shall dispense any drugs or medicine from the premises;
  - 12) **Insurance coverage.** The business shall have in effect personal liability insurance in the amount of at least \$1,000,000 covering liability in the practice of massage therapy and insuring the business and each massage therapist.
  - 13) **Hours of operation.** The hours of operation shall be not earlier than 8:00 AM and not later than 10:00 PM;
  - 14) **No Waiver.** Failure by the City to take action with respect to any violation of any condition, covenant or term of this permit shall not be deemed to be a waiver of such condition, covenant, or term or any subsequent violation of the same or any other condition, covenant, or term.
  - 15) **Revocation.** The violation of any terms or conditions of this permit including, but not limited to, any applicable federal, state, or local laws, rules, regulations, and ordinances, may result in revocation of the permit. The Applicant shall be given written notice of any violation and reasonable time, as determined by the City, to cure the violation before a revocation of the permit may occur.
  - 16) **Binding Effect.** This permit and its conditions are binding on the Owner and Applicant, their successors and assigns, and shall run with the Property, and shall not in any way be affected by the subsequent sale, lease, or other change from current ownership, until the permit is terminated or revoked as provided herein. The obligations of the Applicant under this permit shall also be the obligations of the current and any subsequent owners of the Property.
  - 17) **Acceptance of Conditions.** Utilization of the Property for any of the uses allowed by this permit shall automatically be deemed acceptance of, and agreement to, the terms and conditions of the permit without qualification, reservation, or exception.
- B. Public Hearing to Amend Zoning Code to Opt-Out of Requirements of Minnesota State Statute 462.3593, which defines and regulates Temporary Family Health Care Dwellings

Abts stated a new state law allows landowners to place a mobile residential dwelling on residential property to serve as a temporary family health care dwelling, and cities are allowed to opt out of allowing these dwellings. The Planning Commission should consider making a recommendation regarding an ordinance amendment relating to these dwellings.

Abts explained on May 12, Governor Dayton signed in to law a bill establishing Minnesota Statutes §462.3593, which defines and regulates Temporary Family Health Care Dwellings. This bill created a new process for local governments to issue permits for certain types of recreational vehicles and small housing structures as temporary dwellings. The resulting law, Chapter 111, is intended to allow a resident to more easily care for family members with

mental and physical disabilities in need of short-term care. The main stated purpose for the law was to provide transitional housing for seniors—for example, allowing a grandparent to live nearby while recuperating from surgery. However, the law’s broader effect provides that anyone who needs assistance with two or more “instrumental activities of daily life” would be eligible for this type of housing. The League of Minnesota Cities provides this summary of the bill, stating that it:

- Creates a new type of permit referred to as a temporary dwelling permit that has a six-month duration, with an option to extend the permit for six months.
- Requires that the permit be for a property where the caregiver or relative resides.
- Allows modular and manufactured housing (instead of just recreational vehicles) to use this permit process as long as the unit meets all of the listed criteria.
- Lists the criteria for the structure and the information required in the permit application.
- Addresses sewer safety issues with required backflow valves and advance verification of septic service contracts.
- Requires the inclusion of site maps showing where the unit will be placed and notification of adjacent neighbors prior to application.
- Requires applications to specify the individual authorized to live in the unit.
- Applies the permit approval process found in Minnesota Statutes, section 15.99, but allows the local government unit only 15 days to make a decision on granting the permit (no extension). It waives the public hearing requirement and allows the clock to be restarted if an application is deemed incomplete, as long as the applicant is notified of how the application is incomplete within five days. A 30-day decision is allowed if the regular council meeting occurs only once a month.
- Requires unit placement to meet existing stormwater, shoreland, setback, and easement requirements. A permit exempts the units only from accessory unit ordinances and recreational vehicle parking and storage ordinances.
- Sets a default permit fee level that may be replaced by a local ordinance.
- Allows cities to pass an ordinance opting out of using this new permitting system.

Abts explained local governments may opt out of this program if they determine this type of expedited permit system is not well-suited to their community. Because of Osseo’s small lots and fully-developed character, these sort of dwellings are not likely to be easily accommodated in the City. Additionally, impervious coverage and requirements for parking on an improved surface pose additional restrictions to the placement of temporary dwellings. As a reminder, Osseo City Code requirements include:

#### HEALTH AND SAFETY: NUISANCES

§ 93.19 NUISANCE PARKING AND STORAGE. (B) Unlawful parking and storage.

