



**PLAINVIEW PLANNING COMMISSION MEETING
AGENDA**

Tuesday, June 5, 2018, at 7:00 P.M.

- I. Call to Order**
- II. Approval of Agenda**
- III. Approve March 6, 2018, Minutes**
- IV. Public Hearing – Zoning Code Amendment**
- V. Public Hearing – Conditional Use Permit Application – PEM Schools**
- VI. Comprehensive Plan Update**
- VII. Other Discussion**
- VIII. Adjourn**

CITY OF PLAINVIEW PLANNING COMMISSION

**March 6, 2018
Meeting Minutes**

The March 6, 2018, meeting of the City of Plainview Planning Commission was called to order at 7:00 P.M. by Chairman Jim Severson. Members present were: Jim Severson, Leo Sagissor, Roger Ziebell, Dave Walkes, Jim Walkes, Tom Lorimor and Roger Durgin. Staff present included City Administrator Clarissa Hadler.

Motion by Roger Ziebell and second by Dave Walkes to approve the agenda. Carried.

Motion by Ziebell and second by Durgin to approve the January 2, 2018, minutes as presented. Carried.

City Administrator Hadler introduced herself and gave a brief background on her experience. Commissioners introduced themselves in turn.

Commissioner Ziebell nominated Jim Severson to continue as Chair. Lorimor seconded. Motion carried 7-0.

Commissioner Lorimor nominated Roger Durgin to Vice Chair. Ziebell seconded. Motion carried 7-0.

City Administrator Hadler explained the need for the proposed Zoning Code Amendment. The City's zoning code does not currently meet the state standards regarding variances. In addition, the new language clarifies the role of the Planning Commission. Zoning amendments require a public hearing.

A public hearing was opened at 7:15 pm to hear testimony regarding the proposed amendment to the Zoning Code. No one spoke regarding the amendment. Dean Harrington inquired if staff would take recommendations for future zoning code amendments. Motion by Dave Walkes and second by Jim Walkes to close the public hearing. Carried unanimously. The public hearing was closed at 7:19 pm.

Motion by Severson to recommend approval of Ordinance 2018-03, Amending Plainview City Code to Conform Provisions Governing Variances to Minnesota Statutes, Chapter 462 (2011), and to Restructure Procedural Provisions Regarding Variance Applications. Second by Dave Walkes. Motion carried 7-0.

City Administrator Hadler outlined the upcoming Comprehensive Planning process. Commissioner Ziebell discussed the need for the Comprehensive Plan.

Hadler discussed upcoming City Council Goal Setting and invited ideas from the Planning Commission. Chair Severson suggested hosting a Town Hall meeting with state legislators.

Motion by Roger Ziebell and second by Dave Walkes to adjourn at 7:40 pm.

Respectfully submitted,

Clarissa Hadler
City Administrator



Executive Summary

Planning Commission Regular Meeting: June 5, 2018

AGENDA ITEM: Zoning Amendment to Reduce Minimum Lot Size Standard for Public Uses in R-1 and R-2 Districts	
PREPARED BY: Clarissa Hadler, City Administrator	AGENDA NO. 4
ATTACHMENTS: Public Hearing Procedure, Draft Ordinance, Public Hearing Notice	
RECOMMENDED ACTION: Motion to recommend the City Council approve of the Zoning Amendment Decreasing the R-1 and R-2 Lot Size Requirement for Public Uses to 12,000 Square Feet.	

BACKGROUND

City Staff is initiating this item in response to a Conditional Use Permit application from the Plainview-Elgin-Millville School District. The school district is interested in purchasing a property across the street from its current location in order to relocate the greenhouse and garage. However, even if granted the CUP, the current lot area requirement for non-residential uses is one acre and would not allow the school to utilize the property. The property they are purchasing, combined with the adjacent property they already own, is approximately 1/3 acre. Therefore, in order to make the conditional use permit a viable option, the City would need to modify the zoning code, reducing the lot area requirement. Staff recommends reducing to 12,000 square feet, which is slightly more than 1/4 acre.

I have spoken with Kristi Clarke, planner at Bolton & Menk, about this issue. She has stated that the current standard of one acre is “atypically restrictive”. This means that standards in other communities are generally lower.

Below are the lot area standards for R-1 (or similar) Districts in other nearby communities;

St. Charles	Permitted Use - Public elementary or high schools, or private schools with an equivalent curriculum provided that no building shall be located within fifty (50) feet of any abutting residential lot.
Chatfield	Permitted Use - Public and parochial schools of general instruction. The minimum lot area shall be 9,000 square feet for single-family structures. (nothing stated for other structures)
Wabasha	Conditional Use – Schools and government or private institutional uses that serve residents of the neighboring vicinity. Minimum Lot Size 9,600 square feet.
Lake City	Conditional Use – Schools, Public and Private. Minimum Lot Area for Single Family Detached Dwelling is 10,000 in Low-Density Res., 8000 in Medium Density Res., and 5000 in High Density Residential. (nothing stated for non-residential uses).

