

**MINUTES  
PLANNING COMMISSION MEETING  
CITY OF WHITE BEAR LAKE  
APRIL 26, 2021**

The regular monthly meeting of the White Bear Lake Planning Commission was called to order on Monday, April 26, 2021, 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: Michael Amundsen, Ken Baltzer, Jim Berry (7:11 PM), Pamela Enz (7:09 PM), Mark Lynch, Erich Reinhardt, and Peter Reis.

MEMBERS EXCUSED: None.

MEMBERS UNEXCUSED: None.

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

OTHERS PRESENT: Jim Mackey, Christian & Gretchen Peterson, Dale Grambush, Patty Flanagan, James Mattson, Leisa Arndt, and Matthew Hare.

**2. APPROVAL OF THE APRIL 26, 2021 AGENDA:**

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

**3. APPROVAL OF THE MARCH 29, 2021 PLANNING COMMISSION MEETING MINUTES:**

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

**4. CASE ITEMS:**

A. **Case No. 21-5-CUP:** A request by the **3881 Property Group** for a Conditional Use Permit, per Code Section 1303.030, Subd.4.e, in order to convert an existing two-story building into a 24 bed nursing home in the R-3 zoning district at the property located at 3881 Highland Avenue.

Crosby discussed the case. Staff recommended approval.

Member Amundsen requested more information regarding the parking lease agreement as a condition of the Conditional Use Permit. Crosby explained that the parking lot has been leased for decades, so staff does not anticipate parking to be problematic. There is a stipulation that if the agreement is terminated, alternative parking must be secured or the Conditional Use Permit will lapse. Communication between the City and the applicants will need to start a few months in advance if either party anticipates terminating the lease.

Member Baltzer opened the public hearing. As no one spoke to the matter, Member Baltzer closed the public hearing.

Member Reis moved to recommend approval of Case No. 21-5-CUP. Member Lynch seconded the motion. The motion passed by a vote of 7-0.

- B. **Case No. 21-7-V:** A request by **Bree LLC** for a variance, per 1303.160, Subd.3.d., to increase the amount of ground floor office/professional use to 64.7% gross square feet and 51.5 linear feet of frontage, an increase over the existing 40.7% gross square feet and 15.2% of frontage, when limited to not more than 30% of each per code, in order to allow a real estate office at the property located at 4701 Banning Avenue.

Crosby discussed the case. Staff recommended denial of the request.

Member Reis asked about the history of the 30% limitation, why it was implemented, and which community stakeholders were part of that decision. He added that the McComb study cited in the staff report is already eight years old. Retail has changed in recent years, shopping malls and department stores are disappearing, and online sales are increasing. He wondered if there has been discussion of a new study.

Kane explained that the 30% limitation was adopted in 2003, during a time when some professional uses were taking over prime street frontage or foot-traffic generating locations. It was during a time of high vacancy and the resulting regulation was a collaboration between building owners, Main Street and the City.

Kane continued that it may be timely to examine the downtown businesses as we come out of the Covid-19 pandemic to find what is the appropriate balance of service and retail. A fresh look may help to ensure the vitality of downtown White Bear Lake.

Member Lynch commented that in terms of retail, what is happening now during the pandemic may be completely different from what will happen in the future. He cautioned against big changes to the downtown district until we have a better idea of post-Covid-19 trends.

Member Enz stated that she is familiar with the building and thinks that having a tenant is better than leaving the space empty. She was unsure that the area has much foot traffic since it is at the edge of downtown and does not look like part of the retail core.

Member Baltzer opened the public hearing.

Christian Peterson, applicant, stated that he and his wife, Gretchen, acquired the property as an investment in 2018 and love the White Bear Lake area. He had several points from staff's presentation that he wanted to address, the first being that they did not look for other tenants. They initially had a number of tenants express interest in the space; however, they believed the real estate business was a permitted use and was a good contribution to downtown.

