CITY OF SAINT PETER, MINNESOTA
AGENDA AND NOTICE OF MEETING

Regular Workshop Session of Monday, April 17, 2017
Library Conference Room – 5:30 p.m.
601 South Washington Avenue

I. CALL TO ORDER

II. DISCUSSION
   A. Sunday Liquor Sales
   B. Traverse Green Subdivision Open House Warm-Up
   C. RP-1 Zoning Designation Changes
   D. Community Center Tour
   E. Others

III. ADJOURNMENT

Office of the City Administrator
Todd Prafke

TP/bal
MEMORANDUM

TO: Todd Prafke
FROM: James W. Brandt
DATE: April 5, 2017
RE: City’s Sunday Liquor Ordinance

As you are aware, on March 17, 2017, the Governor signed a statute authorizing off-sale of liquor on Sunday between the hours of 11:00 a.m., and 6:00 p.m.

The St. Peter City Ordinance Section 4-58 reads in part, “No off-sale liquor sales shall be made on Sunday, …”

While Minnesota Statute §340A.509, Subd. 6 allows local governments the power to further regulate the hours of the sale of alcoholic beverages, it does not allow the municipality to further limit the days of sale. A/AL, Inc., d/b/a Faribo Bottle Shop v. City of Faribault, 569 N.W.2d 546 (Minn. Ct. App. 1997).

Therefore, while the City can reduce the hours of sale, it cannot eliminate the days of sale which in this case is Sunday sales.

For example, the City could only allow sales between noon and 5:00 p.m., on Sundays. It would be my recommendation that we follow the State statute. I would not recommend the City reduce hours to less than 4 or 5 hours on Sunday.

The reduction of hours will always be at the discretion of the City Council. Assuming the City decides to accept the State hours, I would recommend Section 4-58 – Hours and days of liquor sales, be amended to read as follows:

No on-sale shall be made after 1:00 a.m., on Sunday nor between 1:00 a.m., and 8:00 a.m., on Monday through Saturday, nor after 8:00 p.m., on Christmas Eve, December 24,
and 8:00 a.m., on December 25. No off-sale liquor sales shall be made on Sunday, except between the hours of 11:00 a.m., and 6:00 p.m., nor before 8:00 a.m., or after 10:00 p.m., on Monday through Saturday, or Thanksgiving Day, nor on Christmas Day, December 25, nor after 8:00 p.m., on December 24. No delivery of alcohol to an off-sale licensee may be made by a wholesaler or accepted by an off-sale licensee on a Sunday. No order solicitation or merchandising may be made by a wholesaler on a Sunday. This section does not prohibit sales during hours when on-sale liquor sales is permitted on Sunday as provided by section 4-59.

If you have any questions or comments, please feel free to contact me.
Focus on New Laws: Liquor Sales on Sunday

Cities with Sunday liquor sales ordinances will need to review them to either remove their local ban or reshape their permitted hours of operation.

(Published Mar 13, 2017)

Sunday off-sale of intoxicating liquor is coming to every liquor store in the state starting Sunday, July 2, so cities should review their ordinances to make sure they conform to this change in state law.


The two basic reasons to check the city ordinances are to eliminate an explicit ban of intoxicating off-sale liquor on Sunday, and to set hours of Sunday sale, should a city wish to be more restrictive than the law.

The law
Under the new law, off-sale of intoxicating liquor may occur on Sundays between the hours of 11 a.m. and 6 p.m., as of July 1, 2017.

In the case, A/AL, Inc. v. City of Faribault [Link to: https://scholar.google.com/scholar_case?q=569+N.W.2d+546&hl=en&as_sdt=6,24&case=12132895306211311809&scilh=0], the Minnesota Court of Appeals held cities may not prohibit sales of liquor on a day when state law allows it. In other words, cities may not be more restrictive than state law on days of sale. At the same time, the court acknowledged, cities can be more restrictive than state law in the hours of sale, according to Minnesota Statutes, section 340A.504, subdivision 6 [Link to: https://www.revisor.mn.gov/statutes/?id=340a.504].

What cities should do
If a current city ordinance explicitly bans Sunday off-sale of intoxicating liquor, that ban will become invalid on July 1 and so should be repealed prior to that time. If a city’s ordinance simply references Minnesota Statutes, section 340A.504 for hours and days of operation, then cities need not change their ordinance to address the addition of Sundays.