Because this is a Zoning Code amendment, Minnesota State Statute requires a public hearing. This hearing was published in the official newspaper.

RECOMMENDATION

After appropriate Public Hearing, staff recommends that the Planning Commission recommend that the City Council approve Ordinance 2018-03 - Zoning Amendment Decreasing the R-1 and R-2 Lot Size Standards for Public Uses to 12,000 square feet.

Public Hearing Procedure:

- Chair: “We will now open the Public Hearing. If anyone would like to speak regarding the Variance Application, you may do so at this time. Please come to the podium, state your name and address, and keep your comments to 3 minutes.”
- Allow 3 minutes per statement.
- When all have had a chance to speak once, Chair may ask for a motion to close the public hearing.
- Commissioner _____, “Motion to close the public hearing.”
- Commissioner _____, Second.
- Chair: “All in favor?”
- Ayes
- Chair: “Motion passes. The public hearing is now closed.”
- Chair: “Are there any further comments or discussion from the Commission?”
- Commissioner _____,
“I make a Motion to recommend denial of the Variance Application from Tim Janikowski, based on the following findings of fact;
 1. The proposed accessory building is 25% taller than the maximum height allowed for an accessory structure, which constitutes a substantial deviation from the zoning standard.
 2. The proposed accessory building, when added to the existing garage, exceeds the maximum combined square footage for accessory structures by 24%, which constitutes a substantial deviation from the zoning standard.
 3. The plight of the landowner is not due to circumstances unique to the property, but are wholly created by the landowner himself.
 4. The variance, if granted, will alter the essential character of the locality by detracting from the residential quality of the neighborhood.
 5. The economic consideration noted by applicant does not constitute practical difficulties.”
- Commissioner _____, Second.
- Chair: “We have a motion and a second. Roll call, please.”
- Clerk
 - “Sagissor”
 - “Walkes”
 - “Durgin”
 - “Walkes”
 - “Severson”
 - “Ziebell”
 - “Lorimor”
- Aye / Nay as your name is called.
- Chair: “Motion passes _____ to _____.”
- Continue to next item.

**CITY OF PLAINVIEW
STATE OF MINNESOTA**

ORDINANCE 2018-03

**ZONING AMENDMENT DECREASING THE R-1 AND R-2 LOT SIZE
REQUIREMENT FOR PUBLIC USES TO 12,000 SQUARE FEET**

WHEREAS, the City Council wishes to modify the lot area restrictions in the City Code in certain areas and for certain uses;

WHEREAS, the Planning Commission held a public hearing, on June 5, 2018, to receive public comment on the amendment;

WHEREAS, all required publications and notices for the public hearing were completed according to Minnesota Statute and Plainview City Code; and

WHEREAS, the Planning Commission recommends approval of proposed amendment.

**NOW THEREFORE, IT IS ORDAINED BY THE CITY OF PLAINVIEW, MINNESOTA
AS FOLLOWS:**

1. Section 613.4 - Lot Area, Frontage, and Yard Requirements of the Plainview Code of Ordinances is hereby amended to read as follows:

Use	Lot Area	Lot Frontage	Read Yard/Front Yard	Side Yards – Any Side	Sum of Both Sides
<u>Public uses, such as public parks, public schools, etc.</u>	<u>12,000 sq.ft.</u>	<u>100 ft</u>	<u>25 ft. rear</u> <u>25 ft. front</u>	<u>10 ft.</u>	<u>30 ft.</u>

This ordinance shall take effect and be in force after its passage and publication according to law.

ADOPTED by the City Council of the City of Plainview, this 12th day of June, 2018.

Roger Ziebell, Mayor

MariClair Schneider, Clerk/Treasurer



PUBLIC HEARING NOTICE

Notice is hereby given that the Planning Commission will hold public hearings starting at 7:00 PM, Tuesday, June 5, 2018, at Plainview City Hall, 241 West Broadway.

The Commission will hold a Public Hearing and consider the application of property owner Chris Stelling and applicant Plainview-Elgin-Millville Schools for a Conditional Use Permit to allow for public school use of the property at 115 6th Street NW in Plainview, further identified as “The north 98 feet of Lot 6, block 2, and the north 98 feet of the west 13 feet of Lot 7, Block 2”.

The Commission will also hold a hearing to consider an amendment of the Zoning Code to decrease the lot area requirement for non-residential uses in R-1 and R-2 Districts to 1/3 acre.

Citizens are invited to attend and participate in the public hearings. Additional information regarding the application or amendment may be obtained from City Hall or by calling 507-710-4327.

