

**SHOREVIEW PLANNING COMMISSION
MEETING MINUTES**

October 28, 2008

CALL TO ORDER

Chair Feldsien called the meeting of the October 28, 2008 Shoreview Planning Commission meeting to order at 7:00 p.m.

ROLL CALL

The following members were present: Chair Feldsien, Commissioners Ferrington, Mons, Proud, Schumer, and Solomonson.

Commissioner Wenner was absent.

APPROVAL OF AGENDA

Under the *Miscellaneous* portion of the meeting, Commissioner Mons requested the addition of item D., Exxon Station signage at Lexington and Gray Fox Road.

Senior Planner Warwick noted that item C. on the agenda, T-Mobile Central, is a public hearing.

MOTION: by Commissioner Proud, seconded by Commissioner Schumer to approve the October 28, 2008 agenda as modified.

ROLL CALL: Ayes - 6 Nays - 0

APPROVAL OF MINUTES

Commissioner Ferrington noted that she was absent from the September 23, 2008, and could not have seconded the motion to adjourn.

MOTION: by Commissioner Mons, seconded by Commissioner Proud to approve the minutes as amended.

ROLL CALL: Ayes - 5 Nays - 0 Abstain - 1 (Ferrington)

REPORT ON CITY COUNCIL ACTIONS

City Planner Nordine reported that the City Council approved the following at its October 6, 2008 meeting:

- Site and Building Plan Review for PaR Nuclear
- Comprehensive Sign Plan Review - Mr. Car Wash

At its October 20, 2008 meeting, the City Council approved the 2008 Comprehensive Plan.

NEW BUSINESS

VARIANCE

FILE NO.: 2338-08-35
APPLICANT: TOM & MEGAN MCGOUGH
LOCATION: 736 COUNTY ROAD I WEST

Presentation by Senior Planner Rob Warwick

This application is for a front setback variance to allow construction of a 663 square foot cabin. The property is a substandard riparian lot located on the north side of Turtle Lake. Currently, there is a house and detached garage, both of which would be removed. There are also two sheds with a total of 149 square feet that will remain. A variance is needed because the proposed cabin location exceeds the required 40-foot setback line from County Road I. The proposed setback for the cabin is 194.1 feet, in the same location as the existing house. The new cabin is from a log cabin kit with full basement and loft. The applicants state that this cabin will remain until a permanent residence is built within two or three years. They own the adjacent parcel at 726 County Road I and intend to combine it with this parcel for the new permanent residence. With the increased front setback of 194.1 feet, the OHW setback would be 82 feet.

The applicant states that the two vacant adjacent parcels creates hardship. If the proposed cabin were placed at the required 40-foot front setback, there would be no view of the lake.

Property owners within 150 feet were notified of the application. No written comments were received. One caller stated he did not support the request unless the proposed setback from the west side lot line is increased.

The shoreland mitigation practices chosen by the applicants are Architectural Mass and reduction of impervious surface coverage on the lot.

Staff concurs with the applicant's statement of hardship and finds the proposal to be reasonable. It is recommended that the Planning Commission approve the variance request.

Commissioner Proud asked if this development would create a circumstance that would require a variance to develop the adjoining vacant lots. Mr. Warwick stated that the applicants plan to combine the two lots they own for a permanent residence. They will request permission to live in the cabin until the permanent house is built. Although, difficult to predict, he does not see any impact of this decision on the adjoining vacant lot to the west. It could enhance the parcel to the west because a house could be built closer to the lake without the need for a setback variance. Commissioner Ferrington asked if placement of this cabin would impact placement of the

permanent house when it is built. Mr. Warwick explained that only one house could be built on a parcel. This cabin will be removed and not considered in placement of the new house.

Commissioner Solomonson asked the reason for not combining the parcels at this time, so that a variance would not be needed. Mr. Warwick stated that the second parcel owned by the applicants to the east is not a riparian lot. The street setback for a combined parcel would be based on the location of the house on the non-riparian property to the east on County Road I, not on the adjacent riparian lot to the east that has frontage on Carlson Road.

Commissioner Mons stated that the lots lines are confusing and requested that with similar future applications include a plat map that can be superimposed over the parcels to clarify the legal lot lines. Mr. Warwick agreed and explained that after the parcels were created, they were replatted when sold, which has caused confusion.

