

**MINUTES
PLANNING COMMISSION MEETING
CITY OF WHITE BEAR LAKE
JUNE 29, 2020**

The regular monthly meeting of the White Bear Lake Planning Commission was called to order on Monday, June 29, 2020, beginning at 7:00 p.m. via WebEx, pursuant to a statement issued by the Mayor under Minnesota Statutes, section 13D.021 as a result of the COVID-19 pandemic, by Chair Ken Baltzer.

1. CALL TO ORDER/ROLL CALL:

MEMBERS PRESENT: Ken Baltzer, Jim Berry, Pamela Enz, Mark Lynch, and Peter Reis.

MEMBERS EXCUSED: Erich Reinhardt.

MEMBERS UNEXCUSED: None.

STAFF PRESENT: Anne Kane, Community Development Director, Samantha Crosby, Planning & Zoning Coordinator and Ashton Miller, Planning Technician.

OTHERS PRESENT: Paula Frost, Susan Husnik, Dan Roeser, Jim Engh, Sean Wagner, Suzi Hudson, Judith Benham, Betsy Larey, Todd Heckmann, Trent Anderson, Tim Kuhnmuensch, Jim Kalkes, Tim Wald, Raj Dhital, Kimberly Ford, and Loni Strassman.

2. APPROVAL OF THE JUNE 29, 2020 AGENDA:

Member Lynch moved for approval of the agenda. Member Reis seconded the motion, and the agenda was approved (5-0).

3. APPROVAL OF THE MAY 18, 2020 PLANNING COMMISSION MEETING MINUTES:

Member Berry moved for approval of the minutes. Member Reis seconded the motion, and the minutes were approved (5-0).

4. CASE ITEMS:

A. **Case No. 20-2-SHOP:** A request by **Paula Frost** for a Special Home Occupation, per Code Section 1202.120, in order to operate a massage therapy business out of a single-family residence located at 1904 4th Street.

Crosby discussed the case. Staff recommended approval.

Member Baltzer opened the public hearing.

Paula Frost, 1904 4th Street, applicant, in response to a question from Member Berry about the barking dogs, stated she was unaware they were barking when she was not home. They now have bark collars.

Member Reis asked whether Ms. Frost had a license to practice massage therapy. She explained that one is not needed when working in a doctor's office in Coon Rapids and she has applied for one in White Bear Lake. She believed it to be an annual license.

As no other attendees wished to speak, Member Baltzer closed the public hearing.

Member Reis moved to recommend approval of Case No. 20-2-SHOP. Member Lynch seconded the motion. The motion passed by a vote of 5-0.

- B. **Case No. 20-10-V:** A request by **Husnik Homes on behalf of Dave and Jane Linden** for a 5 foot variance from the 25 foot setback required along a side abutting a public right-of-way, per Code Section 1303.060, Subd.5.c.2, in order to construct a new single-family residence at the property located at 4796 Bald Eagle Avenue.

Crosby discussed the case. Staff recommended approval.

Member Baltzer opened the public hearing.

As no attendees wished to speak, Member Baltzer closed the public hearing.

Member Enz moved to recommend approval of Case No. 20-10-V. Member Berry seconded the motion. The motion passed by a vote of 5-0.

- C. **Case No. 20-5-CUP:** A request by the **Independent School District #624** for a Conditional Use Permit, per Code Section 1303.245, for a gymnasium addition to the South Campus of White Bear Lake High School located at 3551 McKnight Road.

Kane discussed the case. Staff recommended approval.

Member Reis commented that the funding for this project was included in the referendum that was passed by the people last year, so the Planning Commissioners are only voting on the zoning component of the request.

Member Baltzer opened the public hearing.

As no attendees wished to speak, Member Baltzer closed the public hearing.

Member Reis moved to recommend approval of Case No. 20-5-CUP. Member Berry seconded the motion. The motion passed by a vote of 5-0.

- D. **Case No. 20-1-PUD:** A request by the **White Bear Center for the Arts** for both General Concept Stage and Development Stage approval of a Planned Unit Development, per Code Section 1301.070, in order to expand the existing community center and associated parking lot for the property located at 4971 Long Avenue.