Dated May 21, 2018.

MariClair Schneider, City Clerk



Executive Summary

Planning Commission Regular Meeting: June 5, 2018

AGENDA ITEM:	Conditional Use Application – Plainview-Elgin-Millville School District	
PREPARED BY:	Clarissa Hadler, City Administrator	AGENDA NO. 5
ATTACHMENTS:	Draft Permit, Application & Plans, Property Images, LMC Land Use Variance Article, Public Hearing Notice	
RECOMMENDED ACTION:	Motion to recommend the City Council approve the Conditional Use Permit for the property at 115 6th Street NW in Plainview, subject to all conditions listed in the permit.	

BACKGROUND

The Plainview – Elgin – Millville School District has applied for a Conditional Use Permit (CUP) for a property they wish to purchase at 115 6th Street NW in Plainview. The property is adjacent to the property at 530 1st Avenue NW, which the School purchased in 2017 and obtained a Conditional Use Permit for.

The purpose for purchasing the property is to move the current greenhouse and 5-car garage to the lot, to allow for future expansion of the school to the north. The two properties will be combined into one. A proposed site plan is included in the attachments. The garage would be placed on the north side of the property, with the doors facing the alley. The greenhouse would be placed on the south side of the property, facing 1st Ave. NW. In front of the greenhouse, there would be a small paved parking area.

There are a number of considerations that the Planning Commission and City Council should use to determine whether issuance of the CUP is appropriate.

City Code 613.1 states the following;

Intent And Purpose: The R-1 Residential District is established to identify and protect both existing and future residential areas, where the single family dwelling shall be the major use activity. Over all other criteria, the protection and enhancement of the single-family dwelling shall be considered.

Other use activities may be allowed to the extent they will not detract from the single family residential character of the district.

City Code 608.6.2 states the following;

In granting a conditional use permit, the City Council shall consider the advice and

recommendations of the Planning and Zoning Commission and the effect of the proposed use on the comprehensive plan and upon the health, safety, and general welfare of occupants of surrounding lands. Among other things, the City Council shall make the following findings where applicable:

1. The use will not create an excessive burden on existing parks, schools, streets, and other public facilities and utilities which serve or are proposed to serve the area.
2. The use will be sufficiently compatible or separated by distance or screening from adjacent residentially zoned or used land so that existing homes will not be depreciated in value and there will be no deterrence to development of vacant land.
3. The structure and site shall have an appearance that will not have an adverse effect upon adjacent residential properties.
4. The use, in the opinion of the City Council, is reasonably related to the overall needs of the city and to the existing land use.
5. The use is consistent with the purposes of the zoning ordinance and the purposes of the zoning district in which the applicant intends to locate the proposed use.
6. The use is not in conflict with the comprehensive plan of the city.
7. Adequate utilities, access roads, drainage and necessary facilities have been or will be provided.

City staff does not believe that the relocation of the facilities or the school use of the property would adversely affect, or change the character of, the neighborhood, and is therefore recommending approval of the CUP. In fact, the buildings already exist right across the street from the property in question. Also, the fact that the school is requesting a Conditional Use Permit (CUP) allows us the opportunity to add performance standards that do not exist in the City Code and which were not addressed in the CUP that was previously issued, therefore making it easier to comply with 608.6.2, subd. 2.

With regard to 608.6.2, subd. 3, the appearance of structures, the garage is consistent with garage and homes in the area, in size and exterior finish. The greenhouse is clearly made of a material different than that of houses, so staff is recommending a number of conditions related to landscaping that will detract from the finish of the building. The scale of the building is consistent with those of other buildings in the district.

With regard to 608.6.2, subd. 1 and subd. 4 - 7, staff feels that the use of the property by the school district for teaching purposes will not create an excessive burden (1), is reasonably related to the needs of the city (4), consistent with the purposes of the district and code (5), does not conflict with the comprehensive plan (6), and that existing infrastructure is sufficient (7). Again, the buildings already exist across the street, which is in the same district as the property, so any effects of the structures on neighborhood, infrastructure or city in general is already in existence.

Staff has met and/or spoke with a couple of neighbors of the property; Don Pavelka (135 6th St. NW, across alley to the north) and Tim Weaver (510 1st St. NW). Mr. Pavelka stated that his initial concern was about the area becoming a parking lot, and added traffic through the alley, where children play. Mr. Weaver has expressed a number of concerns, many of which staff has now addressed the conditions of the permit. In addition, I received a phone call from Matt Davidson (140 5th St. NW), who stated he had no concerns about the CUP.

The property is zoned R-1, and therefore subject to the standards set for that district. The current standards for minimum lot area is one acre for all non-residential uses. Therefore, the issuance of the CUP must be dependent on the amendment of the Zoning Code. The property will meet all of the other standards for the R-1 district.