A good example of this latter case is on page 9 of the League’s Model Liquor Licensing Ordinance.

View the model ordinance (doc) [Link to: http://www.lmc.org/media/document/1/liquor_ordinance.docx]

If a city intends to allow Sunday off-sale of intoxicating liquor between the hours of 11 a.m. and 6 p.m., the city need not set particular hours in ordinance. Alternatively, if a city wishes to be more restrictive on hours of Sunday sales than the state law is, the desired hours should be set in ordinance.

Please note, while a city has authority to be more restrictive in the hours of sale, just how much more restrictive would be a question for the city’s legal advisor.

Finally, the law does include two provisions that disallow alcohol deliveries to off-sale licensees and order solicitation/merchandising by wholesalers, both on Sundays. Cities should be aware of these prohibitions and consider adding them to the city’s ordinance, because the city is more likely than the state to detect their noncompliance.

Read the current issue of the Cities Bulletin [Link to: http://www.lmc.org/page/1/cities-bulletin-newsletter.jsp]

* By posting you are agreeing to the LMC Comment Policy [Link to: http://www.lmc.org/page/1/comment-policy.jsp].
Provision Would Allow Cities to Prohibit Liquor Sales on Sunday

Proposed legislation clarifies that cities can opt out of the new law allowing Sunday liquor sales.
(Published Apr 10, 2017)


The language allows cities to opt out of the new law by designating the days—in addition to the hours—that off-sale of intoxicating liquor is allowed within their boundaries. Currently, the law provides that cities may only further limit the hours of on- and off-sale of intoxicating liquor.

This amendment has been incorporated into only the Senate omnibus liquor bill. The House version doesn’t include this language. Therefore, it is still unclear whether this will become law. Cities should still re-examine their ordinances on Sunday sales.

Read more about the new law allowing Sunday off-sale of intoxicating liquor (Link to: http://www.lmc.org/page/1/FONL-SundaySales.jsp)

Read the current issue of the Cities Bulletin (Link to: http://www.lmc.org/page/1/cities-bulletin-newsletter.jsp)

* By posting you are agreeing to the LMC Comment Policy (Link to: http://www.lmc.org/page/1/comment-policy.jsp).

0 Comments

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Your LMC Resource

Contact Ted Bengtson
IGR Intern
(651) 281-1279 or (800) 925-1122
tbengtson@lmc.org (Link to: mailto:tbengtson@lmc.org)

Contact Irene Kao
IGR Counsel

http://www.lmc.org/page/1/sundayliquoramendment.jsp?utm_source=Bulletin+4-10+Cities&utm_ca... 04/10/2017
TO: Honorable Mayor Zieman  
Members of the City Council  
FROM: Todd Prafke  
City Administrator  
RE: Traverse Green Open House Warm-up  

ACTION/RECOMMENDATION

None needed. For your information and discussion only.

BACKGROUND

All of the Councilmembers have been invited to participate in the Open House event at Traverse Green on May 6th. The open house will allow interested people to see, walk through and know more about houses and the Subdivision. It will also be an opportunity to talk about our Community.

Members had previously expressed interest in participating in events related to Traverse Green and while not all of you have responded to our invitation, I thought that it may be appropriate for an update on activity within the Subdivision and a short discussion on what we hope those attending the Open House are willing to do.

As a part of the open house we will have our team of folks who help with sales, qualification, and access to programs on site so you don't need to talk about house building, programs or pricing. Your role will be to help point folks in the right direction, tell the story of this neighborhood and answer questions about the Community through your experience and intimate knowledge of the quality of life that is available in Saint Peter.

Please feel free to contact me if you have any questions or concerns about this agenda item.

TP/bal
TO: Honorable Mayor Zieman  
Members of the City Council

FROM: Todd Prafke  
City Administrator

RE: RP1 Zoning discussion

DATE: 4/13/2017

ACTION/RECOMMENDATION

None needed. For your information and discussion only.

BACKGROUND

Members may be aware that the Planning and Zoning Commission (P and Z) took action by a 4-1 vote to recommend the Council approve the rezoning of a parcel of land located next to what is now commonly known as the Mary’s Flower building.