Mr. Dana Kelly, Architect, 736 County Road I, stated that the intention is to build the house previously presented at the appropriate time. The cabin will allow the applicants to live on the parcel now and during construction of the new home. When the new home is built, the two parcels will be combined.

Chair Feldsien stated that he supports this application and agrees that the lot dimensions cause hardship.

MOTION: by Commissioner Proud, seconded by Commissioner Schumer to adopt Resolution 08-87 approving the variance request to increase the 40-foot front setback for a new dwelling at 736 County Road I, subject to the following conditions:

1. The project must be completed in accordance with the plans submitted as part of the Variance application. Any significant changes to these plans, as determined by the City Planner, will require review and approval by the Planning Commission.
2. The existing house shall be removed concurrently with the construction of the new cabin. A demolition permit shall be obtained prior to removal of the house. Utility connections to the new cabin shall not be permitted until the existing cabin has been removed.
3. The existing detached garage shall be removed prior to issuance of a Certificate of Occupancy. A surety in the amount of \$2,000.00 shall be deposited with the City to insure removal of the garage.
4. A mitigation affidavit shall be executed prior to issuance of a building permit for the cabin.
5. No trees are proposed to be removed for this project and no landmark trees shall be removed without approval of the City Planner.
6. This approval will expire after one year if a building permit has not been issued and work has not begun on the project.

7. This approval is subject to a 5-day appeal period. Once the appeal period expires, a building permit may be issued for the proposed project. A building permit must be obtained before any construction activity begins.

The approval is based on the following findings:

1. A dwelling represents a reasonable use of the property.
2. Hardship exists due to the two vacant lots adjacent to the subject property since a calculated setback is not used for this 285-foot deep riparian lot.
3. The proposal will not alter the character of the neighborhood, since other houses in the area are located with an orientation towards Turtle Lake.

Discussion:

Commissioner Mons noted that there is nothing to require the applicants to remove the cabin and build a house within three years. Mr. Warwick stated that this application has been reviewed as a permanent structure.

ROLL CALL: Ayes - 6 Nays - 0

VARIANCE

FILE NO.: **2333-08-30**
APPLICANT: **CHANDLER/CAROLYN ARCHIBALD**
LOCATION: **5277 LAKE BEACH COURT**

Presentation by Senior Planner Rob Warwick

The request is to put on a rear addition onto the existing house and reduce the required 40-foot rear setback to 36.8 feet. The property is a through lot with the front lot line abutting Lake Beach Court and the rear lot line abutting Lexington Avenue. The addition consists of a 12 by 14 enclosed porch utilizing a cantilever with post and beam framing. The house is a split-level with a two-car attached garage. The 2-foot cantilever is a permitted encroachment in a yard adjacent to a street. The setback is measured from the post supports for the porch, which is 36.8 feet.

The applicants state that adding a porch is a reasonable use of property and has been designed to minimize encroachment into the street setback. The configuration of the lot relative to Lake Beach Court creates hardship.

Staff agrees that the buildable area for an addition is limited because of the shape of the front lot line due to the location on the cul-de-sac. The lot depth varies from 140 feet on the north lot line to 105 feet on the south lot line. The rear setback requirement of 40 feet from an arterial street is

greater than the normal 30-foot setback. Staff believes these factors create hardship. Staff is recommending approval subject to the conditions listed in the staff report.

Property owners within 150 feet were notified of this request. One comment was received supporting the application.

Commissioner Solomonson asked the reason these properties are nonconforming. Mr. Warwick stated that the lots were platted in the 1970s. The City allowed a 30-foot setback from an arterial road at that time. The 40-foot setback was adopted in 1983. This particular house was one of the last ones built.

Mr. Michael Eng stated that he prepared the plans for his sister, Carolyn Archibald. Staff’s presentation was well done, and he would be happy to answer any questions.

MOTION: by Commissioner Mons, seconded by Commissioner Solomonson to adopt Resolution 08-88 approving the variance request to reduce the 40-foot minimum rear setback for an addition at Lake Beach Court, subject to the following conditions:

1. The project must be completed in accordance with the plans submitted as part of the Variance application. Any significant changes to these plans, as determined by the City Planner, will require review and approval by the Planning Commission.
2. This approval will expire after one year if a building permit has not been issued and work has not begun on the project.
3. This approval is subject to a 5-day appeal period. Once the appeal period expires, a building permit may be issued for the proposed project.
4. A building permit must be obtained before any construction activity begins.