Below are some of the conditions that staff is recommending be added to the permit;

- Installation of crosswalk across 1st Ave. NW at corner of 6th St. NW.
- Require that parking areas and driveways be paved, either asphalt or concrete. Alternative impervious surfaces may be allowed with the approval of the City Administrator, City Engineer, and Public Works Director.
- Screening on the east side as follows;
 - Evergreen shrubs a minimum of 5 ft tall at time of installation installed on eastern edge of property.
 - 6 ft. tall wood or vinyl privacy fence just west of evergreen shrubs listed above, extending from approximately the front corner of the home at 520 1st Ave. NW for a minimum of 60 feet to the north. (609.16 states “any fence having only one finished side shall be required to have the finished side facing out away from the property upon which the fence is constructed”)
 - One deciduous tree of some variety, a minimum of 8 feet tall at planting, planted in the line-of-sight between the house at 520 1st Ave. NW and the greenhouse.
 - Decorative landscaping, which shall include a minimum of one evergreen shrub every 10 feet along the south and west sides of the greenhouse and on the west side of the garage.
- Generally, the Hours of Operation shall be similar to that of the school.
- Use of Greenhouse shall be limited to teaching activities, excepting during such times as the school operates a retail-type fundraiser, typically from April – June of each year.
- Greenhouse lighting shall not negatively affect neighbors and property shall not have any lit signage.
- No garbage receptacle exceeding 3 cubic yards of capacity shall be located on the property. All garbage receptacles must be located on the rear (alley) side of the property out of view of the street.
- Contingent on amendment of code to allow lot area of 12,000 sq. ft.
- Contingent on approval of lot combination, such that the property to which the CUP is issued is described as follows; Lots 6 and 7, Block 2, Centerville (Plainview), County of Wabasha, State of Minnesota.
- The combined property shall be subject to all conditions. Earlier Conditional Use Permit on 530 1st Ave. NW is void.
- Except where they will be used for access to the new parking area, any curb cuts for existing and former homes and garages shall be removed and replaced with curb and gutter.
- Planting of deciduous boulevard trees along 1st Ave. NW and 6th St. NW with a maximum spacing of 50 ft., except where such trees already exist.
- All structures on the property will be maintained in a manner consistent with Chapter 605 of the Plainview City Code. In addition, all windows and exterior materials of the greenhouse shall be maintained in a manner that does not diminish the character of the neighborhood, and shall regularly be free of discoloration from mold and mildew, rust or other metallic buildup, yellowing of plastics, etc.

Application Timing and Content

The current application was submitted on May 11, 2018. The City must approve, deny or extend the application within 60 days. Staff has reviewed the application in detail and feels it meets the requirements of both City Code and state statute.

RECOMMENDATION

Staff has outlined below the procedure to open and close the public hearing, and then to make a motion to recommend approval of the CUP.

Public Hearing Procedure:

- Chair: “We will now open the Public Hearing. If anyone would like to speak regarding the Conditional Use Permit Application, you may do so at this time. Please come to the podium, state your name and address, and keep your comments to 3 minutes.”
- Allow 3 minutes per statement.
- When all have had a chance to speak once, Chair may ask for a motion to close the public hearing.
- Commissioner _____, “Motion to close the public hearing.”
- Commissioner _____, “Second.”
- Chair: “All in favor?”
- Ayes
- Chair: “Motion passes. The public hearing is now closed.”
- Chair: “Are there any further comments or discussion from the Commission?”
- Commissioner _____,
“I make a Motion to recommend the City Council approve the Conditional Use Permit for Lots 6 and 7, Block 2, in the City of Plainview, subject to conditions and contingencies in the permit, and based on the findings therein”
- Commissioner _____, Second.
- Chair: “We have a motion and a second. Roll call, please.”
- Clerk
 - “Sagissor”
 - “Walkes”
 - “Durgin”
 - “Walkes”
 - “Severson”
 - “Ziebell”
 - “Lorimor”
- Aye / Nay as your name is called.
- Chair: “Motion passes _____ to _____.”
- Continue to next item.

**CITY OF PLAINVIEW
STATE OF MINNESOTA**

RESOLUTION 2018 - ____

**APPROVING A CONDITIONAL USE PERMIT (CUP) FOR A PUBLIC SCHOOL USE
IN THE R-1 DISTRICT**

WHEREAS, the City of Plainview received an application for a Conditional Use Permit (CUP) from the Plainview – Elgin – Millville School District for a school use in the R-1 District;

WHEREAS, the Planning Commission held a public hearing, on June 5, 2018, to receive public comment on the permit;

WHEREAS, all required publications and notices for the public hearing were completed according to Minnesota Statute and Plainview City Code;

WHEREAS, the Planning Commission recommends approval of permit; and

WHEREAS, on June 12, 2018, The City Council of the City of Plainview reviewed the Planning Commission's recommendation and the CUP application.

