

PUBLIC HEARING – CONDITIONAL USE PERMIT

Application: Conditional Use Permit to Create Office Space in the Commercial District

Applicant: Babinski Properties, on behalf of Sammy Properties, LLC

Agenda Item: 3 (b)



Background Information: The applicant is requesting a Conditional Use Permit to build two office buildings in the Commercial District. Office space would be considered a “Commercial Use, Other” in the Land Use Matrix, requiring a Conditional Use Permit. The surrounding property is zoned Commercial.

The home office of Babinski Properties and their other holdings is currently in Sioux Falls, South Dakota and applicant plans to move this office to Pequot Lakes. Parcel 290154100A00009 is in two pieces being divided by the roadway from the parking lot at SuperValu that intersects with Pillsbury Street, Lilac Drive. Applicant proposes to build the offices on the eastern portion which is 34,500 square feet. The remaining parcel lying west of the roadway is approximately 5 acres. Both parcels are vacant. The eastern portion is accessed via State Highway 371 to the east and Lilac Drive to the west.

The applicant proposes to build two office buildings, one for their home office and one to rent spaces. The home office is proposed to be 1,800 square feet in

size and contain 4 offices, a conference room, breakroom, mechanical room, reception area and lavatory. The second floor loft will be used for storage.

The applicant also proposes to construct another office building which would include two separate rental office spaces, each being 1,500 square feet in size. Each space would contain 3 offices, a conference room, breakroom, mechanical room, reception area and lavatory. The second floor loft areas will be used for storage.

The applicant will utilize municipal water and wastewater.

Section 17-7.10 PARKING requires one parking space per 250 square feet of floor area in the Commercial Zone. The applicant proposes 19 parking spaces where 19 spaces are required.

Applicant proposes to increase the impervious coverage from 25% to 50%. This may be accomplished through a Conditional Use Permit by providing a stormwater retention plan containment of a 10-year, 24-hour storm event on the parcel and elimination of direct stormwater runoff to adjacent properties and wetlands. **Please note the final stormwater plan was not complete when this Staff Report was written. The stormwater plan will be emailed to Planning Commission Members as soon as it is received so you have it prior to the May 19 meeting.**

The applicant proposes 3 light poles along the south edge of the parking area. These light poles are recommended by the supplier to 25 feet in height with 12,000 Lumens. The supplier will prepare a photo metric plan to determine the most efficient design and zero light spill to adjacent properties.

The Highway 371 Overlay District requires 1 tree per 200 square feet of area within the 50-foot buffer setback. Applicant proposes 25 trees where 25 are required.

The site plan indicates the existing pine tree buffer along the north property line. Applicant has indicated he plans to leave that existing tree buffer. Applicant proposes to add vegetative buffers along the south lot line and on the west end of the property.

The site plan indicates a monument sign on the east end of the proposed buildings. Signage will need to meet Section 17-7.1 and be applied for under a separate Land Use Permit.

Applicable Regulations:

Section 17-6.2 HIGHWAY 371 CORRIDOR OVERLAY DISTRICT (HWY)

1. Purpose and Intent. The Highway 371 Corridor (HI) Overlay District is intended to promote safe and reasonable access to Highway 371 from abutting properties and also maintain and require a buffer zone of trees and shrubs to preserve the northwoods atmosphere of this area. The intent is to promote safety in the highway corridor and maintain the aesthetics of the existing forest and woodlands in the region while allowing a variety of uses along the corridor district in harmony with existing vegetation.

2. Tree Removal. Tree removal permits are required for the removal of more than ten (10) trees over two inches (2") in diameter (as measured at four (4) feet from the base of the tree) from corridor property.

3. Buffer Zone Vegetation. Buffer zones require provision of both physical separation and landscape elements to meet the intent of this district. Existing vegetation shall be used wherever possible. Vegetation to be saved shall be identified on site plans along with protection measures for existing trees. Plantings shall consist of the following:

A. Large, indigenous trees with a minimum size of 1.5 caliper at planting are required. Large trees are those with a mature height of thirty (30) feet or greater and a mature spread of thirty (30) feet or greater. Of these, twenty-five percent (25%) must be evergreen trees which are described as trees having green foliage throughout all seasons of the year in the Pequot Lakes region.