Crosby discussed the case. Staff recommended approval, noting the first sentence of condition #6 should be deleted.

Member Enz asked about the condition requiring 20 foot light poles when those at Lakeshore Players are only 16 feet tall. Crosby replied that the existing poles at the Arts Center are 25 feet in height, so this is a transition between the two.

Member Baltzer opened the public hearing.

Sean Wagner, Architect, stated that after receiving the staff report and recommendations, the facilities committee and members of the Board, including the Chairman of the Board, met to discuss the staff recommendations. Several issues were raised that the applicants would like the Planning Commission to consider.

The first issue pertains to condition number five, which reads:

The applicant agrees to work with the City to identify opportunities to restore the four lost residential units on the property. If an opportunity to restore residential units on the property is identified that the applicant determines is reasonable and does not interfere with its facility, it agrees to participate in implementing the option.

This was not an issue that was agreed to or discussed with the applicant or the Board, and the Board has given direction that the applicant does not consent to condition number five and would request that condition be stricken from the resolution. There are three other issues he would like the Commissioners to consider, but would pause for discussion.

Member Baltzer agreed it would be best to take the issues one at a time. He asked Crosby to respond.

Crosby explained that there is room on the property that could potentially accommodate artists' lofts in the future, which is something she has discussed with the Executive Director, Suzi Hudson over the years. The City does not support the loss of affordable housing and would like to replace it if possible. She wrote the condition as loosely as possible and does not actually require the applicants to do anything. The intent of the condition was to keep communication open should a developer be interested in such a project in the future.

Mr. Wagner replied that he did discuss this with Ms. Crosby on Friday to better understand the intent of the condition. As you can appreciate, there are more than a few attorneys involved with the Board of Directors. The nature of the language might imply or suggest a financial participation or construction of something on the site, which is not something either the donors who purchased the property, or future Board Members, is in a position to make such an obligation. If City staff would like to engage in a different direction or be more specific in the language, we can do that as members of the community instead of a condition of approval of the PUD.

Member Lynch noted that he would like to see the condition remain vague because no one knows what kind of opportunities will arise in the future. The condition is more along the lines of a good faith measure that the City and the Arts Center may be able to work together in the future to develop artists' lofts or other improvements. It allows for flexibility and open dialogue to pursue opportunities that may arise.

Member Reis agreed that the language of the condition is pretty general and does not necessarily require anything of White Bear Center for the Arts.

Suzi Hudson, Executive Director, White Bear Center for the Arts, acknowledged that this is certainly a conversation she and Sam have had over the planning counter for many years about how we envision the development of the Arts District as a regional destination. There will be opportunities down the road to attracting artists to live in the neighborhood, to develop perhaps artists' lofts. There are several funding opportunities that can support these kind of initiatives, however my intent, and apologies to Sam, if our daydreaming eluded to a commitment on this particular property. As we have developed the site with the intent for it to be a programmatic site and outdoor programming, as well as just the impact of the expansion, ensuring that we leave enough green space, ensuring we don't have any further environmental impact. Clearly, we have to accommodate parking for the expansion. But, the whole philosophical approach of the arts center has always been to bring the outdoors in and the indoors out, and that relationship to nature is an inspiration and is behind this entire project. To make any sort of commitment to utilize this particular property for the replacement for further residential use is beyond any commitment that we can make for this project and certainly wouldn't want to have any vague language that could perhaps 10 to 20 years down the road be a catch or be interpreted as a commitment to restore residential use on that property. She expressed that she is completely open and believes the art center in the spirit of working with the City has always been available for envisioning how to enhance WBL as a creative community, how to attract more creatives and creative businesses to the community and believes the development of the arts district will do that. She stated that she does not see housing being an area that the Arts Center would ever commit to, as a nonprofit arts school, that would then potentially become a landlord to any kind of housing. We simply could not have that condition be open to interpretation well beyond any of our understanding of it.