NOW THEREFORE, BE IT REOLVED, THE Council of the City of Plainview hereby grants a Conditional Use Permit for a public school use in the R-1 District at the property described as "Lots 6 & 7, Block 2, Centerville (Plainview), County of Wabasha, State of Minnesota" subject to the following conditions;

- Installation of crosswalk across 1st Ave. NW.
- Require that parking areas and driveways be paved, either asphalt or concrete. Alternative impervious surfaces may be allowed with the approval of the City Administrator, City Engineer, and Public Works Director.
- Screening on the east side as follows;
 - Evergreen shrubs a minimum of 5 ft tall at time of installation installed on eastern edge of property.
 - 6 ft. tall wood or vinyl privacy fence just west of evergreen shrubs listed above, extending from approximately the front corner of the home at 520 1st Ave. NW for a minimum of 60 feet to the north. (609.16 states "any fence having only one finished side shall be required to have the finished side facing out away from the property upon which the fence is constructed")
 - One deciduous tree of some variety, a minimum of 8 feet tall at planting, planted in the line-of-sight between the house at 520 1st Ave. NW and the greenhouse.
 - Decorative landscaping, which shall include a minimum of one evergreen shrub every 10 feet along the south and west sides of the greenhouse and on the west side of the garage.
- Generally, the Hours of Operation shall be similar to that of the school.
- Use of Greenhouse shall be limited to teaching activities, excepting during such times as the school operates a retail-type fundraiser, typically from April – June of each year.
- Greenhouse lighting shall not negatively affect neighbors and property shall not have any lit signage.
- No garbage receptacle exceeding 3 cubic yards of capacity shall be located on the property. All garbage receptacles must be located on the rear (alley) side of the property out of view of

the street.

- Except where they will be used for access to the new parking area, any curb cuts for existing and former homes and garages shall be removed and replaced with curb and gutter.
- Planting of deciduous boulevard trees along 1st Ave. NW and 6th St. NW with a maximum spacing of 50 ft., except where such trees already exist.
- All structures on the property will be maintained in a manner consistent with Chapter 605 of the Plainview City Code. In addition, all windows and exterior materials of the greenhouse shall be maintained in a manner that does not diminish the character of the neighborhood, and shall regularly be free of discoloration from mold and mildew, rust or other metallic buildup, yellowing of plastics, etc.
- Permit is contingent on amendment of zoning code to allow lot area of 12,000 sq. ft.
- Permit is contingent on approval of lot combination, such that the property to which the CUP is issued is described as follows; Lots 6 and 7, Block 2, Centerville (Plainview), County of Wabasha, State of Minnesota.
- The combined property shall be subject to all conditions of this permit. Earlier Conditional Use Permit on 530 1st Ave. NW is void.

ADOPTED by the City Council of the City of Plainview, this 12th day of June, 2018.

Roger Ziebell, Mayor

MariClair Schneider, Clerk/Treasurer

CITY OF PLAINVIEW - APPLICATION FOR REVIEW

PROJECT NAME PLAINVIEW-ELGIN-MILLVILLE SCHOOLS DATE 5-11-18

Conditional Use Permit (\$200.00 fee): X Rezoning (\$200 fee): Resubdivision (\$200 fee):

1) Please note that applicants will be required to reimburse the City the cost of publishing and mailing public hearing notices and the cost to file the permit with the County.

2) Applications shall be submitted with all required supporting documentation, such as project drawing (plot map) or building plans.

Project Location & Legal Description (Separate Sheet If Necessary)

THE NORTH 98 FEET OF LOT 6, BLOCK 2 AND THE
NORTH 98 FEET OF THE WEST 13' FEET OF LOT 7, BLOCK 2
CENTERVILLE (PLAINVIEW), COUNTY OF WABASHA, STATE OF MINNESOTA.
TO BE JOINED WITH PROPERTY (LOT TO EAST) BELOW.
Existing Use(S) Of Property (Residential, Commercial, Industrial, Etc.)

RESIDENTIAL

Project Description (Project Type, Intended Use Of Property, Etc)

RELOCATION OF SCHOOLS 5 CAR GARAGE, GREENHOUSE,
& PARKING. *LOT TO JOIN EXISTING LOT PREVIOUSLY APPROVED
FOR CONDITIONAL USE OF SAME PURPOSE
WILL JOIN LOT: E 47' OF LOT 7 + S 42' OF LOT 6 & S 42' OF W 13' OF LOT 7 BLOCK 2
530 1ST AVE NW, PLAINVIEW, MN 55964

Property Owner (Name, Address And Phone Number):

