



# PLANNING COMMISSION SYNOPSIS

Thursday, May 21, 2015

**CALL TO ORDER**

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Chairperson Nordstrom called the Planning Commission meeting to order at 6:00 p.m. in the Council Chambers of the Bloomington Civic Plaza.

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**COMMISSIONERS PRESENT:** Nordstrom, Willette, Spiess, Fischer, Bennett, Goodrum, Batterson

**COMMISSIONERS ABSENT:** None

**STAFF PRESENT:** Markegard, Pease, O'Day, Smith

Chairperson Nordstrom led the attendees in the reciting of *The Pledge of Allegiance*.

**ITEM 1**  
6:02 p.m.

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<b>CASE:</b>	7332A-15
<b>APPLICANT:</b>	MLG Capital/Normandale LLC (owner) Teddy B's Popcorn (user)
<b>LOCATION:</b>	5101 West 98 <sup>th</sup> Street
<b>REQUEST:</b>	Conditional use permit for a popcorn shop (restaurant) with no indoor seating

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**SPEAKING FOR THE APPLICANT:**

Theodor Williams thanked the Commission for their consideration. No questions to applicant.

**SPEAKING FROM THE PUBLIC:**

None

**PUBLIC HEARING DISCUSSION:**

Pease presented staff report for a Conditional Use Permit for a popcorn shop (restaurant). There were no questions for staff. Willette and Spiess commented this is a good addition to the community and that they look forward to a popcorn shop.

**M/Willette, S/Spiess:** To close the public hearing. Motion carried 7-0.

Nordstrom stated the Planning Commission decision on this item is final unless a written appeal is received by 4:30 p.m. on May 27, 2015.

**ACTION BY THE COMMISSION:**

**M/Spiess, S/Goodrum:** In Case 7332A-15, having been able to make the required findings, I move approval of a resolution for conditional use permit for a popcorn restaurant at 5101 West 98<sup>th</sup> Street subject to the conditions listed in the staff report. Motion carried 7-0.

**CONDITIONS APPROVED BY THE COMMISSION:**

The Conditional Use Permit for a restaurant located at 5101 W 98<sup>th</sup> Street (Case 7332A-15) is subject to the following conditions of approval prior to the issuance of any permits:

- 1) If ventilation that emits restaurant related odors to the exterior is installed or retrofitted at a later date, an odor control system must be installed as approved by the Environmental Health Division.
- 2) Sewer Availability Charges (SAC) must be satisfied.
- 3) Exterior grease interceptor must be installed on the site and grease interceptor maintenance agreement signed and filed with the Utilities Division.

And, while the use and improvements must comply with all applicable local, state and federal codes, the applicant should pay particular attention to the following Code requirements:

- 1) Food service plans must be approved by the Environmental Services Division (City Code Sec. 14.360).
- 2) All trash and recyclable materials must be stored inside the principal building (Sec. 19.51).
- 3) Recyclable materials must be separated and collected (Sec. 10.45).
- 4) All rooftop equipment must be fully screened (Sec. 19.52.01).
- 5) Sign Design must be in conformance with the requirements of Chapter 19, Article X of the City Code.

**ITEM 2**  
6:08 p.m.

<b>CASE:</b>	8926BCD-15
<b>APPLICANT:</b>	Park Place Bloomington, LLC
<b>LOCATION:</b>	10700 France Avenue
<b>REQUEST:</b>	<ol style="list-style-type: none"> <li>1) Conditional use permit for a 2,411 square foot restaurant with 70 indoor seats and 20 outdoor seats (Case 8926B-15);</li> <li>2) Conditional use permit for a 2,268 square foot restaurant with 70 indoor seats and 20 outdoor seats (Case 8926C-15); and</li> <li>3) Conditional use permit for a 6,000 square foot restaurant with 167 indoor seats and 50 rooftop seats (Case 8926D-15)</li> </ol>

**SPEAKING FOR THE APPLICANT:**

Steve Johnson, developer

**SPEAKING FROM THE PUBLIC:**

Gerald Spande (16430 Iris Court, Lakeville, MN)

**PUBLIC HEARING DISCUSSION:**

Goodrum recused himself as his employer, Westwood, worked on this project.

