



MAYOR & COUNCIL COMMUNICATION

DATE: March 3, 2015
REGULAR
ITEM # 9

AGENDA ITEM: Zoning Text Amendment – Liquor Store Use in Convenience Commercial Zoning District

SUBMITTED BY: Nick M. Johnson, City Planner

THROUGH: Dean Zuleger, City Administrator

REVIEWED BY: Planning Commission
Kyle Klatt, Community Development Director
Adam Bell, City Clerk

SUGGESTED ORDER OF BUSINESS:

- Introduction of ItemCommunity Development Director
- Report/Presentation.....Community Development Director
- Questions from Council to Staff Mayor Facilitates
- Call for Motion Mayor & City Council
- Discussion Mayor & City Council
- Action on Motion Mayor Facilitates

POLICY RECCOMENDER: The Planning Commission and Staff are recommending that the City Council approve an amendment to the Zoning Code to change liquor stores to a permitted use in the Convenience Commercial (CC) zoning district.

FISCAL IMPACT: None

SUMMARY AND ACTION REQUESTED: The City has received a request from Mr. Keith Carlson, CHO Investments, to amend the City’s Zoning Code to allow liquor stores as a permitted use within the Convenience Commercial (CC) zoning district. To consider the request, the Planning Commission held a public hearing on February 23, 2015. The Planning Commission is recommending approval of the proposed zoning text amendment to change liquor stores as a permitted use in the CC district. The motion to take the recommended action on the request is as follows:

“Move to adopt Ordinance 08-116, changing liquor stores to a permitted use in the Convenience Commercial zoning district.”

In addition, Staff is recommending that the City Council authorize summary publication of the approved ordinance through the following motion:

“Move to adopt Resolution No. 2015-17, authorizing summary publication of Ordinance 08-116.”

BACKGROUND INFORMATION/STAFF REPORT:

Keith Carlson, CHO Investments, currently owns and manages the commercial property at 11025 10th Street North, one of two sites in Lake Elmo that is currently zoned Convenience Commercial (CC). The site is currently utilized as a gasoline station, neighborhood convenience store, and also has additional retail space. Mr. Carlson previously submitted an application for a liquor license to open a liquor store within the vacant retail space. Upon review of this liquor license, staff discovered that liquor stores are currently not a permitted use in the CC zoning district. The applicant was therefore notified that a Zoning Text Amendment would be necessary to amend the Zoning Code to allow liquor stores in that zoning district. The applicant has therefore applied for a Zoning Text Amendment to request the Zoning Code amendment. It should be noted that should the City Council approve the amendment to the City Code, the applicant will still need to apply for a liquor license to sell alcohol at that specific location. The process to issue a liquor license requires an additional public hearing held at the City Council, in addition to background check and other review required by statute. Therefore, it is important to note that the requested action of amending the Zoning Code to allow liquor stores as a permitted use in the CC district applies to the zoning district itself, not a specific parcel. Any individual liquor stores on parcels zoned CC would still be required to obtain a liquor license from the City.

The Convenience Commercial zoning district was created in 2012 as part of a broader Zoning Code update, which added urban residential and commercial districts and performance standards. The purpose of this Zoning Code update was to prepare the City for upcoming sewer growth and development. As part of this original update to the Zoning Code, liquor stores were not identified as a permitted use in the CC zoning district. In order to determine if liquor stores are an appropriate use for this district, staff reviewed the purpose statement for the CC district. The purpose statement of the CC zoning district states the following:

The CC District is established to provide for smaller scale commercial development and attractive neighborhood shopping centers that are compatible with surrounding residential and business park development, ideally located at the intersection of two or more collector streets or at the intersection of an arterial and collector street. Convenience goods and services are those which are purchased frequently, i.e., at least weekly; for which comparison buying is not required; and which can be sustained in a limited trade area. Such uses include convenience markets, personal services and repair shops. A limited number of other uses, including but not limited to restaurants, gas stations, medical centers, religious institutions, transit-related park-and-ride lots, and facilities with drive-up windows, are also allowed.