ROLL CALL: Ayes - 6 Nays - 0

City Attorney Filla stated that he has reviewed the notice affidavits, which indicate that the public hearings are in proper order.

PUBLIC HEARING - REZONING/WIRELESS TELECOMMUNICATIONS PERMIT

FILE NO.: 2337-08-34
APPLICANT: T-MOBILE CENTRAL
LOCATION: 5623 SNELLING AVENUE

Presentation by Senior Planner Rob Warwick

The proposal is to replace a 50-foot light pole in Shamrock Park with a 75-foot monopole with antennae. There would be a 6-foot by 12-foot concrete pad for equipment cabinets. T-Mobile

would enter into a ground lease and Development Agreement with the City for the facility equipment and access. The proposed monopole would be at the southwest corner of the hockey rink at Shamrock Park. Two antennas will comprise the top 20 feet of the tower. A stealth design will be used rather than standoff arms and the shroud over the antennae will reduce the visual impact. It is a single user design, so future co-location of additional WTFs will not be possible.

Rezoning is not for a new use. Rezoning is necessary for the 75-foot height. The property is currently zoned TOD-1, which allows a maximum 60-foot monopole. Rezoning to TOD-2 would allow the 75-foot height. The 40- to 50-foot trees block reception, which is the reason for the needed added height. TOD-1 zones are in parks throughout the City. TOD-2 zones are at water towers, Sitzer Park, the tall tower sites and the Shoreview Road industrial area.

Existing conifers around the park will help minimize visual impact. Landscaping includes Black Hill Spruce around the cabinet area and near the parking area. The application is in compliance with standards for architecture, location and height (if rezoned).

Notices of the application were sent to property owners within 350 feet of the site. Three written comments were distributed to Commissioners at this meeting. Also several phone calls were received --two expressed concern about visual impact. The Park and Recreation Director has reviewed the proposal and recommends approval. The proposed monopole will carry lights for the hockey rink, and the ground equipment will not reduce space for maintenance or operations.

Staff believes the rezoning is warranted and recommends that the application be forwarded to the City Council for approval. The City Council will consider a ground lease for a 20-year term at an initial annual rent of \$18,000 with a 5% escalator. Revenue from WTFs in the City is dedicated to park and recreation funds.

Commissioner Solomonson stated that it is hard to see that a 75-foot height will add much coverage according to the maps presented. He asked if the purpose for the added height is to have the antennae above trees. Mr. Warwick stated that there will be enhanced reception and the area of coverage enlarged. The height also reduces clouded reception from tree blockage.

Commissioner Mons asked if the ground space for the pole is the same for a 75-foot pole as a 60-foot pole. Mr. Warwick stated that the ground equipment is a standard installation and is the same size as the equipment at each of the two water towers in the City.

Commissioner Mons stated that he had reservations about the last similar application at Sitzer Park. He questioned the reason for two zoning overlay districts. Rather, there could be one zoning district that permits 75-foot towers. Mr. Warwick stated that staff would not recommend changing the zoning districts. Each application is reviewed individually and a recommendation is made based on that particular application and how it meets established criteria. In this application, the added 15 feet for the stealth design without the antenna arms minimizes visual

impact.

Chair Feldsien opened the public hearing.

Mr. Bill Herzog, 5564 Snelling Avenue North, asked the reason T-Mobile needs this tower. There is one at Sitzer Park and another one a mile from this location at the water tower. There are two more cell phone towers near Medtronic. Long-term exposure to low frequency radiation is a big health risk. The cabinet box will eliminate the open skate area. His neighbors have T-Mobile and have no problems using their cell phones. He would like more information about health issues. The ground equipment will not be screened. He would rather pay \$500 more in taxes than have a cell phone tower in the park. Will the tower decrease residential property values? He suggested that it could be placed by Rice Creek next to I-35. There is land for sale there.