(3) (a) All vehicles must be currently licensed and in operable condition, and shall be parked only on the driveway or other hard surface abutting a garage as approved by the city.

Vehicles are allowed to be parked in the backyard, provided they are on a hard surface, such as a driveway, *if the driveway enters off an alley*.

1. The owner of the residential property is liable for any violation of this section.
2. For purposes of this section, VEHICLE means any motorized vehicle, truck, passenger vehicle, motorcycle, motorized bicycle, motorized cart, golf cart, boat, watercraft, snowmobile, recreational vehicle, trailer, or any similar device with wheels or tracks

capable of transporting an operator or passenger. However, any vehicle mounted or placed on a trailer used to transport the vehicle, and the trailer on which that vehicle is mounted, shall for purposes of this section be considered one vehicle.

**ZONING: OFF-STREET PARKING**

§ 153.009 DEFINITIONS. IMPERVIOUS SURFACE. Any structure or surface which interferes to any degree with the direct absorption of water into the ground, including but not limited to roofs, sidewalks, paved driveways and parking areas, patios, tennis courts, swimming pools, or any other surface.

Abts recommended the Planning Commission approve the proposed amendment to the Zoning Code to Opt-Out of Requirements of Minnesota State Statute §462.3593.

Plzak asked if the City would consider approving a variance to allow for transitional housing for a family member. Abts stated these were very new regulations from the State. She explained she would have to speak with the City Attorney to see how the “practical difficulty” portion of the variance process would be interpreted for transitional housing requests.

Plzak questioned who would be inspecting the housing units. Abts commented the City would likely be responsible for inspecting the units.

Plzak inquired how the transitional housing units would be hooked up to City sewer and water. Abts explained that an insulated garden hose could be used to provide water to the units and a company would have to be hired to haul away grey water.

Plzak was interested in speaking with other local communities that were allowing these transitional housing units in their city prior to banning them completely from Osseo. Abts stated it was her understanding that most communities would be opting out from this State Statute.

Zopfi asked if there was an age requirement for the transitional housing units. Abts explained that rather than an age requirement, the individual within the transitional housing unit would need assistance with two or more daily living activities.

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

Webster questioned if the public was requesting to have transitional housing units on their lots. He believed that the lots in Osseo were too small to even allow for the placement of a transitional housing unit to be located within the City. Abts commented that she has not had any specific requests for transitional housing. However, a member of the public was interested in purchasing the vacant land adjacent to Chair Woods’ home for a “tiny home”.

Harold Johnson, 12 Sixth Street NE, agreed that the yards in Osseo were too small to accommodate a transitional housing unit.

**A motion was made by Webster, seconded by Plzak, to close the public hearing at 6:30 p.m. The motion carried 6-0.**

**A motion was made by Webster, seconded by Plzak, to approve the proposed amendment to the Zoning Code to Opt-Out of Requirements of Minnesota State Statute §462.3593. The motion carried 6-0.**

7. OLD BUSINESS – None
8. NEW BUSINESS – None
9. REPORTS OR COMMENTS: Staff, Chair & Commission Members

Abts explained Commission Member Casey Robertson has resigned his position. She encouraged the Planning Commission to recommend individuals to staff that may be interested in serving on this group.

Abts reported the City received a grant from Hennepin County which focused on active living and active communities. She explained a portion of this grant would be spent in coordination with the Comprehensive Plan update. She welcomed input from the Planning Commission on which vendors should be solicited to assist the City with the Comprehensive Plan update.

Webster questioned when the strip mall would be complete. Abts reported work continued on the strip mall and while slow going, was in the process of being renovated.

Webster asked if the downtown restaurants could have sandwich board signs. Abts explained sandwich board signs were allowed through a permitting process.

10. ADJOURNMENT

**A motion was made by Webster, seconded by Zopfi, to adjourn the meeting at 6:37 pm. The motion carried 6-0.**

Respectfully submitted,

Heidi Guenther  
*TimeSaver Off Site Secretarial, Inc.*