B. Small, indigenous trees/large indigenous shrubs are required to fulfill from no less than twenty percent (20%) to no more than thirty percent (30%) of the required number of trees. Small trees/large shrubs are trees or shrubs with a mature height of ten (10) to thirty (30) feet. The mix is designed to create a buffer which will give a satisfactory screen within three to five years of planting, under normal maintenance, while allowing room for the various plants to grow. Trees shall be distributed along the entire length of the buffer. Due to unique characteristics of a site, or design objectives, alternative plant mixes may be approved. Trees shall not be pruned to remove lower branches that will provide screening.

4. The following are the required buffer zones in each underlying zoning district along the Highway 371 Corridor district:

A. Commercial District. A minimum of one tree per each 200 square feet of property for a depth of fifty (50) feet from the Highway 371 right-of-way into the development property.

- B. Light Industrial District. A minimum of one tree per each 200 square feet of property for a depth of fifty (50) feet from the Highway 371 right-of-way into the development property.
- C. Forest Management District. If no structures exist, no new screening is required. When permitted structures are proposed to be built, a minimum of one tree for every 200 square feet of property for a depth of twenty (20) feet from the Highway 371 right-of-way into the development property is required.
- D. Agriculture District. If no structures exist, no new screening is required. When permitted structures are proposed to be built, a minimum of one tree for every 200 square feet of property for a depth of twenty (20) feet from the Highway 371 right-of-way into the development property is required.
- E. Rural Residential and Transition Residential Districts. A minimum of one tree for every 200 square feet of property for a depth of twenty (20) feet from the Highway 371 right-of-way into the development property.

5. Highway Access. Due to the high level of traffic congestion and concern for safety, access points in the corridor district will be limited according to the Pequot Lakes Comprehensive Plan and other access management plans as adopted by the City. No new access points will be provided to Highway 371 beyond what exists at the time of adoption of this Ordinance, a minimum of one per existing parcel.

Section 17-5.10 COMMERCIAL (C)

- 1. Purpose and Intent: To provide a zoning classification for commercial uses oriented around the automobile. Parcels are larger than in the Downtown Mixed-Use zone in order to provide on-site parking, on-site stormwater facilities as well as on-site water supply and sewage treatment where municipal utilities are not immediately available.
- 2. Compatibility: The Commercial zone should be established as a transition zone between the Downtown Mixed-Use zone or the Light Industrial Zone and the surrounding residential zones. The zone may not be established in an area where it is completely surrounded by residential zones.
- 3. Lot, Use and Density Requirements.

Lot width– feet, minimum	50
Buildable lot area (sewered) – square feet, minimum	10,000
Buildable lot area (unsewered) – square feet, minimum	20,000

Setback, right of way, City road- feet, minimum	30	4.
Setback, right of way, County or State road, feet, minimum	30	
Setback, between buildings – feet, minimum	10	
Setback, side next to residential district – feet, minimum	30	
Setback, side yard – feet, minimum	10	
Setback, rear – feet, minimum	10	
Setback, parking from lot line – feet, minimum	10	
Setback, sign – feet, minimum	1	
Setback, wetland – feet, minimum	50	
Setback, unplatted cemetery or archeological site	50	
Impervious surface – percent, maximum	25%	
Building height – feet, maximum	25	
Building above highest groundwater level – feet, minimum	3	

Performance Standards. The following performance standards apply to all development in this zone:

- A. Impervious Coverage. Impervious coverage may be increased by up to 25%, not to exceed 50% of the property, through a conditional use permit if the following is provided and approved by the City:
 - (1) A storm water retention plan showing containment of the 10-year, 24-hour storm event on the parcel.
 - (2) Direct runoff of stormwater to adjacent properties and wetlands shall be eliminated through the use of berms, infiltration ponds, swales, filtration strips or other permanent means.
- B. Compatibility of Use. Use shall be compatible with the surrounding neighborhood. Uses shall not present noise, odor, light nuisances or any other nuisances.
- C. Parking. Off-street parking shall be provided as per Section 7.10. On-street parking is not allowed under any circumstances. To reduce the visual impacts and amount of surface parking, shared parking and surface parking shall be located behind or to the side of a building. Additionally, suitable trees and shrubs shall be planted between parking lots and all adjacent sidewalks, roads, lots and buildings.
- D. Screening. All sites shall be heavily landscaped to provide 100% screening to adjacent residential parcels and over 50% screening

from the road or any non-residential parcel. Percentages shall be determined by amount of structure that can be seen during leaf-on conditions. A landscaping and screening plan must be submitted and approved by the Planning Commission with each conditional use permit.

