



PLANNING COMMISSION  
DATE: 8/12/2019  
AGENDA ITEM: 4B – PUBLIC HEARING

**ITEM:**                      **Conditional Use Permit - Kwik Trip Convenience Store/Fuel Station**

**SUBMITTED BY:**      Ken Roberts, Planning Director

**REVIEWED BY:**      Ben Prchal, City Planner  
                             Jack Griffin, City Engineer  
                             Greg Malmquist, Fire Chief

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**SUMMARY AND ACTION REQUESTED:**

The Planning Commission is being asked to consider a request from RPS Legacy Desoto Properties and Kwik Trip, Inc. for a conditional use permit (CUP) for the construction of a Kwik Trip convenience store/fuel station with a car wash. The City Code requires City approval of a Conditional Use Permit for this request as gasoline (fuel) stations and car washes require approval of a conditional use permit in the Commercial zoning district. This request is for the property located immediately east of Inwood Avenue (CSAH 13) and immediately south of 5<sup>th</sup> Street North. Staff is recommending approval of the requests subject to compliance with the conditions as noted in this report.

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**GENERAL INFORMATION**

*Applicant:*              RPS Legacy Desoto Properties and Kwik Trip, Inc. (Nathan Byron); PO Box 2107, La Crosse, WI 54603.

*Property Owners:*   RPS Legacy Desoto Properties, Little Canada, MN 55117

*Location:*              Vacant site lying immediately east of Inwood Avenue North (CSAH 13), immediately south of 5<sup>th</sup> Street North. PID Number: 33.029.21.13.0017.

*Request:*                Application for minor subdivision and conditional use permit approval of a gasoline (fuel) station with a convenience store and a car wash.

*Existing Land Use and Zoning:*      Vacant land. Current Zoning: C – PUD: Commercial PUD (part of the Inwood PUD)

*Surrounding Land Use and Zoning:* North – vacant land, guided for C – Commercial (across 5<sup>th</sup> Street); west – Golf Course in Oakdale across Inwood Avenue; south – Existing storm water ponding area; east – vacant commercial/high density residential planned land (Inwood PUD) on the south side of 5<sup>th</sup> Street North

*Comprehensive Plan:*                  MU-C (Mixed use Commercial)

*History:*                The City Council approved the general concept plan for the Inwood PUD on September 16, 2014, the preliminary plat on December 2, 2014 and the Final Plat on

May 19, 2015 for Phase 1. Since then, the City has approved several additions for the Inwood PUD, all for property north of 5<sup>th</sup> Street North. The site for Kwik Trip was graded as part of the Inwood PUD. Public Utilities (sewer and water) are available to the site from 5<sup>th</sup> Street with the primary street access from 5<sup>th</sup> Street North.

*Deadline for Action:*        Application Complete – 7/12/2019  
                                      60 Day Deadline – 9/11/2019  
                                      Extension Letter Mailed – No  
                                      120 Day Deadline – NA

*Applicable Regulations:*    Chapter 153 – Subdivision Regulations  
                                      §154.106 Conditional Use Permits  
                                      Article 14 – Commercial Districts (C)  
                                      Article 7 – Specific Development Standards (§154.305)  
                                      §150.270 Storm Water, Erosion, and Sediment Control  
                                      §150.035 Lighting, Glare Control and Exterior Lighting Standards

## **PLANNING AND ZONING ISSUES**

The proposed Kwik Trip site is guided for MU-C (Mixed Use Commercial) in the City's 2040 Comprehensive Plan. The overall subdivision and site plan have been prepared in order to meet the standards for the Commercial zoning district in terms of lot size, lot widths, building setbacks and other design criteria. It should be noted that while a neighborhood convenience store is a permitted use in the Commercial zoning district, the City Code lists gasoline stations as a conditional use. In addition, car washes, while accessory to the gasoline station use, also are a conditional use. For these reasons, the applicant has applied for a conditional use permit for approval of the gasoline station and car wash land uses.