Member Reis replied that he understands Ms. Hudson's response and the sensitivity to the concept of a commitment, but acknowledged that many people are interested in the possibility of artists' lofts if it works out. He suggested keeping just the first sentence, which does not commit the Arts Center beyond working with the City to identify opportunities.

Ms. Hudson responded that she would not at all be comfortable with it being as specific as restoring the four residential units on the property. Member Reis then suggested a rephrasing to be less specific, something along the lines of "agrees to work with the city to identify opportunities for future artist loft residential units".

Ms. Hudson stated that she understands the desire for this, but she would remain uncomfortable with the conditions for this particular project tying us to future action. She believes the actions of the Arts Center in investing this kind of a resource to this community makes it absolutely clear that we intend to continue to be a great partner, as the City has with us, in continuing to develop opportunities for artists, artistic businesses to come to this area. If that means working with housing, she can certainly make that commitment, speaking as the Executive Director. She would love nothing more than to continue to work with the White Bear Lake Economic Development Board. She looks forward to working with the City on identifying those opportunities. However, she doesn't feel like it's appropriate for that kind of future conversation be a condition on a PUD permit. With the implication of this tied to the loss of those residential properties, we request this condition be stricken. She couldn't approve it without the Board weighing in on this.

Member Reis advised that the Arts Center should ensure the revenues from the proposed gift shop do not compromise the organization's 501(c)(3) nonprofit status. Ms. Hudson assured that the organization is aware of the percentage of income that can be generated from the venture, and

that the gift shop would not be dramatically increased from what currently exists and is used to support and sell artists' work.

Member Baltzer asked if City approval would be needed if artists' lofts were proposed in the future, and if so, wondered if condition 5 could be deleted, since the conversation could occur when a proposal is received. Crosby confirmed it would need an amendment to the PUD, but expressed the desire to keep language surrounding the replacement of the lost residential units.

Crosby recommended rephrasing the condition to delete the words tying the condition to this specific property, allowing the residential units to be replaced anywhere.

Mr. Wagner responded that his discussions with the Board have been clear. If condition number five is on there, it is a non-starter for this project. The Board will not pursue it. The donors who donated the property who are the funders of the project will not pursue it and the project is dead.

Member Lynch asked if the condition could simply state that the applicant is encouraged to work with the City in the future. He is not necessarily looking for a requirement, but something that creates a partnership to continue the dialogue on future housing opportunities.

Suzi Hudson stated that as Executive Director of White Bear Center for the Arts, she is held to the mission and committed to upholding the mission, which is to enrich lives by celebrating art, to nourish imagination by inspiring creativity, and to build understanding by connecting to people. To agree to work in ways beyond that which are vague in terms of committing the Arts Center to resolving residential units is beyond the mission that she can commit to for this organization. This does not mean it goes beyond the spirit of what we are trying to create in this community. Replacing residential units is not the mission work of White Bear Center for the Arts. It is the work of the City and we are glad to be a partner in that. But, for a planned unit development addition, it feels like an overreach beyond our project, and as Sean said, this does become a nonstarter for the Board. She hopes that our years of working with the City would provide enough confidence in our partnership that the Commission wouldn't feel it has to be written in a planned unit development as a condition.

Member Berry commented that from his experience as a former board member for Lakeshore Players and working with the donors, some of which are shared with White Bear Center for the Arts, there is a joint feeling in wanting to look at the entire block that the City has guided as the Arts District to keep it a comprehensive district. He believes that keeping condition number five hampers both organizations in developing the programs that are needed to function as a whole. The expansion of these organizations increase the popularity and participation in the programs, which enhances the Arts District. He thinks there is opportunity for the development of artists' lofts in the area without including a condition that requires the organization to become a residential developer. He stated that he is against condition number five.

Member Baltzer agreed with Member Berry.

Judith Benham, Board of Directors Treasurer, White Bear Center for the Arts, she noted that Sean and Suzi have represented the Board's concerns well. They are wary to have any sort of anticipatory commitments to a different type of development on the site, specifically to the primary place and number of residential properties that were purchased for the expansion.