Name: CHRIS STELLING

Address: 115/117 6TH ST. NW
PLAINVIEW, MN 55964

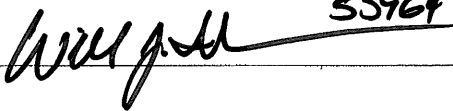
Phone Number: 507-272-6643

Owner's Signature  Date: 5-15-18

Applicant, If Different Than Owner

Name: PLAINVIEW-ELGIN-MILLVILLE SCHOOLS

Address: 500 W. BROADWAY, PLAINVIEW, MN Phone Number: 507-534-3651
55964

Applicant's Signature  Date: 5-11-18

March 3, 2003



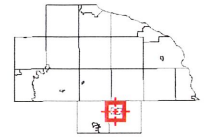
Beacon™

Wabasha County, MN

COMBINED
LOTS



Overview



Legend

- Driveway Points
- Highways/Roads
 - US Highway
 - MN Highway
 - County-State Aid Highway
 - County Road
 - Township Road
 - Municipal Street
 - State Forest Road
 - Private Road-Restricted Access
- Parcels
- Section Lines
- Lakes/Rivers
- Cities Boundary
- Townships Boundary

STELLING PROPERTY

Legal Description of the Property

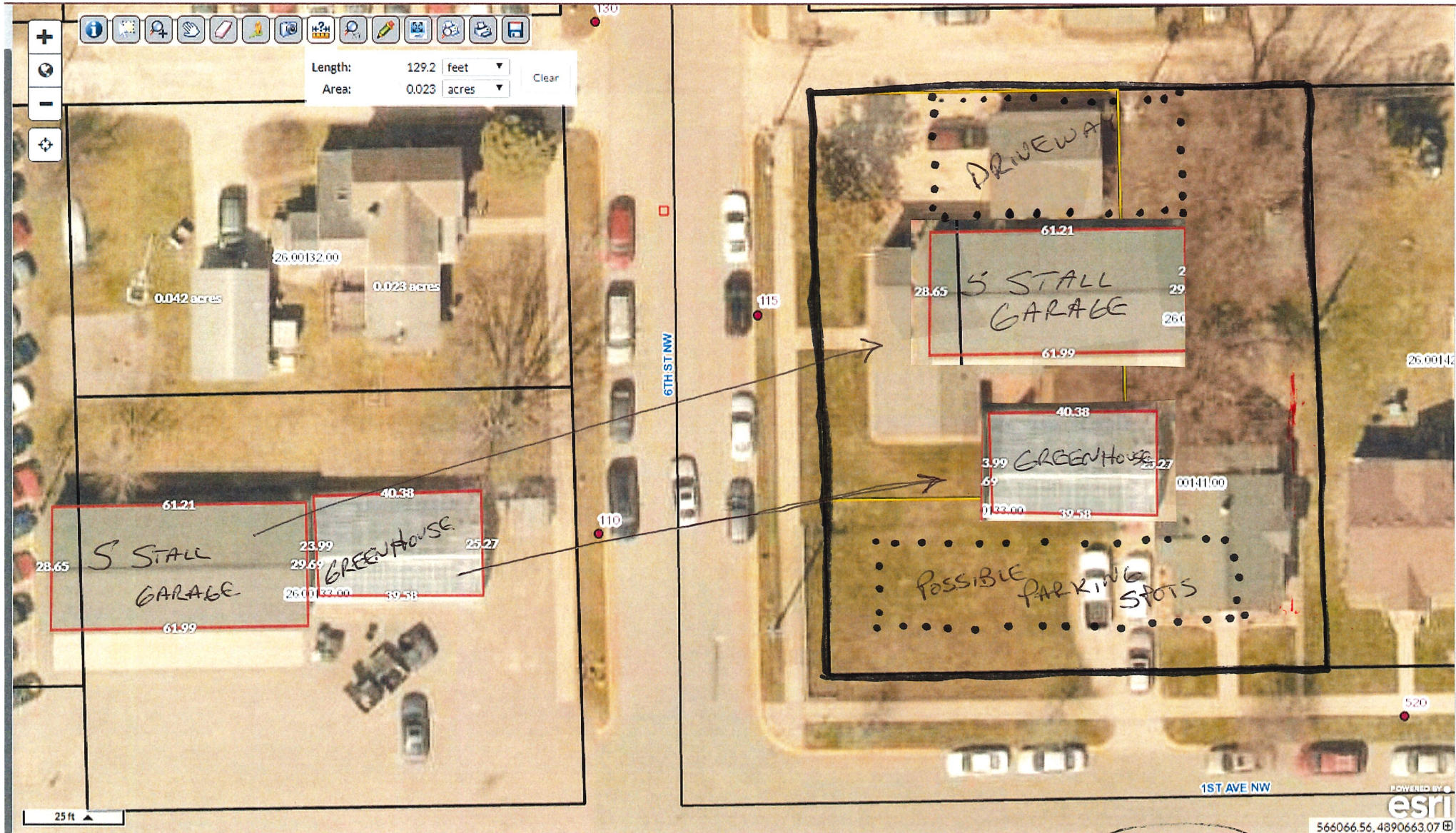
The North 98 feet of Lot 6, Block 2 and the North 98 feet of the West 13 feet of Lot 7, Block 2 Centerville (Plainview), County of Wabasha, State of Minnesota.