### **Minor Subdivision**

The City of Lake Elmo has received a request from RPS Legacy Desoto Properties and Kwik Trip, Inc. for a minor subdivision to subdivide 9.9 acres of land located within the Inwood PUD into three lots. The western most lot of 2.3 acres is proposed for the constructing a Kwik Trip convenience store/fuel station. The proposed plat would be for property currently owned by RPS Legacy Desoto Properties and would be located immediately east of Inwood Avenue (CSAH 13) and immediately south of 5<sup>th</sup> Street North. The parcel had been used for agricultural purposes before the development of the Inwood PUD.

From staff's perspective, the applicant's subdivision proposal meets all the City submission requirements for a minor subdivision. The proposed plat is limited in scope and scale as there are no new proposed streets or public facilities proposed with the land subdivision. To better define what constitutes a project of limited scope or scale in staff's judgment, a limited scale plat would involve subdivision of a limited number of parcels without the need for major infrastructure improvements (utility extensions, new public roads, etc.). In this context, the proposed plat is of limited scale and scope according to staff.

The proposed plat would subdivide the subject property into three parcels; one parcel (Lot 1, Block 1) for the proposed Kwik Trip and two outlots for a future development adjacent to the proposed Kwik Trip. The proposed size of the site (Lot 1) for the Kwik Trip is 98,881 square feet, or 2.27 acres. The proposed area for Outlot A would be 1.9 acres, which will likely be used for future

commercial development while Outlot B is proposed to be 5.72 acres which is guided for high-density residential development in the Inwood PUD.

Staff provided a more extensive review and recommendation about the proposed subdivision (to be known as Inwood 6<sup>th</sup> Addition) in a separate report.

### **Kwik Trip Zoning and CUP Review**

In reviewing the applicable requirements from the City's zoning and subdivision regulations, staff has found that the proposed project is in conformance with these requirements. More specifically, staff reviewed the proposed gasoline station in light of the following:

- ***Lot Size.*** The proposed lot being platted for the commercial use is 98,881 square feet, which meets the minimum lot size requirement of 20,000 square feet per the Commercial zoning district.
- ***Building Setback Requirements.*** The proposed gasoline station/convenience store meets the required building setbacks (front: 30 feet, corner side yard: 25 feet, interior side yard: 10 feet and rear yard: 10 feet) for the Commercial district. In addition, the car wash meets the 10-foot setback requirement for accessory buildings.
- ***Parking Setbacks.*** The proposed parking stalls all meet the required parking setback requirements per the Commercial zoning district.
- ***Impervious Surface.*** The maximum amount of impervious surface in the Commercial zoning district is 75%. The proposed project complies with this requirement, as there is 68,845 square feet of pervious surface proposed, which is 69% of lot area.
- ***Parking Stalls.*** Per the City's off-street parking requirements, gasoline stations are required to have one parking stall for every 250 square feet of gross floor area used for sales. Using this calculation, staff determined that 23 parking stalls would be required. The applicants are proposing 30 standard and 2 handicap parking stalls, easily meeting the City's parking requirement.
- ***Specific Development Standards – Gasoline Stations and Car Washes.*** The City adopted specific development standards (§154.305) for gasoline stations and car washes, both of which are included in this development proposal. In reviewing these standards, staff found that the application was in compliance with the specific development standards related to these two land uses, including the following:
  - ***Access to a Collector.*** The proposed gas station meets the minimum lot size requirements and has access to a collector street (5<sup>th</sup> Street North.).
  - ***Canopies.*** The proposed canopy meets the required setback of 20 feet from all property lines. In addition the canopy columns reflect the design and building materials of the principal building.
  - ***Outdoor Displays.*** Proposed outdoor merchandise is either located under the canopy or adjacent to the principal structure, meeting all setback requirements.
  - ***Car Wash Enclosure.*** The proposed car wash has doors that enclose the car wash while in operation.

- ***Sounds from Speakers.*** The car wash area is not within close proximity to any residential districts or properties. Any sounds from speakers related to the car wash should not negatively impact any residential properties.

Based on Staff's review of the proposed Site Plan and the supporting plans for the proposed gasoline station and car wash, the applicant's plans meet or exceed all applicable Zoning Code requirements for gasoline stations and car washes in Commercial districts.