Sean Wagner continued, stating that the Arts Center has engaged with both Vadnais Lake Area Water Management Organization (VLAWMO) and Rice Creek Watershed District (RCWD) in a meeting for consolidation of joinder of the boundaries that separate the watersheds. An agreement has been made between the watershed districts and the White Bear Center for the Arts and it is currently being negotiated, but the applicants are aware that the issue does need to be resolved. They appreciate the City staff's support in that process.

Mr. Wagner then stated that the Board would like to see condition number nine be revised to read, "The City and the applicant shall monitor the parking situation. Should problems arise from too much on-street parking, the applicant is willing to meet and confer with the City on the issue." The dependence of the Arts Center on making decisions on how to address those concerns should be left up to the Director and the Board as they determine whether they would wish to monitor hours, change programs or take a particular match up to see how it may impact the parking situation. We are providing parking in excess of what the number of required was for the property. The collaborative nature of the Arts District and the ongoing conversation with the performing arts center, and how to think of things more holistically is something that is ongoing, so he requests the condition be revised.

Crosby stated that staff would not be agreeable to proposed revision, but there is a potential compromise to be made. The City does not want to lose the phrase, "take measures as necessary to correct the situation," which is a key component of the condition. Meeting and conferring about it is not enough. If there is a problem, the City wants to see a solution. She explained that with the expansion, the ratio of parking stalls to gross square feet of the building increases from 1 stall for every 180 square feet to 1 stall for every 244 square feet. Since the Arts Center has expressed the need for additional parking with the existing ratio, staff is concerned that, although it meets code, the code requirement may be problematically deficient. The same condition has been included in similar requests in the past, so this is not an unusual condition.

Member Baltzer asked Mr. Wagner if he would be agreeable to working with staff to rephrase the condition. Mr. Wagner acknowledged he would, stating that Crosby's suggestion is acceptable in regards to adding wording to allow the applicant to determine the solution.

Mr. Wagner presented the final issue, which pertained to the fence on the south side of the property. He asked the condition 15b be omitted because the adjacent property is owned by Lakeshore Players and is no longer residential in nature.

Crosby replied that the parcel is still zoned residential and could continue to be used as such, regardless of being owned by Lakeshore Players. She clarified that she was only referring to the six foot portion of the fence, not the existing four foot fence along the south side of 4971 Long Avenue.

As no other attendees wished to speak, Member Baltzer closed the public hearing.

Member Enz commented that she agreed with Ms. Hudson that condition five muddies the organization's mission, so she would like to see it removed, with the understanding that the Arts Center has been a good neighbor, and would be willing to have a reasonable conversation with the City if development opportunities arose in the future.

Member Lynch suggested that he would be comfortable taking condition number five out if the Commissioners could direct City staff to take the lead on continued conversations about affordable housing around the Arts District with not only White Bear Center for the Arts, but also Lakeshore Players and other key stakeholders. The condition would not be tied to any specific case or resolution, but would allow for ongoing discussions.

Member Reis moved to recommend approval of Case No. 20-1-PUD with the omission of condition number five and that condition number nine be reworded by City staff, while expressing his dismay that the applicants would present the request as an ultimatum. He knows and respects many on the Board, but did not appreciate being told either condition five is removed or the applicants walk. He agreed with Member Lynch and hopes this does not preclude ongoing discussion between the Arts Center and the City on opportunities for artists' lofts in the future, despite it not being a part of their mission statement, in the spirit of cooperation with the community in which they reside.

Member Berry seconded the motion.

Member Baltzer noted that he agreed with Member Reis. He did not appreciate the applicants threatening the Planning Commission. Member Berry disagreed with the statement.

The motion passed by a vote of 5-0.

- E. **Case No. 94-6-Sa & 20-9-V:** A request by **Birch Lake Animal Hospital** for an amendment to a Conditional Use Permit, per Code Section 1303.225, Subd.6.a, for site plan approval in the Diversified Business Development District, and a variance from the 30% impervious surface maximum to allow 38% impervious, per Code Section 1303.230, Subd.5.a.5, in order to expand the parking lot by six stalls for the property located at 4830 White Bear Parkway.

Crosby discussed the case. Staff recommended approval.