Pease presented the staff report and background. The development was approved in 2008 when all parking, landscaping, stormwater, building design and other development related requirements were approved. This review only includes the three Conditional Use Permits for the restaurants.

Pease described basic elements of each restaurant. All three restaurants will have common indoor trash rooms. Other common conditions include odor control and grease interceptor requirements. The larger restaurant is proposed to have roof top seating. The rooftop seating requires two access/egress points due to its size. One is the internal stairwell and elevator and the second is an exterior emergency egress only stairwell along the south side of the building. Staff is concerned with the appearance of the stairwell and recommends a condition to address the final design. After a review of the proposed conditions with the applicant, staff recommends a change combining the previously recommended conditions 5 and 6 be combined into a single condition to clarify the intent. The revised condition addresses what additional restrictions would be placed on amplified sound if noise complaints are received. The applicant plans low noise level, ambient music only. Staff recommends approval of all three Conditional Use Permits.

Bennett asked, on the issue of noise how close are residents to the rooftop patio? Markegard stated the closest residential units is the multi-family residential across France Avenue, 178 feet away. Pease stated the closest single family homes are south of restaurant on 108<sup>th</sup> street. Nordstrom questioned the allowed noise level. Pease stated the 50 decibels after 10:00 p.m. is the limit.

Spies expressed concern regarding the stairwell design and if it is possible to move it inside the building. Pease explained this is an emergency exit stairwell and inside would take away indoor seating. Spies would like a visual enhancement to the stairwell. Pease mentioned that metal artwork on the stairwell is a possibility.

Mr. Johnson clarified the fire escape has to be on the outside as if the first floor is on fire; the only exit may not be into the burning building. Batterson questioned if there are other opportunities for

additional restaurants in the remaining retail space. Pease explained there is a condition on each case that would require additional Planning Commission review, mostly to evaluate parking. Pease explained the current proposal does not have a higher parking demand than previously approved development.

Markegard reminded the Commission the proposed stairwell condition only applies to the stairwell on the France Avenue side of the building. Should the Commission have a concern regarding the appearance on the south side of the structure, the condition should be modified. Johnson states he will work with staff for beautification of the stairwell. Nordstrom asked if the exterior stairway would be truly an exit only or could customers come up the stairway. The applicant confirmed it is planned for an exit only.

Steve Johnson thanked staff for their assistance during the application process.

Gerald Spande stated he owns apartment buildings to the east. He is pleased the long awaited development is moving forward. He has three concerns: traffic, exiting, and noise. He asked if all three restaurants would have a full liquor license. Johnson indicated there is one liquor license planned at this time.

Spande questioned how the three noise complaints would be handled. Pease stated staff will determine the validity of each complaint and they are allowed three in a calendar year before any action is required. Pease stated the developer is not the end user or proprietor. The current plan will be light music only. Spande wants to be on record to point out noise could be a problem. He described issues with cut through traffic on his property due to the median they installed on France Avenue. Pease confirmed there are no additional access points and a dedicated right turn lane into the center would be constructed. Walgreens access remains unchanged. Spande questioned traffic flow concerns. Pease stated traffic projected in a 2007-2008 review compared to this proposal would have traffic volumes slightly lower than the development originally approved. Spande said he is not against the proposed Conditional Use Permits, but wants his tenants concerns to be met. Spande hopes the development goes forward with proper monitoring and care.

Willette glad to see this coming forward. Batterson agrees the development is good for the corner and additional traffic may need to be monitored.

**M/Spiess, S/Fischer:** To close the public hearing. Motion carried 6-0. (Goodrum abstained)

Spiess discussed a change to condition six (6), Case 8926D-15, with screening and questioned if the stairwell could be relocated? Markegard stated as drafted, the condition applies to France Ave. side. Spiess questioned if this condition could go beyond the France Avenue side. Given the Planning Commission's interest in modifying the condition, Markegard suggested wording as "Any exterior stairway or fire escape must be screened from view unless designed in a manner that will not detract from the appearance of the building". All approved the wording change to the motion 6-0, Goodrum abstained.

Nordstrom stated the Planning Commission decisions on these items are final unless a written appeal is received by 4:30 p.m. on May 27, 2015.