"L" SHAPED SCHOOL PROPERTY (FORMERLY PRIGGE PROPERTY)

Legal Description of the Property

The East 47 feet of Lot 7 and the South 42 feet of Lot 6 and the South 42 feet of the West 13 feet of Lot 7, Block 2, Centerville (Plainview), County of Wabasha, State of Minnesota.

PROPOSED RELOCATION OF SCHOOL 5 STALL GARAGE & GREENHOUSE TO COMBINED SCHOOL LOT OF FORMER PIRIBBE PROPERTY & CURRENT STELLING PROPERTY, INCLUDES PARKING SPACES ON SOUTH SIDE OF GREENHOUSE AND DRIVE ON NORTH SIDE OF GARAGE,



DIMENSIONS OF GARAGE = 60'3" X 28'4"
DIMENSIONS OF GREENHOUSE = 40'5" X 25'5"

PROJECT PLAN









Facing East across 6th St. NW.



From SW corner of property.



Facing north from 1st Ave NW.



PUBLIC HEARING NOTICE

Notice is hereby given that the Planning Commission will hold public hearings starting at 7:00 PM, Tuesday, June 5, 2018, at Plainview City Hall, 241 West Broadway.

The Commission will hold a Public Hearing and consider the application of property owner Chris Stelling and applicant Plainview-Elgin-Millville Schools for a Conditional Use Permit to allow for public school use of the property at 115 6th Street NW in Plainview, further identified as "The north 98 feet of Lot 6, block 2, and the north 98 feet of the west 13 feet of Lot 7, Block 2".

The Commission will also hold a hearing to consider an amendment of the Zoning Code to decrease the lot area requirement for non-residential uses in R-1 and R-2 Districts to 1/3 acre.

Citizens are invited to attend and participate in the public hearings. Additional information regarding the application or amendment may be obtained from City Hall or by calling 507-710-4327.

Dated May 21, 2018.

MariClair Schneider, City Clerk



INFORMATION MEMO

Land Use Conditional Use Permits

Learn the basics of conditional use permits (CUPs) in administering the city's land use ordinances. Define conditional use permits, for what purposes they may be granted; learn who grants them and procedural considerations for public hearings and the role of neighborhood opinion. Understand expiration dates, time limits and revocation of CUPs.

RELEVANT LINKS:

[Minn. Stat. § 462.3595.](#)

I. Conditional use

A conditional use is a land use designated in a zoning ordinance that is specifically allowed in a zoning district so long as certain standards are met. The zoning ordinance typically detail both general standards that apply to all conditional uses, as well as specific standards that apply to a particular conditional use in a given zoning district.

A use is typically designated in a zoning ordinance as conditional because of hazards inherent in the use itself or because of special problems that its proposed location may present. For example, uses that generate traffic such as family childcare, service stations, convenience stores, or drive-thrus are often designated as conditional uses.

II. Conditional use permit (CUP)

A conditional use permit is a document a city issues to grant a conditional use when the general and specific ordinance standards have been met by the applicant. The use is allowed by permit only if the special concerns are addressed as set forth in the zoning ordinance. Conditional use permits are authorized under state law.

A. General CUP standards

A zoning ordinance will typically detail general standards that apply to all conditional uses. For example, some zoning ordinances provide that all conditional uses must conform to the comprehensive land use plan of the community, be compatible with the adjoining properties, and be served by adequate roads and public utilities.

This material is provided as general information and is not a substitute for legal advice. Consult your attorney for advice concerning specific situations.

RELEVANT LINKS:

See Section IV, Public hearings.

[Minn. Stat. § 15.99.](#)

B. Specific CUP standards

In addition to general CUP standards, many zoning ordinances will detail specific standards that apply to a particular conditional use, such as those made for businesses operating a drive-thru. Conditions for such uses may include specific standards regarding things like off-street parking and loading areas, landscaping and site plan, and hours of business operation.

III. Granting conditional use permits

Generally, CUPs are granted only for uses specifically listed in the zoning ordinance as conditional uses in a particular zoning district. If a use is not designated as a conditional use in a zoning district, then arguably the city has no ability to issue a CUP without first amending the zoning ordinance to provide for the conditional use. This would of course allow other applicants to apply for a conditional use permit under the same standards.