In terms of parkland dedication, the Subdivision Ordinance requires any property being developed in Commercial districts to pay a fee as determined by Resolution by the City Council. Currently, the fee for parkland dedication for commercial properties is \$4,500 per acre of land subdivided for commercial use. In this case, the applicant is proposing to subdivide 2.27 acres of land for Kwik Trip. The remaining land is being left in two outlots. Using the \$4,500 fee per acre, the applicant will be required to provide \$10,215 (2.27 acres x \$4,500 per acre = \$10,215) to the City to meet the City's parkland dedication requirement. Staff would recommend that the developer/applicant provide this fee to the City in advance of releasing the final plat for recording (Condition #4).

Finally, as the gasoline station and car wash is considered a conditional use in the Commercial zoning district, the applicant has applied for a conditional use permit (CUP). Per the procedure described in Article 3 of the Zoning Code (§154.106), the City is required to make findings related to the proposed conditional use. Generally speaking, these findings are required to ensure that no negative impacts to the adjacent properties or broader community are associated with the proposed use. Staff reviewed all 12 required findings per the procedure for CUPs and found the proposed use meets all City criteria for granting a conditional use permit. As part of the draft findings for recommending approval of the request, staff has included the required findings that relate to the conditional use permit.

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## REVIEW AND ANALYSIS

As currently submitted, the proposed minor subdivision and Kwik Trip facilities will meet all applicable City requirements for conditional approval. Any deficiencies or changes that staff has identified are listed in the recommended conditions of approval.

Also, the City has received a detailed list of comments from the City Engineer and City's Landscape Architect about the proposed gasoline station, in addition to informal review by the City's Fire Chief and Building Official. I have attached the written review comments from the City Engineer and Landscape Architect for consideration by the Planning Commission.

In addition to the general comments that have been provided in the preceding sections of this report, Staff would like the Planning Commission to consider the following discussion areas as well:

- ***Comprehensive Plan.*** The proposed subdivision and commercial use are consistent with the 2040 Lake Elmo Comprehensive Plan for this area of the city.
- ***Zoning.*** The zoning for this part of the Inwood PUD is C-PUD (Commercial PUD). The submitted development plans demonstrate compliance with the City's Commercial zoning district standards and are consistent with the approved PUD. Neighborhood Convenience Store is a permitted use in the Commercial zoning district, while gasoline station and car wash are conditional uses. The applicants have applied to the City for a conditional use permit for the fuel station/convenience and car wash in conjunction with the platting request.

- ***Subdivision Requirements.*** The City's Subdivision Ordinance includes a fairly lengthy list of standards that must be met by all new subdivisions, and include requirements for blocks, lots, easements, erosion and sediment control, drainage systems, monuments, sanitary sewer and water facilities, streets, and other aspects of the plans. City Staff have not identified any conflicts or major issues with this proposal in regards to the City's Subdivision Ordinance.
- ***Access.*** In terms of access, the proposed site plan for the development shows two access driveways to 5<sup>th</sup> Street North along the northern boundary of the site. To account for the appropriate access spacing necessary for 5<sup>th</sup> Street, the applicants are showing the western access to be a right-in, right-out (limited access) into the Kwik Trip site and the driveway farther to east would provide full access to this site and property to the east, supporting all turning movements. The City Engineer has reviewed the proposed access locations and found them to be acceptable with the proposed access spacing. He did however, have other concerns with the proposed driveways.
  - ***Western (intermediate) Right-In/Right-Out Access.*** To provide access to the proposed gasoline station, the applicant is proposing two access locations (west and east) along 5<sup>th</sup> Street North. The City Engineer reviewed the proposed access locations and found the spacing to be acceptable. For the western access point, the developer is proposing to construct the driveway for traffic to move right in and right out. They also are proposing to add a right turn lane to the eastbound drive lanes on 5<sup>th</sup> Street to help facilitate access into the site.

Staff is recommending that the proposed western access be permitted only as a right-in only. This is because traffic leaving the site at this location may be tempted to do a U-turn at Irene Avenue to then proceed west on 5<sup>th</sup> Street to Inwood Avenue. The proposed design width for this driveway is 40 feet which is too wide for a right-in only driveway. Staff is comfortable working with the applicant to arrive at the best suited design for the right-in only western access (Condition #1b).