The Mary’s Flowers Building has been commercially zoned for about two decades and the parcel just to the north was reviewed for a change in zoning based on a request from the property owner. The intent of the applicant was to develop the two locations for a commercial purpose. The property is currently zoned Residential/Professional Office (RP-1) the intent of which is described in Section 24-158 of the City Code as

"The RP-1 District is intended and designed to provide certain areas of the City for the development of professional and business offices in areas where residential dwellings predominate. The district is intended to include primarily established residential areas where changing conditions have made limited office use suitable and not incompatible with the basic residential character of the district. The district is also intended for certain residential areas which, by reason of proximity to existing commercial areas and major streets, would be suitable for limited office use. It is further the intention of this section that the classification as RP-1 of an area will aid in the preservation and stabilization of property values. To this end, it is the intention that new buildings or the conversion and alteration of existing buildings be compatible by means of landscaping, open space, and architectural treatment with neighboring residences."

The information that was provided to the Commission is attached as is a map of the area in question for your information.

This request has stimulated a discussion on the need for a better understanding of the purpose of the RP1 zoning classification, its uses and its purposes. I have also included a copy of the pertinent sections of the City Code for your review.
I thought it was important to have this discussion as the Council will be reviewing the P and Z recommendation on the parcel at your next meeting.

Please feel free to contact me if you have any questions or concerns about this agenda item.

TP/bal
DIVISION 6. - RP-1 RESIDENTIAL/PROFESSIONAL OFFICE DISTRICT

Sec. 24-158. - Statement of intent.

The RP-1 District is intended and designed to provide certain areas of the City for the development of professional and business offices in areas where residential dwellings predominate. The district is intended to include primarily established residential areas where changing conditions have made limited office use suitable and not incompatible with the basic residential character of the district. The district is also intended for certain residential areas which, by reason of proximity to existing commercial areas and major streets, would be suitable for limited office use. It is further the intention of this section that the classification as RP-1 of an area will aid in the preservation and stabilization of property values. To this end, it is the intention that new buildings or the conversion and alteration of existing buildings be compatible by means of landscaping, open space, and architectural treatment with neighboring residences.

(Ord. No. 394(2nd Ser.), § 1(11.11), 11-26-2007)

Sec. 24-159. - Principal permitted uses.

Unless otherwise provided in this chapter, no building or lands shall be used for other than one or more of the following purposes:

(1) Residential uses.


b. Duplex residential.

(2) Civic uses.

a. Day care services (limited).

b. Local utility services.

(3) Commercial uses.

a.
Personal improvement.

b.

Personal services.

c.

Professional office.

d.

Studio/gallery (limited).

(Ord. No. 394(2nd Ser.), § 1(11.11), 11-26-2007; Ord. No. 405(2nd Ser.) § 1, 4-27-2009)

Sec. 24-160. - Conditional uses.

The following uses of land and structures may be permitted in the RP-1 District subject to the review, approval and regulations of the Board of Appeals and Adjustments as provided in this chapter:

(1)

Residential uses. Group residential.

(2)

Civic uses.

a.

Administrative services.

b.

Club or lodge.

c.

Cultural services.

d.

Day care services (general).

e.

Major utility facility.

f.

Park and recreation services.
g. Public assembly.
h. Religious assembly.
i. Residential care services.
j. Safety services.

(3) Commercial uses.
a. Administrative and business office.
b. Building maintenance services.
c. Funeral services.
d. Medical offices.
e. Studio/gallery (general).
f. Visitor habitation (bed and breakfast services).

(Ord. No. 394(2nd Ser.), § 1(11.11), 11-26-2007; Ord. No. 405(2nd Ser.) § 2, 4-27-2009)

Sec. 24-161. - Development regulations.

Unless otherwise provided in this chapter, each development in the RP-1 District shall be subject to the following minimum requirements:

(1)
Lot area: 6,000 square feet.

(2)

Lot width: 60 feet.

(3)

Front yard: 20 feet.

(4)

Side yard: ten feet.

(5)

Rear yard: 25 feet.

(6)

Maximum height: 35 feet.

(7)

Maximum lot coverage: 70 percent.

