
MEMORANDUM

DATE: November 9, 2016

TO: Planning Commission (November 14 meeting)

FROM: Dan Olson, City Planner

SUBJECT: Public Hearing: Application 2016-11 for a conditional use permit amendment for Drew Kabanuk for a fence at 5717 West Broadway (former Thriftway grocery store)

A. BACKGROUND

Drew Kabanuk is asking for approval for a nonconforming fence to remain on his property at 5717 West Broadway (the former Thriftway grocery store). The fence the applicant installed does not meet the requirements of the conditional use permit (CUP) approved by the City Council in 2015. That CUP approved an outdoor sales area for a proposed hardware store, with the condition that the fence screening the sales area be constructed of a certain height and materials. The property is zoned General Commercial (C-2). Notice of the November 14 public hearing was published in the Sun Post on November 3, and notices sent to property owners within 350 feet of the property (see Attachment B). To date no public comments have been received for this proposal.

Attachments:

- A. Site location map
- B. Map showing public hearing notification area
- C. Existing zoning map
- D. Applicant's project narrative
- E. Photos of existing nonconforming fence
- F. Photos of three Crystal properties with barbed wire

B. PROPOSED CONDITIONAL USE

Background Information: In 2015 the applicant received City Council approval of a CUP to allow an outdoor sales area for a proposed hardware store in the building. One of the conditions of approval was that this sales area "be screened by a 6-foot high fence constructed of staff-approved opaque material or a chain link fence with slats for screening". Before the CUP approval staff made several efforts to contact the applicant to ensure that he was in agreement with the conditions of approval. At that time the applicant did not indicate that he desired a fence different from what was to be required.

The applicant is requesting approval of the fence he installed on September 29, 2016. This fence is a 6' high chain link fence, with 8' tall posts and 1' of barbed wire. The applicant has indicated that the barbed wire was included in the fence design to provide security for the outdoor sales area. Staff first learned of the fence on the day it was installed when the fence contractor called city hall to see how tall the barbed wire could be. This fence contractor indicated that the applicant told him the fence had been approved by the city. Staff informed the applicant that the barbed wire was not an approved fence material according to the CUP. To address the nonconforming fence the applicant has presented two options for the fence:

- **Option A** - The applicant requests that the non-conforming fence be allowed to remain as it has been installed, with 8' tall posts, 6' high chain link and 1' of barbed wire above the chain link. The applicant is requesting a CUP amendment to allow an 8' tall fence and to include barbed wire as an acceptable material.
- **Option B** - If Option A is not approved, then the applicant requests approval for an 8' high fence with chain link and vinyl slats. This would be a CUP amendment to allow an 8' tall fence but not include barbed wire.

Conditional Use Approval Criteria: city code section 515.13, Subd. 7 provides approval criteria for fences. That section of the zoning code also allows fences to exceed 6' in height if approved by a CUP. The only approval criteria for such a CUP is that the fence not exceed 8' in height. In both options A and B, above, that criteria is met. However according to city code section 520.17, Subd. 2 "walls and fences must be architecturally harmonious with the principal building". Barbed wire fencing is not appropriate for a retail commercial and residential area such as the West Broadway/Bass Lake Road area that encompasses the applicant's property (see attachment C).

C. OTHER INFORMATION

The applicant has inquired why three properties in Crystal are allowed to have barbed wire as part of their existing property fencing. The circumstances of these fences are described below:

1. **5541 Lakeland Avenue North** (telecommunications tower near the intersection of Highway 81 and Bass Lake Road on property owned by the city) – In 1997 when the City Council approved the site plan for the tower, the property was under a commercial zoning classification that no longer exists. The fencing was installed according to the site plan approved by the City Council.
2. **5400 Douglas Drive North** (currently Minnesota Grinding offices) – The property is zoned Light Industrial (I-1). In 1969 the property owner at that time, Timesavers, Inc., received building permit approval to install fencing around the property, including barbed wire. A CUP was not required for this property. Also it is located in an industrial area of the city.

3. **5337 Lakeland Avenue North** (currently Standard Water Control). The property is zoned Light Industrial (I-1). In 1990 the property owner received building permit approval to install fencing on the property. A CUP was not required for this property. Also it is located in an industrial area of the city.

D. REQUESTED ACTION

The Planning Commission is being asked to make a recommendation to the City Council to either deny or approve the CUP amendment to allow Drew Kabanuk to install a fence at 5717 West Broadway. A recommendation made by the Planning Commission should include findings of fact either for or against the proposal. The Commission may reference the findings for approval in section B, above.

City staff recommends the applicant's option B for the fence, which is the approval of an 8' high fence without barbed wire. This option provides a taller fence so that the applicant can have security for his outdoor sales area, but also provides an aesthetically pleasing fence that is compatible with the surrounding retail and residential area. Staff recommends the following conditions be made part of this approval:

1. The existing barbed wire fencing shall be removed by December 16, 2016.
2. The fencing material shall be chain link with vinyl slats.
3. No part of the fence, including posts, shall be taller than 8' in height.

City Council action is anticipated on December 6, 2016.