#### **ACTIONS OF THE COMMISSION:**

**M/Fischer, S/Spiess:** Having been able to make the required findings, in Case 8926B-15, I move to adopt a resolution for a Conditional Use Permit for a 2,411 square foot restaurant with 70 indoor seats

and 20 outdoor seats at 10700 France Avenue subject to the conditions of approval and Code requirements listed in the staff report. Motion carried 6-0. (Goodrum abstained)

**M/Fischer, S/Willette:** Having been able to make the required findings, in Case 8926C-15, I move to adopt a resolution for a Conditional use permit for a 2,268 square foot restaurant with 70 indoor seats and 20 outdoor seats at 10700 France Avenue subject to the conditions of approval and Code requirements listed in the staff report. Motion carried 6-0. (Goodrum abstained)

**M/Nordstrom, S/Spiess:** Having been able to make the required findings, in Case 8926D-15, I move to adopt a resolution for a Conditional use permit for a 6,000 square foot restaurant with 167 indoor seats and 50 rooftop seats at 10700 France Avenue subject to the 6 conditions of approval and 10 Code requirements listed in the staff report and as revised. Motion carried 6-0. (Goodrum abstained)

### CONDITIONS APPROVED BY THE COMMISSION:

#### **Recommended Conditions of Approval (Case 8926B-15)**

The conditional use permit for a 70 indoor and 20 outdoor seat restaurant located at 10700 France Avenue South (Case 8926B-15) is subject to the following conditions of approval prior to the issuance of building permits:

- 1) Conditional use permit is limited to the tenant space as shown on the plans in Case File 8926B-15.
- 2) A grease interceptor, accommodating all three restaurants, must be installed on the site and grease interceptor maintenance agreement signed and filed with the Utilities Division.
- 3) An odor control system, as approved by the Environmental Health Division, must be installed.
- 4) Sewer Availability Charges (SAC) must be satisfied.

While the use and improvements must comply with all applicable local, state and federal codes, the applicant should pay particular attention to the following Code requirements:

- 1) Building must be provided with an automatic fire sprinkler system as approved by the Fire Marshal (MN Bldg. Code Sec. 903, MN Rules Chapter 1306; MN State Fire Code Sec. 903).
- 2) Food service plans must be approved by the Environmental Services Division (City Code Sec. 14.360).
- 3) All rooftop equipment must be fully screened (Sec. 19.52.01).
- 4) All trash and recyclable materials must be stored inside the principal building (Sec. 19.51).
- 5) Recyclable materials must be separated and collected (Sec. 10.45).
- 6) Fire lanes must be posted as approved by the Fire Marshal (MN State Fire Code Sec. 503.3).
- 7) Exterior building materials must be approved by the Planning Manager (Sec. 19.63.08)
- 8) Parking lot and site security lighting must satisfy the requirements of Section 21.301.07 of the City Code.
- 9) Any business signage be in accordance with the Uniform Sign Design (Sec. 19.109).

#### **Recommended Conditions of Approval (Case 8926C-15)**

The conditional use permit for a 70 indoor and 20 outdoor seat restaurant located at 10700 France Avenue South (Case 8926C-15) is subject to the following conditions of approval prior to the issuance of building permits:

- 1) Conditional use permit is limited to the tenant space as shown on the plans in Case File 8926B-15.
- 2) A grease interceptor, accommodating all three restaurants, must be installed on the site and grease interceptor maintenance agreement signed and filed with the Utilities Division.
- 3) An odor control system, as approved by the Environmental Health Division, must be installed.
- 4) Sewer Availability Charges (SAC) must be satisfied.

While the use and improvements must comply with all applicable local, state and federal codes, the applicant should pay particular attention to the following Code requirements:

- 1) Building must be provided with an automatic fire sprinkler system as approved by the Fire Marshal (MN Bldg. Code Sec. 903, MN Rules Chapter 1306; MN State Fire Code Sec. 903).
- 2) Food service plans must be approved by the Environmental Services Division (City Code Sec. 14.360).
- 3) All rooftop equipment must be fully screened (Sec. 19.52.01).
- 4) All trash and recyclable materials must be stored inside the principal building (Sec. 19.51).
- 5) Recyclable materials must be separated and collected (Sec. 10.45).
- 6) Fire lanes must be posted as approved by the Fire Marshal (MN State Fire Code Sec. 503.3).
- 7) Exterior building materials must be approved by the Planning Manager (Sec. 19.63.08)
- 8) Parking lot and site security lighting must satisfy the requirements of Section 21.301.07 of the City Code.
- 9) Any business signage be in accordance with the Uniform Sign Design (Sec. 19.109).