- ***Eastern Shared Access.*** The developer also is showing a driveway across from the future Irene Avenue. This driveway location would serve as a full access (right and left turns in and out) and is consistent with the spacing requirements for access and driveways along 5<sup>th</sup> Street. Staff is recommending the developer review the design width of the eastern shared full access driveway. It is proposed to be 30 feet wide but with the expected traffic movements and turn lanes, the developer may want to expand it to 40 feet in width to allow for both right and left turn lanes to exit the site. The suggested expansion of 10 feet of additional width would allow better circulation in and out of the proposed gasoline station, as well as whatever future use is located on Outlot A. In addition to the suggested modification to the design of the eastern access drive, staff also is recommending that the applicant provide an access easement along the portion of shared access driveway that is located on Outlot A (Condition #2). The goal is to ensure that Kwik Trip and the users of the development on Outlot A have dedicated full access to the eastern driveway.
- ***Landscaping.*** The applicant has submitted a Landscape Plan (Sheet L1) as part of the proposed gasoline station. The City's landscaping provisions (§154.258) require 1 tree per 50 feet of street frontage. In addition to street plantings, the City's requirements include 5 trees per developed acre. Given these requirements, staff calculated that 13 street trees are

required (based on approximately 630 total feet of street frontage on 5<sup>th</sup> Street and Inwood Avenue) and 12 interior trees are required (5 trees per acre). In addition, the Code requires the developer to plant 1 tree for every 50 feet of perimeter parking lot frontage. In this case, that would require 3 trees. The total required amount of trees per staff's calculation is 28 trees. The applicants are proposing to plant 25 trees of both deciduous and coniferous varieties, thus proposing three fewer trees than required by the City Code. In addition to the trees, the applicants are proposing a variety of shrubs and planted beds.

Staff distributed the Landscape Plan to the City's Landscape Consultant for his review. I have attached his comments for your reference. Staff would recommend as a condition of approval (Condition #5) that the applicant update the Landscape Plan to meet all City requirements and to reflect the changes suggested by the City's Landscape Architect. In addition to his review, staff would recommend that any modifications related to the number or location of trees, the plant species or location be incorporated in the Final Landscape Plan for City approval before the City issues a building permit.

- **Architectural Design Review.** City staff reviewed the architectural plans and architectural renderings of the proposed Kwik Trip gasoline station and car wash for consistency with the Lake Elmo Design Guidelines and Standards Manual. Overall, Staff finds that the proposed building meets the guidelines and standards for Commercial development contained within the manual and would offer the following review comments:
  - **Building Materials.** The proposed building is chiefly constructed of red modular brick. Accent materials include limestone and tan brick soldier course. The proposed building materials meet the City standards for building materials in the Commercial district.
  - **Streetscape.** A significant portion of the proposed landscaping is located along the public right-of-way for 5<sup>th</sup> Street North. The City Code requires that a landscape frontage strip at least five feet wide be provided between parking areas and public street, sidewalks or paths. This area is to provide screening that is between 3.5 feet and 4 feet in height and not be less than 50 percent opaque on a year-round basis. The City's landscape architect is recommending that the applicant change the plans to add landscaping/screening along 5<sup>th</sup> Street as required by the City Code.
  - **Storage Areas.** The City requires that trash collection areas be located out of the view of the public right-of-way. The proposed site plan indicated that the trash collection area will be enclosed and located in the southwest part of the site. The proposed trash collection area meets the intent of the standard.
  - **Entry.** The proposed convenience store has accent treatments of both limestone and tan brick soldier course around the entryway. In addition, the peaked roof at the entry provides an additional architectural feature.
- **Photometric Plan.** To demonstrate compliance with the City's sign and exterior lighting ordinances, the applicant has submitted a Photometric Plan. The Photometric Plan includes information about the lighting fixtures proposed for the site. In addition, it provides information about the light intensity, measuring the foot candles across the entire site and beyond. Based on the plan, the applicants are proposing pole lights that are 16 feet in height

and that include a LED fixture with a 90 degree cutoff. In addition, the proposed lighting internal to the canopy are recessed LEDs. From staff's review of the photometric plan, the proposed lighting is consistent with the City's ordinance, as the plan does an effective job of limiting light from being directed outside of the property. Generally speaking, the foot-candle reading at or near the property boundaries are all very low and are consistent with the ordinance. In addition, the 16-foot pole lights do not exceed the maximum height allowed for such lighting (30 feet maximum height for lights in non-residential districts with cutoff 90 degrees or less). When City staff reviews the building permit for the proposed gasoline station, a more in-depth review of the proposed lighting will be completed to ensure conformance to the City's ordinance.