- E. Lighting. Lighting shall be minimal. Lighting shall be downward directional and shall be compatible with the surrounding development. Lights approved with signs must be turned off at the close of business each day.
- F. Fire Lanes. Fire lanes shall remain unobstructed at all times.
- G. Fences. Fences not exceeding 84 inches in height may be constructed. Under no circumstances shall a fence be constructed closer than 10 feet from the surface of a public road and in all cases not within the public right-of-way. Materials shall consist of usual fencing materials with posts and fence of metal, wood, concrete, brick or smooth wire. Barbed or electrified wire is prohibited, except where specific approval has been given by the Planning Commission.

Section 17-7.10 PARKING

- 1. General. Onsite parking or garage space shall be provided in all Districts, except as specifically exempted. There shall be adequate drive access to prevent the need to back onto collector streets or County Highways. Onsite parking spaces shall not be used for storage.
- 2. Dimensions. Parking sites shall be a minimum of 20 feet long and 10 feet wide.
- 3. Parking Ratios. Adequate parking shall be required, with the following standards to be guidelines subject to site specific review by the Planning Commission:
 - B. Office/Retail. One (1) space per 250 square feet of floor area in the Commercial Zone and One (1) space per 400 square feet of floor area for Structures greater than 3,000 square feet in the Downtown Mixed Use Zone.

Section 17-5.15 LAND USE MATRIX

A- allowed w/o a permit, P - permitted, C- conditional use, I - interim use, AC - accessory use, E - excluded

USE

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Section 17-11.6 CONDITIONAL USE PERMITS

1. Conditional Use Permits shall be issued to the property for structures or other specified uses after a public hearing and approval by the Planning Commission. All applications for a Conditional Use Permit shall be submitted to the Zoning Administrator **30** days ahead of the hearing date, accompanied by a certificate of survey (unless waived by the Zoning Administrator) showing the details of the proposal and an accurate legal description, along with the appropriate fee. The fee or contract owner of the property shall sign the application. The Zoning Administrator shall notify all property owners within a minimum of 350 feet by regular mail and shall advertise the hearing once in the legal section of the official newspaper at least 10 days ahead of the public hearing. The Zoning Administrator shall send the same notice 10 days in advance of this hearing to the DNR if the proposed is in shoreland. At the applicant's option, the applicant may request a sketch plan review with no action by the Planning Commission and omit by giving 14 days notice thereof to the Zoning Administrator, meeting time permitted.

2. Submissions for Conditional Use Permit. The applicant shall complete the Conditional Use Permit application approved by the City Council. The application shall contain submittal requirements, criteria for approval, procedure for consideration and City contact information. The City shall not accept applications where the applicant has past due fees or charges due to the City until the account is made current.

3. In permitting a new Conditional Use or alteration of an existing Conditional Use, the Planning Commission may impose, in addition to the standards and requirements expressly specified by this Ordinance, additional conditions that the Planning Commission considers necessary to protect the best interest of the surrounding area or the City as a whole. These conditions may include, but are not limited to the following:

- A. Increasing the required lot size or yard dimension.
- B. Limiting the height, size or location of buildings.
- C. Controlling the location and number of vehicle access points.
- D. Increasing the street width.
- E. Increasing or decreasing the number of required off-street parking spaces.

- F. Limiting the number, size, location or lighting of signs.
- G. Requiring berming, fencing screening, landscaping or other facilities to protect adjacent or nearby property.
- H. Designating sites for open space.
- I. Stormwater runoff management.
- J. Reducing impervious surfaces.
- K. Increasing setbacks.
- L. Restoration of wetlands, vegetative buffers, sewage treatment and water supply capabilities, and other conservation-designed actions.

4. The Planning and Zoning Commission shall decide the issue with consideration to the following:

- A. The following must be met:
 - (1) The use or development is an appropriate conditional use in the land use zone.
 - (2) The use or development, with conditions, conforms to the comprehensive land use plan.
 - (3) The use with conditions is compatible with the existing neighborhood.
 - (4) The use with conditions would not be injurious to the public health, safety, welfare, decency, order, comfort, convenience, appearance or prosperity of the City.
 - (5) For Conventional Subdivisions, the property contains physical constraints which make it unable to be developed by the Conservation Subdivision method.
- B. The following must be considered:
 - (1) The conditional use should not be injurious to the use and enjoyment of other property in the immediate vicinity for the purpose permitted on that property, nor substantially diminish or impair values in the immediate vicinity.
 - (2) The conditional use will not impede the normal and orderly

development and improvement of surrounding vacant property for uses predominant in the area.