(Ord. No. 394(2nd Ser.), § 1(11.11), 11-26-2007)

Sec. 24-162. - Off-street parking and loading.

Spaces for off-street parking and loading shall be provided in accordance with article III of this chapter.

(Ord. No. 394(2nd Ser.), § 1(11.11), 11-26-2007)

Secs. 24-163—24-192. - Reserved.
To: Planning Commission  
Date: March 29, 2017

From: Russ Wille, Community Development Director

RE: Raymond Buttenhoff (1115 S. Minnesota Ave.) – Petitioned Rezoning

ACTION / RECOMMENDATION

Adopt the attached resolution recommending that the City Council approve the petition from Raymond & Ramona Buttenhoff seeking the rezoning of Lot 9, Block 194, Amended Plat from (RP-1) Residential and Professional Office to (C-4) Highway Service Commercial.

BACKGROUND

The owners of 1115 South Minnesota Avenue have petitioned the City seeking the rezoning of their property from (RP-1) Residential and Professional Office to the (C-4) Highway Service Commercial classification.

The property to the south of the subject property (former Mary’s Flowers) was rezoned by the City Council in 1999 (Ordinance #303, Second Series) to accommodate the Kind Vet Clinic operations. The 1999 rezoning changed the zoning of the corner parcel from (RP-1) Residential & Professional Office to (C-4) Highway Service Commercial.

The properties to the north of the subject property are zoned RP-1 and are typically occupied as single family residences. The subject property is separated from the properties to the north by the east-west alley which splits Block 194 in half.

The properties to the east of the property includes a mixture of residential and industrial uses. The properties to the east are zoned RP-1 as well as (I-2) General Industrial. The subject property is separated from the properties to the east by the north – south alley which splits Block 194 in half.

The properties across Minnesota Avenue (Highway #169) are zoned RP-1 and have been developed predominantly for residential purposes.

The Buttenhoff household has petitioned to rezone their property to match the 1999 commercial rezoning of the former Mary’s Flower site. Upon rezoning the owners would intend to sell their property to the adjoining owner to allow the site to be developed in concert with the vacant Mary’s Flowers site.
I have included the regulations of the (C-4) Highway Service Commercial for your review and consideration. If the rezoning is approved as petitioned, the property could be developed as either a permitted use or as a Conditional Use subject to a public hearing and Board of Zoning Appeals consideration.

The Planning Commission should consider the petitioned rezoning subject to the goals, policies, maps and other contents of the recently adopted 2016 Comprehensive Plan. Is the rezoning from Residential to Commercial consistent with the contents of the Comprehensive Plan?

The Future Land Use map within the 2016 Comprehensive Plan does not suggest the alteration of any existing zoning district. Rather than a prohibition against the rezoning of existing lands, the Comprehensive Plan is silent as to the future use of properties within the current city limits.

The 2016 Comprehensive Plan includes various goals and policies related to commercial development in Saint Peter. These goals and policies include:

A. Sufficient land should be reserved for the various types of commercial development. Development opportunities should be encouraged within existing commercial districts.

B. Commercial facilities should not interfere with the smooth flow of traffic.

C. Commercial facilities should be of a size and scale compatible with nearby uses.

D. The zoning ordinance and map should provide adequate areas for various categories and densities of commercial uses.

E. Large commercial facilities should be placed on high traffic streets and be oriented away from residential areas. In locations where commercial uses adjoin other districts, landscaping should be used as a buffer between zoning districts.

F. The City should actively recruit commercial development opportunities within the Central Business District as well as the Highway Service Commercial districts.

G. Commercial development / redevelopments along the Minnesota Avenue [Highway #169] corridor should be undertaken in a manner which reflects favorably on the aesthetics of the community and corridor.

I am of the opinion that the Planning Commission could make the finding that the petitioned rezoning is supported by the commercial goals and policies contained within the 2016 Comprehensive Plan.

In addition to determining that the rezoning is supported by the contents of the 2016 Comprehensive Plan, consideration of the rezoning should also be reviewed in relation to the suitability of the subject parcel for the uses (permitted or conditional) contemplated within the text of the Zoning Ordinance.