Ms. Ann Meslanski Takahachi, 1570 Hillview Road, stated that one concern is about the loss of the open rink. A compilation of studies in 2003 on biological effects of electromagnetic fields shows that there is more than sufficient evidence to show that genetic damage occurs and that EMR from ELF to RFMW is genotoxic. It affects reproduction. Internationally, it is not recommended to have an RF tower within 1500 feet of schools, playgrounds or places where there are children. There is an air raid siren in the area. During a severe storm, the height of this tower could block air raid communication. There is also the increased danger of a lightning strike to the tower or its collapse during high winds. Ms. Meslanski-Takahachi stated that her qualifications include a GIS Systems Certificate. This site is a low spot geographically in the park. Her understanding is that this tower will increase T-Mobile's coverage for I-35W, but it does not make sense given the topography of the proposed location. A study done on housing prices in Florida in 2004 shows 2% devaluation in properties within 656 feet of cell phone towers. There are vandalism issues in the park. As recently as last March, T-Mobile had an instance of copper theft. There is a worldwide shortage of copper, and copper theft is increasingly occurring across the world. This site is dark with easy access. There are many elderly people who live in this area, and this could bring in an unsafe element to the neighborhood. Engineers are recommending wireless remote sensing and cameras. This site abuts a military installation, a watershed and is in a mosquito control district. Mosquito control spraying is to prevent West Nile Disease. Helicopters and military maneuvers block cell phone coverage. **Ms. Meslanski Takahachi** read from the Arden Hills aviation plan that indicates that although there are no aviation facilities in Arden Hills, airways are to be kept clear for helicopters and aviation related facilities because it is adjacent to a military facility. There have been incidents of liability for cities that restrict air space for military operations. One judgment was in the amount of \$5.2 million. In summary, although, she can appreciate the effort to bring in revenue, the site is low and does not make sense topographically. Also, a part of the use of the park will be lost. She will lose property value, and her major asset is her home.

Mr. Tom Benda, Insight, Inc., stated he was hired by T-Mobile to help with rezoning. Many of the concerns raised are brought up at many meetings he attends. All carriers do a FAA study

before erecting a tower to determine any air space issues. As part of the Telecommunications Act, the federal government has determined that health issues are not a factor in determining whether or not a tower can be considered. The difference between 60 and 75 feet is a matter of coverage based on customer complaints. With the stealth design a limited number of antennas fit in the canisters, which is another reason for the additional height. Using the stealth design at 75 feet is preferable to a 60-foot monopole with antennas arms hanging off the pole. T-Mobile has tried to find co-location sites but has found none that would be compatible.

Commissioner Mons asked about this site location. **Mr. Benda** responded that other sites were considered. This is the best site for the coverage needed. The location in the industrial area along I-35W was rejected. There are towers west of I-35W. A certain separation is needed for communication at optimum levels. This location will fill the gap between those towers and this site. If the tower is located to the west, there will be a future request for another tower to cover the area that would not be covered from this proposed site.

Commissioner Mons stated that he would like to see data that shows why a tower cannot be located in the industrial area to the west. The pole is not attractive and does create a visual effect. The maps do not show coverage from a 75-foot pole further west. **Mr. Benda** stated that a lot of analysis and work has been done by radio frequency engineers to determine the best location. T-Mobile has gone out of its way to work with the City and come to a solution that meets T-Mobile's needs and the concerns of the City. The new pole will be where the existing pole is now, although taller and wider but the same color.

Commissioner Proud asked if the FAA study has been done to determine if a 60- or 75-foot pole would be allowed. **Mr. Benda** stated that it is allowed. An FAA study is not required for anything under 200 feet. Coordinates are sent to the FAA for determination as to whether a study is needed or not. For this site, a study is not needed but a preliminary one has been done because T-Mobile does that for all of its sites. Commissioner Proud asked if there are coverage maps available from other sites considered. **Mr. Benda** answered that he cannot say if there are any.

Commissioner Ferrington asked about the loss of the free skating rink. Commissioner Schumer responded by saying that he lives in the area. His children use that skating rink. The placement of the equipment pad will not cause a loss of the ice rink. He referred Commissioners to the park diagram that shows there is plenty of room off the south end of the hockey ice arena for the second ice rink. The second ice rink is an east/west area that is flooded with no boards.

Commissioner Solomonson asked if a 60-foot pole were built in the stealth design, whether the base of the pole would be larger. Mr. Benda answered that the dimensions at the bottom would be the same for either height.

Ms. Ann Meslanski Takahachi, 1570 Hillview Road, stated that the loss of value to homes would not be offset by the \$18,000 received by the City. She respectfully disagreed with

Commissioner Schumer that there would be room for the second rink because of the topography. Referring to the Telecommunications Act, she noted that, “states and local governments are prevented from regulating placement of construction and modification of personal wireless service facilities on the basis of environmental effects or radio frequency emissions to the extent that such facilities comply with the FCC regulations concerning such emissions.” U.S. Code Chapter 47, 332 subsection C. She has letters from the Environmental Protection Agency (EPA) stating dangers and lack of studies on health concerns regarding such placements.