A. Who grants

A CUP is typically approved by the city council. Planning commissions often first consider the CUP application and make recommendations to the city council. State statute allows the city council to designate its CUP approval to another authority, and some cities have designated the planning commission as the approving body. In any event, the city council is generally makes the final decision on CUPs.

B. Required approval

If a proposed conditional use satisfies both the general and specific standards set forth in the zoning ordinance, the applicant is entitled to the conditional use permit. Importantly, if the applicant meets the general and specific ordinance standards, the city usually has no legal basis for denying the CUP.

C. Time limits

A written request for a CUP is subject to Minnesota's 60-day rule, and must be approved or denied within 60 days of the time it is submitted to the city. A city may extend the time period for an additional 60 days, but only if it does so in writing before expiration of the initial 60-day period. Under the 60-day rule, failure to approve or deny a request within the statutory time period is considered an approval.

RELEVANT LINKS:

Minn. Stat. § 462.3595, subd. 3.
A.G. Op. 59-A-32 (February 27, 1990) .

Minn. Stat. § 462.3597.

Minn. Stat. § 462.3595, subd. 2.
Minn. Stat. § 462.357, subd. 3.

LMC information memo,
Zoning Guide for Cities,
Section V-C-2-b on
conducting public hearings.

D. Other conditions on permits

1. Permitted

Reasonable conditions relating to the ordinance standards may be attached to a CUP based upon factual evidence contained in public record. For example, if a zoning ordinance provides that a conditional use should not have adverse visual or noise impacts on any adjacent property, a city might require specific screening and landscaping conditions to address any potential impacts established in the record.

2. Not permitted

State statute provides that a CUP remains in effect as long as the conditions agreed upon are observed. The attorney general has found that time limits such as sunset provisions or automatic annual review are not consistent with state law, explaining that cities may not enact or enforce provisions that allow a city to terminate CUPs without regard to whether or not the conditions agreed upon are observed.

If a city wishes to place time constraints on particular uses, then the appropriate zoning tool is an interim use permit, rather than a conditional use permit. State law authorizes interim use permits for a temporary use of property until a particular date, until the occurrence of a particular event, or until zoning regulations no longer permit it.

IV. Public hearings

A proposed conditional use is allowed only after a statutorily required public hearing. The city must provide published notice of the time, place, and purpose of the hearing on a proposed CUP at least 10 days prior to the day of the hearing. If the decision affects an area of five acres or less, the city may need to mail notice to property owners within a 350-foot radius of the land in question. The purpose of the public hearing is to help develop a factual record as to whether the applicant meets the relevant ordinance standards such that the CUP should be granted.

A. City role in hearing

A city exercises so-called “quasi-judicial” authority when considering a CUP application. This means that the city’s role is limited to applying the standards in the ordinance to the facts presented by the application. The city acts like a judge in evaluating the facts against the standards. If the applicant meets the standards, then the CUP should be granted. In contrast, when the city in zoning ordinance designates certain uses as conditional, the city is exercising “legislative” authority and has much broader discretion.

RELEVANT LINKS:

See LMC information memo,
*Taking the Mystery out of
Findings of Fact.*

[Minn. Stat. § 462.3595, subd.
3.](#)

[Minn. Stat. § 462.3595, subd.
4.](#)

Jed Burkett
651.281.1247
jburrkett@lmc.org

[League of Minnesota Cities.](#)

B. Role of neighborhood opinion

Neighborhood opinion alone is not a valid basis for granting or denying a CUP. While city officials may feel their decision should reflect the overall preferences of residents, their task is limited to evaluating how the CUP application meets the ordinance standards. Residents can often provide important facts to help the city address whether the application meets the standards, but unsubstantiated opinions and reactions to an application do not form a legitimate basis for a CUP decision. If neighborhood opinion serves as the sole basis of the decision, it could be overturned by a court if challenged.

C. Documentation of hearing

Whatever the decision, a city should create a record that will support it. If a city denies a CUP application, the 60-day rule requires the reasons for the denial be put in writing. Even if a city approves a CUP, a written statement explaining the decision is advisable. The written statement explaining the decision should address the general and specific ordinance standards, and explain the relevant facts and conclusions.

V. Conditional use permit after issuance

A conditional use permit is a property right that “runs with the land” so it attaches to and benefits the land and is not limited to a particular landowner. State statute requires that CUPs be recorded with the county recorder’s office. When the property is sold, the new landowner will have the continued right to the CUP so long as the conditions are met.

A city can revoke a conditional use permit if there is not substantial compliance with conditions, so long as the revocation is based upon factual evidence, after appropriate notice and hearing. Because a CUP is a property right, a city should work closely with the city attorney if considering a CUP revocation.

VI. Further assistance

LMCIT offers land use consultations, training and information to members. Contact the League’s Loss Control Land Use Attorney for assistance. You can also learn more about land use issues in the land use section of the League’s website.