The ability to adequately serve the property with the appropriate utility services must be part of the discussion regarding the petitioned rezoning. In consultation with Public Works Director Moulton, it has been determined that the existing water, sanitary sewer, stormwater drainage and electrical services are sufficient to serve the subject property should it be developed for either residential or commercial usage.
The vehicular access to the subject property should be evaluated in relation to the requested commercial zoning of the property. It is anticipated that the vehicular access to the property would be provided from Pine Street and Minnesota Avenue. The 2009 improvements to Minnesota Avenue (Highway #169) contemplated continued commercial use and development in this vicinity. The design of the 2009 improvements were accomplished to support additional access and egress for commercial development.

The anticipated traffic generated from a highway commercial development constructed as per the terms and conditions of the zoning ordinance should be readily accommodated within the existing highway and roadway system. No significant congestion would be anticipated.

The League of Minnesota Cities has issued an information memo regarding land use and public participation in the public hearing process. According to the LMC, "The general assumption about land ownership is that property owners have a right to any legal use of their land. The ability to use private property is a fundamental tenet of American democracy."

As such, when a rezoning request is considered, in the absence of compelling, factual public hearing testimony, the Commission and courts have typically deferred to the requests of the petitioner. Recognizing the inherent property rights of the owner, unless the testimony at the public hearing identifies an unavoidable negative impact on the use and enjoyment of other properties in the vicinity, the rezoning could rightly be approved.

The agenda packets contains sections of the Zoning Guide for Cities which is published by the League of Minnesota Cities. A full copy of the 48 page document can be viewed at www.lmnc.org.

I would suggest that the most pertinent portion of the documents states, "Rezoning is a legislative act and needs only to be reasonable and have some rational basis relating to public health, safety, morals, or general welfare. A rezoning decision must be supported by findings of fact that indicate the city's rational basis for the rezone. If the city has followed a comprehensive planning process, the finding of fact should also indicate that the decision is consistent with the city's comprehensive plan."

The mere act of dividing the community into districts and then regulating the various uses of property within the individual districts is undertaken to promote the "general welfare" of the community. As such, the alteration of district boundaries or the regulations upon property within the districts is also considered to be in the promotion of the "general welfare" of the community.

FISCAL IMPACT

The Petitioner has paid the $300 fee for consideration of the rezoning petition. No other fiscal impact has been identified.

ALTERNATIVES / VARIATIONS

Adopt: A recommendation will be made that the City Council provide for the rezoning as petitioned by Nicollet County.
Deny: A recommendation will be made that the City Council deny the petitioned rezoning.
Amend: This is not an option in this Commission in this instance.
1115 South Minnesota Avenue - REZONING

MINN. SQUARE PARK

PAPA MURPHY'S

ARBYS

SHORTY'S TIRE ONE

AUTOTRONICS

KWIK TRIP

Subject Property

Wednesday, March 22, 2017 11:03 AM
1. Standard of review for re-zoning applications

*State, by Rochester Ass'n of Neighborhoods v. City of Rochester*, 268 N.W.2d 885 (Minn. 1978).

An application for a rezoning is a request for an amendment to the zoning ordinance. When reviewing applications for re-zoning, the court has ruled that the city continues to act in a legislative capacity, even though the re-zoning application may only relate to one specific parcel owned by one individual. The existing zoning ordinance is presumed to be constitutional, and an applicant is only entitled to a change if they can demonstrate that the existing zoning is unsupported by any rational basis related to the public health, safety and welfare.

See Section V-C, Standards for reviewing zoning applications: limits on city discretion.

e. Requests for rezoning or zoning ordinance amendments

Minn. Stat. § 462.357.
Minn. Stat. § 462.358, subd. 2a.
Minn. Stat. § 15.99.

Minn. Stat. § 462.357, subd. 4.
See Part V-A, The 60-day rule.

Cities have the authority to rezone (change a designation from residential to mixed commercial) or otherwise amend the zoning regulations governing a particular parcel of property (such as adding a permitted or conditional use). Note however, that rezoning is an amendment to the actual zoning ordinance and therefore all the procedures for amendments to the zoning ordinance apply. Rezoning may be initiated by the planning commission, council, or a petition by an individual landowner. If a request for rezoning does not come from the planning commission, the matter must be referred to the planning commission for study and report.