Mr. Herzog asked the reason the antenna on the water tower a mile away cannot be made more powerful rather than building another tower. The site he referred to earlier is the land for sale or lease by Rice Creek Parkway and Highway 10. What will T-Mobile do to make the park better if they locate the pole in it? Would any of the \$18,000 a year in revenue go toward Shamrock Park? Mr. Warwick responded that all revenue generated from antennas and monopoles goes to the Park and Recreation Fund.

Commissioner Solomonson noted a response from a resident with a concern about whether the hockey rink would be removed. Mr. Warwick stated that there has been discussion about a number of specialized options for parks, but no decisions have been made. Park staff has carefully evaluated the placement of the monopole and the equipment cabinet and determined that there will be no impact to skating rinks.

Chair Feldsien noted a written comment from Bill Camlier who has concerns about hockey lights being on and who also asks if the tower will affect his TV and phone reception. Two other comments are one from Andrew Wandra who supports the new pole and one from Wally and Darlene Parish also do not object to the proposal.

City Attorney Filla noted that the lease agreement with the City will include many additional regulations.

MOTION: by Commissioner Mons, seconded by Commissioner Schumer to close the public hearing.

ROLL CALL: Ayes - 6 Nays - 0

Commissioner Ferrington stated that the coverage maps do not show a great difference in coverage. The main added coverage is for the park area itself. Another concern is that there are not many trees in this park. If the topography is not suitable for the location of a tower, she would like to see data from other sites. Citizen concerns need to be uppermost in this decision.

Commissioner Schumer also expressed concern about the height of trees being an issue with blocking coverage. There are more trees at this site than in Sitzer Park. He would prefer the 75-foot stealth pole than a 60-foot monopole with arms and is more in support than opposed to this proposal.

Commissioner Proud stated that generally he supports the application. He would like to see an RF saturation map--an overlay that indicates data on reception coverage from other sites and data to show why this site is the best. Airspace obstruction needs to be evaluated. He, too, would prefer a stealth design rather than a monopole with arms.

Commissioner Solomonson stated that he had concerns about the pole approved for Sitzer Park and voted against that one. He has the same concerns about this application. He agreed with Commissioner Mons that a lot of data is missing. A stealth design is best, but he agrees that the coverage resulting from a 60-foot or 75-foot pole look to be the same.

Commissioner Mons stated with the adoption of the City zoning regulations, it was determined that a tower of 75 feet is too high near a residential area. The distinction of when it is okay and when it is not okay needs to be clarified. There is no independent way of verifying the industry saying that this is the best site. He does not believe that when the zoning was adopted, this site would have been approved for TOD-2. Action on this matter at this meeting is premature. A review is needed on the City's overlay zones and the advanced design of towers today.

Chair Feldsien stated that he agrees with the previous comments. He asked if, with the public hearing closed, the Commission can request more information before making a decision.

City Attorney Filla stated that the 60-day rule applies for a request for rezoning. Another 60 days can be added if the Commission determines more information is needed, such as assurance of compliance with FCC and FAA regulations; illustration of how this site compares in coverage to other sites in the area. The TOD zoning areas shown on the map are the only sites where a tower is allowed. Mr. Warwick added that there are private covenants within the Rice Creek Corporate Park that prohibit antennas. There are no other coverage maps to provide because there are no other sites where a tower could be built in this area.

Commissioner Mons stated if there is no additional data to be provided, the Commission cannot request additional time to review the application.

Commissioner Proud stated that information can be requested regarding the best placement for a tower in this park, whether placement of a tower on the University property is prohibited or the county open space along County Road I. Alternative sites should be requested with an RF saturation map.

Commissioner Mons stated that the City has no jurisdiction over Ramsey County Open Space. The application should be voted up or down on the basis of whether the tower should be in Shamrock Park.

Commissioner Ferrington stated that the coverage map for the 60-foot tower looks to be almost the same as for the 75-foot height. Mr. Warwick explained that vegetation on the site is not

accounted for in the model. The engineer makes an inspection and then makes a determination based on topography and vegetation.