Member Baltzer opened the public hearing.

Betsy Larey, former owner of 1298 Birch Lake Blvd N, she was granted approval to split the lot in two. She explained that due to all the development and addition of asphalt along Birch Lake Blvd, drainage has become a huge issue. There was no drainage plan in place, especially in conjunction with the counseling center that the City owns. Ms. Larey spent a lot of time and money proving that 1298 Birch Lake Blvd was never wet before the development of the area. The expansion of the parking lot at the animal hospital will add to the drainage issues. The runoff will not go to the rain garden. It will end up on the property of the neighbor to the east.

She believes that the only solution is for the City to correct its own drainage problems, since the runoff from that site does not end up in the drainage pond. She is opposed to the proposed use of a raingarden at the animal hospital and believes the only solution is to pipe it to the Lifetime pond. She proposed the case be postponed until she can provide the Commissioners with her findings.

Todd Heckmann, 1290 Birch Lake Blvd N, commented that he had spoken to the Building Official about removing the drainage pipe that encroaches on his property. He is concerned because that is where all the water is running on to his property and wants to know what the City will do with the increase in runoff the parking lot expansion will create.

Trent Anderson, 1298 Birch Lake Blvd N, he confirmed that the drainage pipe is directed at 1290 Birch Lake, which causes the runoff to flow into his own back yard before draining to the Lifetime pond. It gets worse when the snow melts, and there is a small river that would not exist without the pipe. He agrees the drainage issues in the area are worth looking into.

Member Berry asked if the City could do anything in terms of addressing the drainage issue. Crosby responded that the former City Engineer had concluded that it was a civil issue. However, the new City Engineer and the Water Resources Engineer may be able to generate new solutions in dealing with the runoff.

Member Baltzer wondered if the Commissioners should wait for more information before making a decision on the case. Crosby responded that she believes the animal hospital's request should not be held up for something the City is willing to look into and attempt to alleviate. She suggested that condition of some sort could be added if the Commissioners wished to move the case forward.

Member Lynch commented that he did not want to penalize the animal hospital for something that may not be a major culprit of the surrounding drainage issues. However, if adding those parking stalls will negatively affect the drainage, he is open to holding the case back.

Betsy Larey replied that the animal hospital does contribute to the drainage problems, because it drains to the same location as the counseling center and adding more asphalt will increase the runoff.

Tim Kuhnmuensch, Birch Lake Animal Hospital, noted that they are doubling the capacity of the of the rain infiltration to allow for additional overflow. Right now, they are not stopping any of the overflow, so the raingarden is already a solution. Compared to the other developments in the area, the hospital, its parking lot and the proposed addition is smaller in surface area than several of the neighboring properties. There is a problem with drainage, but he does not think it is coming from his property, and if it is, they are accounting for that with their rain garden design.

As no other attendees wished to speak, Member Baltzer closed the public hearing.

Crosby clarified that while the animal hospital is doubling capacity of the rain garden, it is not meeting the full engineering design standards for a commercial property, mainly because it is not triggering the design standards. They are meeting infiltration standards, but not rate control standards.

Member Lynch commented that he thinks the applicant is addressing the needs for their site, and that there is a drainage issue in the area, but he would like the City to look into that aspect. Member Lynch moved to recommend approval of Case No. 94-6-Sa & 20-9-V. There was no second.

Member Reis moved to recommend tabling Case No. 94-6-Sa & 20-9-V for one month in order to obtain more information on the drainage issues. Member Berry seconded the motion. The motion passed by a vote of 5-0.

5. DISCUSSION ITEMS:

A. City Council Meeting Minutes of June 23, 2020.

No discussion

B. Park Advisory Commission Meeting Minutes of April 16, 2020.

Member Berry asked about the progress on the pavilion expansion at West Park. Ms. Kane replied that she did not know the status, but could find out and share with the Commissioners.

6. **ADJOURNMENT:**

Member Berry moved to adjourn, seconded by Member Lynch. The motion passed unanimously (5-0), and the June 29, 2020 Planning Commission meeting was adjourned at 9:03 p.m.