Care should be taken so that the 60-Day Rule discussed previously is not violated, resulting in an automatic granting of the rezoning.

*Sun Oil Co. v. Village of New Hope*, Minn. N.W.2d 256 (Minn. 1974).

Rezoning is a legislative act and needs only to be reasonable and have some rational basis relating to public health, safety, morals, or general welfare. A rezoning decision must be supported by findings of fact that indicate the city’s rational basis for the rezone. If the city has followed a comprehensive planning process, the findings of fact should also indicate that the decision is consistent with the city’s comprehensive plan.
SAINT PETER PLANNING AND ZONING COMMISSION

RESOLUTION 2017

STATE OF MINNESOTA)
COUNTY OF NICOLLET)
CITY OF SAINT PETER)

RESOLUTION RECOMMENDING AN AMENDMENT TO SAINT PETER CITY CODE
CHAPTER 24 BY REZONING LOT 9, BLOCK 194, AMENDED PLAT OF SAINT PETER
FROM (RP-1) TO (C-4) HIGHWAY SERVICE COMMERCIAL DISTRICT

WHEREAS, the owners of Lot 9, Block 194, Amended Plat, City of Saint Peter have submitted an application and appropriate fee for consideration of rezoning of property, and;

WHEREAS, the subject property is currently zoned (RP-1) Residential & Professional Office, and;

WHEREAS, the property owner has petitioned that the property be rezoned to (C-4) Highway Service Commercial, and;

WHEREAS, the Planning and Zoning Commission has found that the subject property could be appropriately served by the planned or existing municipal and private utility systems should the rezoning be provided as petitioned; and

WHEREAS, the Planning and Zoning Commission has determined that the vehicular access and egress to the property would be appropriately provided by the existing design of both Minnesota Avenue and Pine Street should the rezoning be provided as petitioned; and

WHEREAS, the Planning and Zoning Commission has found that the requested rezoning would not be injurious to the use and enjoyment of other permitted uses within the vicinity; and

WHEREAS, the petitioned rezoning is supported by the following commercial goals and policies contained within the 2016 Comprehensive Plan.

• Sufficient land should be reserved for the various types of commercial development. Development opportunities should be encouraged within existing commercial districts.

• Commercial facilities should not interfere with the smooth flow of traffic.

• Commercial facilities should be of a size and scale compatible with nearby uses.

• The zoning ordinance and map should provide adequate areas for various categories and densities of commercial uses.

• Large commercial facilities should be placed on high traffic streets and be oriented away from residential areas. In locations where commercial uses adjoin other districts, landscaping should be used as a buffer between zoning districts.
• The City should actively recruit commercial development opportunities within the Central Business District as well as the Highway Service Commercial districts.

• Commercial development / redevelopments along the Minnesota Avenue [Highway #169] corridor should be undertaken in a manner which reflects favorably on the aesthetics of the community and corridor.

NOW, THEREFORE, THE PLANNING AND ZONING COMMISSION OF THE CITY OF SAINT PETER, NICOLLET COUNTY, MINNESOTA DOES HEREBY RESOLVE that:

1. The Planning Commission recommends that the Saint Peter City Council provide for the rezoning of Lot 9, Block 194, Amended Plat, City of Saint Peter from (RP-1) Residential & Professional Office to (C-4) Highway Service Commercial as petitioned by the owners.

Adopted by the Planning and Zoning Commission of the City of Saint Peter, Nicollet County, Minnesota this the 6th day of April, 2017.

ATTEST:

Andrew Davis
Chairperson

Rosten Wille
Community Development Director
TO: Honorable Mayor Zieman
    Members of the City Council

FROM: Todd Prafke
    City Administrator

RE: Community Center Tour

ACTION/RECOMMENDATION

None needed. For your information and discussion only.

BACKGROUND

Monday evening’s Council workshop session will include a tour of the Community Center. As you may remember you recently awarded a bid to Berger Interiors of Saint Peter for replacement of carpeting and tile in various areas of the Community Center.

As part of the tour Councilmembers will have a chance to look at a sample of both the carpet being installed in many of the heavily used public rooms and a sample of the tile being placed in the kitchen of the Senior Center room.

Please wear comfortable shoes for the tour and feel free to contact me if you have any questions or concerns on this agenda item.

TP/bal