MOTION by Commissioner Schumer, seconded by Commissioner Ferrington, for the sake of discussion, to recommend the City Council approve the Rezoning and Wireless Telecommunications Facility Permit applications for T-Mobile at Shamrock Park, 5623 Snelling Avenue, subject to the following conditions:

Rezoning:

1. This approval rezones the property from TOD-1, Telecommunications Overlay District - One to TOD - 2, Telecommunications Overlay District - Two. The underlying zoning designation will remain unchanged as the R-1, Detached Residential District.
2. Rezoning is not effective until a Wireless Telecommunications Facility (WTF) agreement is executed.

Wireless Telecommunications Facility Permit

1. The project must be completed in accordance with the plans submitted as part of the Wireless Telecommunications Facility Permit application. Any significant changes to these plans, as determined by the City Planner, will require review and approval by the Planning Commission.
2. This approval will expire after one year if a building permit has not been issued and work has not begun on the project.
3. A minimum of 8 Black Hills Spruce trees will be planted to provide screening for the equipment cabinet.
4. The final landscape plan I subject to the approval of the City Planner and Building and Grounds Superintendent.
5. This approval is contingent upon the City Council authorizing the lease with T-Mobile USA, including the 15 by 20 foot equipment site and an easement for ingress and egress and utilities.
6. A permanent emergency power generator shall not be installed on the site. Temporary emergency power generation shall occur on-site only after power outages of 3 or more hours. T-Mobile shall notify the city if emergency power is needed to operate the Wireless Telecommunications Facility.
7. The applicant shall enter into a Wireless Telecommunications Facility Agreement with the City.

The recommendation is based on the following findings:

1. The proposed WTF with a height of 75 feet is consistent with the goals and policies of the Comprehensive Plan, and the requirements of the Development Code for a WTF.
2. The 'stealth' monopole design, separation from residential uses and mature trees located in the park aid to reduce the visual impact of the monopole. The equipment cabinets will be screened by new trees installed by T-Mobile.

3. The development will not have a significant adverse impact on the City Park or surrounding residential property.

Discussion:

Commissioner Proud stated that he does not believe there is enough information and there may be better alternatives. He believes tabling the matter or voting it up or down is better than approving it on insufficient information. A denial supported by the Council prohibits the applicant from submitting the same or similar application for six months.

Commissioner Solomonson stated that he cannot support the proposal, but he would like to send a recommendation to the City Council for the Planning Commission to be more proactive about putting towers in different districts.

Commissioner Mons stated that he cannot support the motion because he does not agree with findings Nos. 1 and 3 in the motion. The applicant can withdraw the application. It takes a 4/5 vote by the City Council for rezoning.

ROLL CALL: Ayes - 0 Nays - 6

Chair Feldsien called a five-minute break and reconvened the meeting.

PUBLIC HEARING - TEXT AMENDMENT, PAWN SHOPS

FILE NO.: **2339-08-36**
APPLICANT: **CITY OF SHOREVIEW**
LOCATION: **CITY WIDE**

Presentation by City Planner Kathleen Nordine

The City Council enacted a one-year moratorium prohibiting the establishment of pawnbroker shops in January 2008. The purpose of the moratorium was to have time to develop licensing and zoning standards consistent with community values. The Commission is being asked to act on the regulations in the Development Code, Chapter 200 and provide comment on the licensing regulations in Chapter 700.

The licensing regulations concern addresses, fees, terms, record keeping, redemption period, hours of operation, comply with zoning, fire, health and building codes. Pawnbroker shops can be located in C2 Commercial District with a conditional use permit. Business must occur on the licensed site. No off-site storage is permitted. Must not be operated within 1000 feet of a residential district, public and private schools, or religious place of worship. A second pawnshop in the same area must be at least 500 feet from the first pawnshop.

Staff is recommending approval the text amendment to Chapter 200, defining pawnshops and limiting them to C2 districts with a conditional use permit.

Chair Feldsien asked if the 1000-foot limitation prohibit two pawnshops in the same district. Ms. Nordine answered that property would have to be rezoned to allow two.

Commissioner Schumer asked for clarification of the second sentence of paragraph (A) on the first page of the ordinance. He offered an amendment that the beginning of the sentence would read, “The City Council finds that ...”.

Commissioner Mons asked the reason for the 1000-foot buffer. Ms. Nordine explained that the concern is the type of clientele attracted to a pawnbroker shop and possible criminal activity. In comparing to other cities, staff found a range of regulations from 300 feet to 600 feet. This ordinance is similar to other ordinances of cities in Ramsey County.