Based on this purpose statement, the CC district is intended for smaller parcels with less intense commercial uses. For example, uses such as club sales or building supply sales would not be appropriate in the CC district, as these uses generate more traffic and parking and draw from a larger trade area. These types of uses generally have larger impacts and would not be appropriate for the CC district. As the purpose statement notes, the CC district is intended for smaller scale commercial development that provides goods and service that are purchased frequently and can be sustained in a limited trade area. In the judgment of staff, a liquor store would qualify as a use that meets the criteria for a commercial use that is consistent with the intent of the CC zoning district. Additional information detailing the staff's review of the liquor store use in the context of the CC district can be found in the staff report to the Planning Commission (Attachment #3). It should also be noted that two parcels currently are zoned Convenience Commercial: 11025 10th Street North and 4201 Manning Avenue North. Both of these parcels are sites of gasoline stations and neighborhood convenience stores, fitting the purpose or intent of the CC zoning district.

PLANNING COMMISSION REPORT:

The Planning Commission reviewed the requested Zoning Text Amendment to make liquor stores a permitted use in the Convenience Commercial zoning district on February 23, 2015. In addition, a public hearing was held on that date. During the public hearing, no one spoke in favor or in opposition to the proposed amendment to the Zoning Code, and staff did not receive any written or electronic correspondence on the matter. In considering the request, the Planning Commission asked a number of questions and engaged in discussion. The details of the discussion can be found in the draft Planning Commission minutes attached to the City Council Agenda Packet. The Planning Commission moved to recommend approval of the amendment to the Zoning Code to allow liquor stores as a permitted use in the Convenience Commercial zoning district (Vote: 4-1). It should be noted that Commissioner Larson voted nay, as he stated that there were enough liquor stores in the community. The reasoning behind his opposition to the motion can be found in the draft minutes of the February 23rd meeting. Finally, as part of the recommendation to approve the requested zoning text amendment, the Planning Commission affirmed the following three findings from the staff report:

- 1) Liquor stores are consistent with and are typically found within smaller scale commercial developments.
- 2) Liquor stores include the sale of goods that are purchased frequently and can be sustained within a limited trade area.
- 3) The existing parcels zoned convenience commercial are located at the intersections of arterial roadways, thereby allowing adequate access to the site and being in conformance with the purpose or intent of the zoning district.

STRENGTHS, WEAKNESSES, OPPORTUNITIES, THREATS:

Strengths: In the judgment of the Planning Commission and staff, liquor stores are an appropriate use for the Convenience Commercial zoning district. Approval of the Zoning

Code amendment allows for refinement of the uses that are consistent or appropriate with the CC zoning district.

Weaknesses: None

Opportunities: Should the zoning text amendment be approved, the property owner intends to apply for liquor license to open a liquor store at one of the two sites zoned CC. If the liquor license were to be approved, it would allow for an additional business in Lake Elmo providing additional opportunities for these goods. The proposed liquor store would be located in a portion of the site that is presently vacant.

Threats: Allowing for additional opportunities for liquor stores does include some inherent risk, as alcohol is an intoxicating good. However, as previously noted in the staff report, only two sites in Lake Elmo are presently zoned Convenience Commercial. In addition, the City does run a successful liquor license program that ensures these businesses are being operated in a safe manner. Each liquor license is subject to a public hearing, background checks are completed by the Washington County Sherriff's Department, and each license is reviewed annually. Through the successful implementation of the liquor license program by the administrative staff, the amount of risk associated with intoxicating liquors is reduced or mitigated.

RECOMMENDATION:

Based on the aforementioned, the Planning Commission and staff are recommending that the City Council approve the proposed amendment to the Zoning Code to make liquor stores a permitted use in the Convenience Commercial zoning district. The motion to take the recommended action on the request is as follows:

“Move to adopt Ordinance 08-116, changing liquor stores to a permitted use in the Convenience Commercial zoning district.”

In addition, Staff is recommending that the City Council authorize summary publication of the approved ordinance through the following motion:

“Move to adopt Resolution No. 2015-17, authorizing summary publication of Ordinance 08-116.”

ATTACHMENTS:

1. Ordinance 08-116
2. Resolution No. 2015-17
3. Staff Report to the Planning Commission
4. Land Use Application and Supporting Narrative
5. City's Official Zoning Map
6. Location Map of Parcels Zoned CC