**Recommended Conditions of Approval (Case 8926D-15)**

The approval is subject to the following conditions:

- 1) Conditional use permit is limited to the tenant space as shown on the plans in Case File 8926D-15.
- 2) A grease interceptor must be installed on the site and grease interceptor maintenance agreement signed and filed with the Utilities Division.
- 3) An odor control system, as approved by the Environmental Health Division, must be installed.
- 4) Sewer Availability Charges (SAC) must be satisfied.
- 5) If three or more complaints regarding noise at the restaurant after 10:00 p.m. are received in any calendar year from nearby residents, the following noise related conditions go into effect permanently:
  - a. No outdoor or rooftop music or amplification is allowed after 10:00 p.m.
  - b. No indoor music or amplification is allowed after 10:00 p.m. when the windows are open.
- 6) Any exterior stairway or fire escape must be screened from view unless designed in a manner that will not detract from the appearance of the building.

While the use and improvements must comply with all applicable local, state and federal codes, the applicant should pay particular attention to the following Code requirements:

- 1) Building must be provided with an automatic fire sprinkler system as approved by the Fire Marshal (MN Bldg. Code Sec. 903, MN Rules Chapter 1306; MN State Fire Code Sec. 903).
- 2) Food service plans must be approved by the Environmental Services Division (City Code Sec. 14.360).
- 3) The use must be compliant with the Bloomington Noise Code (Article IV of Chapter 10).
- 4) All rooftop equipment must be fully screened (Sec. 19.52.01).

- 5) All trash and recyclable materials must be stored inside the principal building (Sec. 19.51).
- 6) Recyclable materials must be separated and collected (Sec. 10.45).
- 7) Fire lanes must be posted as approved by the Fire Marshal (MN State Fire Code Sec. 503.3).
- 8) Exterior building materials must be approved by the Planning Manager (Sec. 19.63.08)
- 9) Parking lot and site security lighting must satisfy the requirements of Section 21.301.07 of the City Code.
- 10) Any business signage be in accordance with the Uniform Sign Design (Sec. 19.109).

**ITEM 3**  
6:45 p.m.

<b>CASE:</b>	10000C-15
<b>APPLICANT:</b>	South Loop Investments LLC
<b>LOCATION:</b>	8100 26 <sup>th</sup> Avenue
<b>REQUEST:</b>	Privately initiated City Code Amendments to Chapters 19 and 21 to allow for Master Sign Plans for properties within the South Loop District

**SPEAKING FOR THE APPLICANT:**

David Peters , representing South Loop Investments LLC

**PUBLIC HEARING DISCUSSION:**

Markegard presented the staff report. Back in November 2014, the City Council adopted a Master Sign Plan approval process but limited eligibility to the Class VI Sign District, which includes the Mall of America site and a couple nearby parcels. The applicant is proposing to expand eligibility to the full South Loop District. The applicant's rationale for the amendment is to implement the South Loop District Plan by creating an urban neighborhood with a unique character. The applicant believes that signs play a large role in the overall character of the district. Currently rooftop signs are not allowed by Code, but would be potentially available through a Master Sign Plan. There would be a review process and the City Council would have reasonable discretion. No correspondence has been received and staff recommends approval.

Willette asked if the process could apply to the northeast corner hotel. Markegard stated that, if the applicant's proposed ordinance were approved, the process would be available anywhere in the South Loop District. Batterson asked is there a reason why South Loop Investments, LLC applied for such a large area. Markegard stated staff worked with the applicant on potential wording and felt it would be good to keep South Loop District sign processes uniform. There was also concern about a business on one side of the street being eligible for this process and a business on the other side not being eligible. Staff recommends not to go beyond the South Loop District however. Batterson asked if a Master Sign Plan was approved for the Mall of America. Markegard said yes that is correct.