- **Signage Plan.** As part of the plat and conditional use permit applications, the applicants have submitted a signage plan. The signage plan includes multiple sign types, including wall signs, canopy signs and a monument or ground sign. From a high level review perspective, it appears that the proposed signage will meet the City's Sign Ordinance. However, the applicant will be required to submit sign permits for the proposed signage, at which time staff will conduct a more in-depth review. Staff is recommending that the applicant submit sign permits for any proposed signage (Condition #6)
- **City Engineer Review.** The City Engineer has provided the Planning Department with a detailed comment letter (Attachment #8) as a summary of his review of the proposed minor subdivision and the gasoline station. The majority of the Engineer's comments relate to traffic and access management. In addition, the Engineer identifies other aspects of the proposed plan that currently do not meet City Engineering Standard, including utilities, grading and erosion control. As a condition of approval, staff is recommending that all modification requested by the City Engineer in his memo dated August 6, 2019 be incorporated into Final Plans before City approval of the building permit (Condition #1).
- **Fire Department Review.** The Fire Chief has reviewed the proposed gasoline station project plans. He found they are generally consistent with City requirements but did provide the following comments:

The following items need to be addressed:

- Must meet all applicable codes in the 2015 MN State Fire Code.
- Ensure proper emergency vehicle access throughout the site.
- Fire hydrant locations throughout the site to be reviewed by Fire Chief, Public Works Director and City Engineer.
- Additional items to be addressed as we move forward:
  - Emergency Fuel Shut Off
  - FDC (Fire Department Connection) Location
  - Lockbox
  - Location of annunciator panel
- Provide basic overhead view foot print plan of the building, non-architectural, showing rooms, access, utility locations, etc.

Additional review and approval of the project plans by the Fire Chief will be required upon the submission of the building permit.

- ***Trails and Sidewalks.*** There is an existing concrete sidewalk on the south side of 5<sup>th</sup> Street adjacent to the project site. The applicant is proposing to relocate a part of the sidewalk to accommodate the proposed right-hand turn lane in to the site.
- ***Watershed Districts.*** The project area lies within the South Washington Watershed District (SWWD). It should be noted that the developer must meet all the rules of the SWWD and will need to secure permits from the SWWD in order to proceed with the development as planned (Condition #3).

Based on the above Staff report and analysis, staff is recommending approval of the conditional use permit for the proposed Kwik Trip convenience store/fuel station and car wash on the corner of Inwood Avenue and 5<sup>th</sup> Street North, subject to the conditions of approval. The recommended conditions are as follows:

***Recommended Conditions of Approval:***

- 1) All required modifications to the proposed plat and project plans as requested by the City Engineer in a review memo dated August 6, 2019 shall be incorporated into the final plat and project plans before the City approves the building permit for the gasoline station. Required modifications include, but are not limited to, the following:
  - a. The design of the east-bound right turn lane proposed for the western access on 5<sup>th</sup> Street must be revised to incorporate a 150-foot full width turn lane with a 5:1 taper to account for the design speed of the road as suggested by the City Engineer and the supporting consultant.
  - b. The design of the western driveway access onto 5<sup>th</sup> Street must be revised per the recommendation of the City Engineer to accommodate right turns in only. The design of the access must be approved by the City before the City approves the building permit.
  - c. The width of the eastern full access driveway may need to be modified to 40 feet to allow for one inbound lane (16 feet wide) and two outbound lanes (left and right turn lanes, 12 feet wide).
- 2) The applicant shall provide for an access easement over the entire portion of the shared western driveway located on Lot 1, Block 1 to provide dedicated access for Outlot A.
- 3) The developer shall acquire the needed permits from South Washington Watershed District before starting any grading or development activity on the site.
- 4) The applicant shall pay the City a parkland dedication fee in the amount of \$10,215 before the City releases to the minor subdivision or final plat for recording.