- (3) The conditional requirements at public cost for public facilities and services and will not be detrimental to the economic welfare of the community.
- (4) The conditional use will have vehicular approaches to the property which are so designed as not to create traffic congestion or an indifference with traffic on surrounding public thoroughfares.
- (5) Adequate measures have been taken to provide sufficient off-street parking and loading space to serve the proposed use.
- (6) Adequate measures have been taken or will be taken to prevent or control offensive odor, fumes, dust, noise, and vibration, so none of these will constitute a nuisance and to control lights and signs in such a manner, that no disturbance to neighboring properties will result.
- (7) The conditional use will not result in the destruction, loss or damage of a natural, scenic or historical feature of major significance.
- (8) The conditional use will promote the prevention and control of pollution of the ground and surface waters including sedimentation and control of nutrients.

5. When costs to the City involved in processing and reviewing an application exceeds the original application fees, the applicant shall reimburse the City for any additional costs. Such expenses may include, but are not limited to, payroll, mailing costs, consultant fees and other professional services the City may need to retain in reviewing permits.

6. Conditional Use Permits may be transferable where requested by an applicant and approved by the Planning Commission.

7. Violations of the conditions of a Conditional Use Permit shall automatically suspend the permit. A review of the violation shall be conducted by the Planning Commission. The Planning Commission shall determine conditions for reinstating the permit or revocation, if applicable.

8. Failure by the owner to act on a Conditional Use Permit within 12 months, or failure to complete the work under a Conditional Use Permit within 2 years,

unless extended by the Planning Commission, shall void the permit. A second extension shall require a new public hearing. This provision shall apply to any Conditional Use Permit outstanding at the time of the Ordinance adoption.

9. Appeals from the action of the City shall be filed with District Court within 30 days after City Council action.

10. The Conditional Use Permit shall be filed with the County Recorder within 45 days of approval.

Staff Findings: Staff provides the following Findings of Fact for consideration by the Planning Commission:

1. The conditional use permit request is to allow office space in the Commercial zone.
2. The subject property is a conforming parcel. The property is vacant.
3. The property is served by municipal water and wastewater.
4. The applicant proposes 19 parking spaces.
5. The Landscape Plan meets the requirements of the Highway 371 Overlay Corridor and adds vegetative screening along the west and south lot lines.
6. The proposed “use” is considered “Commercial Use (Other, Not Classified)” and requires a conditional use permit.
7. To increase the impervious coverage to 50% requires a conditional use permit meeting the requirements of Section 17-5.10 (4A) of the City Code.
8. Signage will be applied for under separate Land Use Permit meeting Section 17-7.1 of the City Code.
9. The proposed use, with conditions, conforms to the Comprehensive Plan.
10. The adjacent property is zoned Commercial.
11. The proposed use is compatible with the existing neighborhood.
12. The proposed use, with conditions, will not be injurious to the public health, safety, welfare, decency, order, comfort, convenience, appearance or prosperity of the City.
13. The conditional use, with conditions, will not be injurious to the use and enjoyment of other property in the immediate vicinity of the subject property.
14. The subject property is accessed via State Highway 371 and Lilac Drive. There will not be a significant increase in traffic on either street due to the proposed use. The public cost for facilities and services for the proposed development will not be detrimental to the economic welfare of the community.
15. The proposed use will not generate any offensive odor, fumes, dust, noise or vibrations that will be a nuisance to neighboring properties.
16. The proposed use will not destroy any natural or scenic features. There are no known historical features of major significance on the subject property.
17. The proposed use, with conditions, will promote the prevention and control of ground and surface waters.

Planning Commission Direction: The Planning Commission can approve the Conditional Use Permit, deny the application, or table the request if additional information is needed. If the motion is for approval or denial, Findings of Fact should be cited.

Staff Recommendation: The subject property is suited well for the proposed use. The proposed use will take place within the structures on the property. We recommend the application be approved with the following conditions:

1. The trees and shrubbery included on the Landscape Plan shall be kept in a live state for perpetuity.
 2. The second floor loft areas shall be used for storage only; no office space shall be allowed.
 3. No existing trees shall be removed within 10' of the north property line.
 4. Signage shall be permitted by separate application.
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