Mr. Peters stated the proposed hotel signage is iconic and has some European flair. It would keep the integrity of the building. The cube element on the rooftop could not be approved under the current code. He suggested that this code amendment would be a two stage process

Spies likes the consistency across the entire area and has no problem with the applicant's proposal. Batterson said it was good the City worked with the Mall of America but he wants to see how the signs play out. He is not opposed to the proposed aesthetics of the hotel. He will vote against. Goodrum agrees with Batterson, he is nervous about expanding the master sign plan eligibility out this far. Agrees we haven't seen Mall of America signage yet and it would be good to. He feels the eligibility area should be narrower. Goodrum is also concerned with rooftop signage. He wonders what could the Mall of America do with rooftop signage? Staff should be cautious. Fischer agrees with the applicant to give people flexibility in this area with signs to set it apart from other areas. Bennett agrees with Batterson and would like to see a more limited scope. Markegard suggested a tighter eligibility area could limit the process to the commercial and mixed use areas within the South Loop District. Alternatively, the Planning Commission could suggest street boundaries or suggest simply waiting to see how the Mall of America signs turn out. Batterson said he would like to limit eligibility to the site in question and not extend it more broadly. Goodrum said he would expand to a little larger area. Give elbow area for where it may be applied immediately. Batterson suggested to Goodrum it could be one

block of eligibility beyond the Mall of America as a testing ground for a year or two. Goodrum said yes that would be an acceptable area. Markegard noted that since this ordinance is privately initiated, it would be up to the applicant to revise the wording of the ordinance. Batterson said the Commission could vote down the proposal and the applicant could decide whether to come back with revised language. Markegard said the City Council has final approval authority so another option would be to have a motion recommending approval subject to certain changes. Nordstrom said he would be OK with a reduced eligibility area. Spiess disagrees and wants to approve the proposed area.

The public hearing was closed via a motion.

Nordstrom stated this item will be heard at the June 22, 2015 City Council meeting.

#### **ACTIONS OF THE COMMISSION:**

**M/Spiess, S/Fischer:** To close the public hearing. Motion carried .7-0

**M/Spiess, S/Willette:** In Case 10000C- 15, I move to recommend approval of the privately initiated City Code Amendments attached to the staff report. Motion carried 4-3. (Goodrum, Bennett and Batterson voting against)

**ITEM 4**  
7:11 p.m.

<b>APPLICANT:</b>	City of Bloomington
<b>REQUEST:</b>	Appointment of Planning Commission member to Richfield Bloomington Watershed Management Organization (RBWMO) Self-Assessment Sub-Committee

**SPEAKING FOR THE APPLICANT:**

Glen Markegard, Planning Manager

**DISCUSSION:**

Markegard stated that Bryan Gruidl, Civil Engineer is looking for a volunteer to serve on the Richfield Bloomington Watershed Management Organization (RBWMO) Self-Assessment Sub-Committee, which could involve 4-5 meetings in the daytime.

Willette stated his qualifications including his participation on the Nile Mile Creek Advisory Board and on City of Minneapolis Lake Level Advisory Commission.

**ACTIONS OF THE COMMISSION:**

**M/Batterson, S/Fischer:** I move to appoint Commissioner Roger Willette to the RBWMO Self-Assessment Sub Committee. Motion carried . 7-0

**ITEM 5**  
7:13 pm

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**APPLICANT:** City of Bloomington  
**REQUEST:** Consider approval of draft Planning Commission meeting synopses:

- 4/9/15
- 4/23/15

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**ACTIONS OF THE COMMISSION:**

**M/Spiess, S/Willette:** I move to approve the synopsis of the 4/9/15 Planning Commission meeting as presented. Motion carried 7-0.

**M/Bennett, S/ Willette:** I move to approve the synopsis of the 4/23/15 Planning Commission meeting as presented with corrections. Motion carried 5-0. (Spiess and Batterson not voting due to absence at that meeting)

The meeting adjourned at 7:16 p.m.

**Prepared By:** DS **Reviewed By:** GM, LP

**Approved By Planning Commission:** 8/6/15

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