- 5) The Landscape Plan shall be updated and reviewed by the City's Landscape Consultant. Any modifications requested by the Landscape Consultant shall be incorporated into the Final Landscape Plan before the City approves the building permit for the gasoline station.
- 6) The applicant shall secure a sign permit from the City for all signage associated with the proposed gasoline station.
- 7) Before starting any site work and before recording the Final Plat, the Developer shall enter into a Developers Agreement or Site Work Agreement with the City. This agreement shall be in a form acceptable to the City Attorney and shall delineate who is responsible for the design, construction, and payment of public improvements and other site management and operation considerations including erosion control and construction staging.

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## **DRAFT FINDINGS**

Staff is recommending that the Planning Commission consider the following findings with regards to the proposed conditional use permit for a Kwik Trip fuel station/convenience store and car wash to be located on the southeast corner of Inwood Avenue and 5<sup>th</sup> Street:

- That the proposed Kwik Trip fuel station/convenience store will meet all City zoning ordinance requirements, such as landscaping, erosion and sediment control.
- That the proposed Kwik Trip fuel station/convenience store will be consistent with the City's engineering standards provided the developer updates the plans to address the City Engineer's comments documented in a letter August 6, 2019.
- That the proposed architectural design of the gasoline station, canopy and car wash are consistent with the Lake Elmo Design Guidelines and Standards Manual.
- That the proposed use will not be detrimental to or endanger the public health, safety, comfort, convenience or general welfare of the neighborhood or City.
- That the use or development conforms to the City of Lake Elmo Comprehensive Plan.
- That the use or development is consistent with the Inwood PUD and will be compatible with the existing neighborhood.
- That the proposed use meets all specific development standards for such use listed in Article 7 of the Zoning Code.
- That the proposed use will be designed, constructed, operated and maintained so as to be compatible in appearance with the existing or intended character of the general vicinity and will not change the essential character of the area.
- That the proposed use will not be hazardous or create a nuisance as defined under the Zoning Code to existing or future neighboring structures.
- That the proposed use will be served adequately by essential public facilities and services, including streets, police and fire protection, drainage structures, refuse disposal, water and sewer systems.

- That the proposed use will not create excessive additional requirements at public cost for public facilities and services and will not be detrimental to the economic welfare of the community.
- That the proposed use will not involve uses, activities, processes, materials, equipment and conditions of operation that will be detrimental to any persons, property or the general welfare because of excessive production of traffic, noise, smoke, fumes, glare or odors.
- That vehicular approaches to the property will not create traffic congestion or interfere with traffic on surrounding public thoroughfares.
- That the proposed use will not result in the destruction, loss or damage of a natural or scenic feature of major importance.

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#### **RECOMMENDATION:**

Staff recommends that the Planning Commission recommend approval of the Conditional Use Permit for the proposed Kwik Trip gasoline station/convenience store and car wash to be located on the southeast corner of Inwood Avenue and 5<sup>th</sup> Street North. Staff is recommending approval of the conditional use permit subject to the conditions of approval as listed in the Staff report. Suggested motion:

***“Move to recommend approval of the Conditional Use Permit for the proposed Kwik Trip fuel station/convenience store and car wash to be located on the southeast corner of Inwood Avenue and 5<sup>th</sup> Street North, subject to the conditions of approval as drafted by Staff and based on the findings of fact listed in the Staff Report.”***

#### **ATTACHMENTS:**

1. Project Narrative/Cover Letter
2. Final Site Survey
3. Inwood 6<sup>th</sup> Addition Minor Subdivision (Preliminary Plat)
4. City Maps and Project Plans
5. Kwik Trip Construction Plans (15 pages)
6. Kwik Trip Architectural Rendering
7. Kwik Trip Signage Plans (8 pages)
8. City Engineer Review Memorandum dated 8/06/2019
9. Landscape Architect’s review dated 7-22-19
10. Neighbor e-mail comments dated 8-05-2019