Commissioner Mons referred to Records on page 5, and requested that the pawnbroker be responsible to be able to confirm the identification of the person bringing in items with the ID presented. A photograph could be taken. Ms. Nordine stated that photographs are required in other cities and could be included.

Chair Feldsien opened the public hearing.

Commissioner Proud offered the following amendments:

Page 1, first sentence under Purpose and Scope: Add the words “and abetting” after the word “commission.”

Page 1, (A) under General License Provisions: Add the word “or corporation” after the word “person.”

Page 2, (D) Application: There needs to be full disclosure from persons regarding any ownership interest in the business, such as a loan, guarantee or mortgage. The City needs to know the applicant operating the business as well as who is financing it. There should be a question about arrests, convictions and civil judgments. Any criminal disclosures should apply to all employees.

Page 2, Standards for Issuing Licenses, (A): The amount of \$5,000 is not a sufficient surety amount. This amount should include costs of enforcement and legal fees. In the same paragraph he questioned accepting a United States government bond in the amount of \$5,000 in lieu of cash.

Page 3, (C) Persons Ineligible for License: (3) there are two parts to this statute in requiring consideration of applicants who have been rehabilitated and standards for rehabilitation. The applicant are only responsible for the rehabilitation following a conviction.

No one was in attendance for further public comment.

MOTION: by Commissioner Mons, seconded by Commissioner Proud to close the public hearing.

ROLL CALL: Ayes - 6 Nays - 0

MOTION: by Commissioner Schumer, seconded by Commissioner Ferrington to recommend the City Council approve the text amendment to Sections 202 and 205.43 of the City Code defining pawnbrokers and allowing pawnbroker shops as a conditional use in the C2, General Commercial zoning district.

Discussion:

Commissioner Mons stated that he disagrees with the 1000-foot buffer. It is not required with a liquor license. Any unsavory element that may be attracted to this business is addressed in the license requirements.

Commissioner Proud stated he shares the same concern. The buffer distance designated needs to be supported objectively.

Commissioner Mons offered an amendment to the motion, seconded by Commissioner Proud that the Planning Commission recommends that the buffer distance of 1000 feet be decreased to a more reasonable number consistent with similar communities in the metro area.

Commissioner Schumer noted that the Planning Commission is only asked to approve a motion dealing with Section 200 of the Code. The buffer would be a consideration under the licensing Section 715 to which staff is requesting only comment.

Commissioner Mons withdrew his amendment to the motion.

ROLL CALL ON ORIGINAL MOTION:

Ayes - 6 Nays - 0

MOTION: by Commissioner Mons, seconded by Commissioner Proud to recommend to the City Council that the 1000-foot buffer be reduced to a distance that is generally consistent with other similar communities within the metro area.

ROLL CALL: Ayes - 6 Nays - 0

MOTION: by Commissioner Mons, seconded by Commissioner Schumer to recommend to staff that the language under Records be modified regarding a copy of the identification provided by the client so that a photograph of the item turned in be part of the record, and that staff look at language that would require the operator to verify the identification of the client if that client does not appear to be the person in the photo ID presented.

Discussion:

Commissioner Proud stated that he would prefer that a thumbprint be taken rather than a photograph. He does not consider this motion necessary. All comments made by Commissioners should be considered equally. He does not want to make a motion on all of the changes he proposed.

Commissioner Mons stated that he made the motion because he did not hear support for addressing this concern.

ROLL CALL: Ayes - 6 Nays - 0

MISCELLANEOUS

Commissioners Ferrington and Mons are respectively scheduled to attend the November 3rd and November 17th City Council meetings.

The Planning Commission will combine the November and December meetings into one meeting on December 9, 2008. A workshop is scheduled immediately before the regular meeting. This workshop is an open discussion on any issues the Planning Commission would like to discuss. Chair Feldsien asked Commissioners to submit any topics for discussion to staff so an agenda can be prepared.

Commissioner Mons requested discussion of the Exxon Station signage at Lexington and Gray Fox Road and asked staff to address this issue with the owner/operator.

ADJOURNMENT

MOTION: by Commissioner Mons, seconded by Commissioner Schumer to adjourn the October 28, 2008 Planning Commission meeting at 10:38 p.m.

ROLL CALL: Ayes - 6 Nays - 0

ATTEST:

Kathleen Nordine
City Planner