C.U.P. Request for Fence

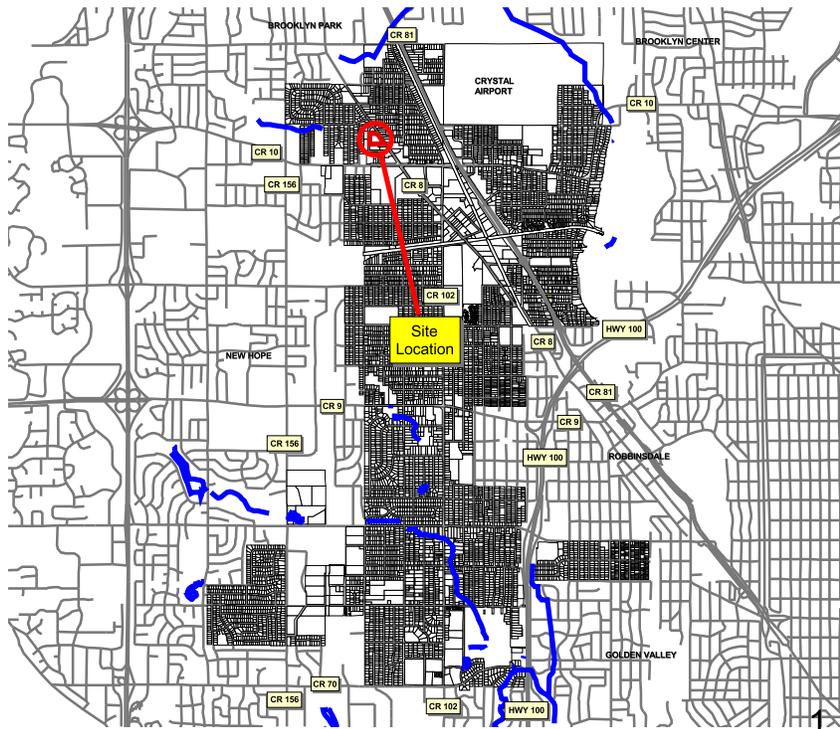
Attachment A



0 250 500 Feet

5717 West Broadway

Aerial Image Hennepin County 2015



City of Crystal
4141 Douglas Drive N.
Crystal, MN 55422



1 Mile

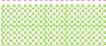
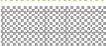
C.U.P Request for Fence, Area Zoning

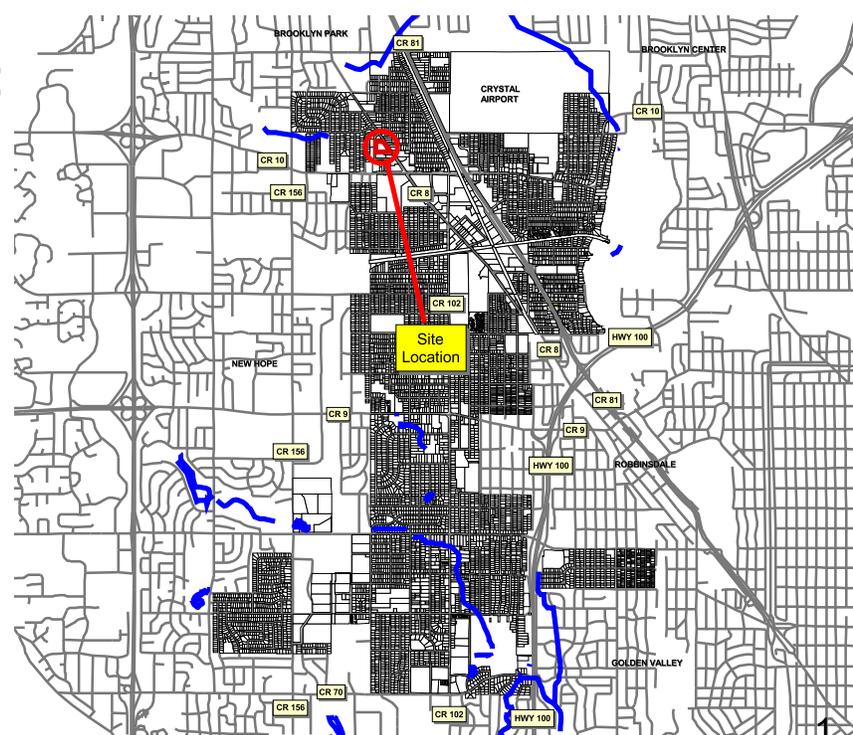


5717 West Broadway

Aerial Image Hennepin County 2015

Zoning Codes:

-  C-1
-  C-2
-  I-1
-  PUD
-  R-1
-  R-2
-  R-3



City of Crystal
4141 Douglas Drive N.
Crystal, MN 55422



10-18-16

5715/5717 West Broadway

This is a letter to request that
our fence we build with 6ft
and 1 foot of Barb wire be allowed.

Thank You

Drew Kuben





5541 Lakeland Ave N.



5541 Lakeland Ave N

04/04/2015

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NORTHSTAR FENCE
421-6150

5400 Douglas Drive





5337 Lakeland Ave N



03/20/2015 - 05/04/2015