Mr. Peterson continued that the Pilates studio will continue to operate out of the building, so the foot traffic should not change. He explained that the Pilates studio was struggling due to the pandemic, so an agreement was made to end the lease in this space 17 months early, something they were not required to do. When looking for a new tenant, they believed that home improvement, show rooms and studios were permitted. They did not think real estate would be

problematic and were not trying to hide anything. They sent the tenants to the City for a sign permit, which is when they were told there was a conflict with the code.

Mr. Peterson's second point was that the Covid-19 pandemic is an exceptional time and they made an exceptional change to the business and operations in order to mitigate the challenges faced by an existing tenant. He disagreed with staff's finding that a true practical difficulty has not been demonstrated. The pandemic has been a physical issue and has resulted in an enormous amount of physical translocation of businesses, people and activities. Mr. Peterson stated that the new tenant is a good fit for the space. The modern realtor office is a very collaborative environment that will bring in lots of people through seminars and other home buying groups.

The third point Mr. Peterson spoke to was in regards to the unique times of the pandemic. He agreed with Member Lynch that long-term decisions should not be made based on current conditions, so he asked that a temporary variance for 24 months be considered to allow the realtor office to stay. He does not think it is fair to create a hardship for the new tenants.

Dale Grambush, 2202 5<sup>th</sup> Street, stated that he owns a building in downtown and has been a member of the Main Street Downtown business group for many years. He expressed opposition to the variance request and urged the Commissioners to make a decision based on the information available to them now, not what may be true in the future. He has heard from many businesses over the years that every square foot of retail is important to retain. Maintaining retail is what generates foot traffic, which is what makes downtown attractive. He is not opposed to office space, but believes the 30% limit has been beneficial to Downtown White Bear Lake.

Member Baltzer closed the public hearing.

Member Lynch asked if a temporary variance for two years would be possible. Kane replied that it is possible, but would not necessarily be a variance. Other communities allow for interim use permits, which may be a practical solution in this instance. It would not be widely available in the downtown area because a change in use from retail to office space triggers fire sprinkler requirements in the building code. The realtor business looked at several other buildings where owners wanted to move from retail to office, but did not have the required fire sprinklers. This building does have sprinklers, so offers some flexibility.

She explained that if the Commissioners thought temporary approval was appropriate, staff would work with Council on establishing an interim use permit that could be revisited in 24 months.

Member Lynch expressed two concerns with an interim use permit. First, he stated that he does not know the terms of the lease agreement, but it may be harder for the realtor to leave in two years than now, and either way, the tenant will need to leave the space in two years period. Second, he is concerned with how often the temporary approval would be used, not just in downtown, but anywhere that there had been some error. He is not opposed to granting it once, but is opposed to the potential increasing frequency of temporary requests.

Member Baltzer agreed with Member Lynch, but noted that each case would be considered on its own merits.

Christian Peterson, applicant, informed the Commissioners that the current lease is for longer than two years. They would work to be as flexible as possible to avoid putting hardships on the business.

Member Reis agreed with the comments made by Mr. Grambush about the importance of maintaining retail as a way to keep the downtown viable. He added that although there was some debate on whether the use was considered personal use, real estate offices are specifically mentioned in the code as professional offices.

Member Berry also agreed with Mr. Grambush. He believes that granting temporary uses would not be fair to the building owners in downtown that have been following the ordinance since it was put in place. He agrees with staff's recommendation that a variance for the current 40% gross floor area be granted, but not the full request.

Member Enz expressed appreciation for Mr. Grambush's comments, noting it was an important perspective to hear.

Member Reis moved to recommend denial of the variance as requested, but approval of a variance for the current 40.7% nonconforming ground floor office/professional use gross floor area as recommended by staff in Case No. 21-7-V. Member Amundsen seconded the motion.

Crosby explained that by approving the variance for the existing nonconformity, the owners will be able to replace office with office whenever the existing tenant (CHE Enterprises) leaves without going through this process. The existing nonconformity will be legalized.

Member Amundsen sought clarification on how the nonconforming 40% ground floor office gross floor area came to be if not through a previous variance. Crosby explained that years ago, many internal remodel projects were not routed to the Planning Department. This project came through quite some time ago, and planning staff was unaware.

Member Lynch responded that based on that history, he would be supportive of the lesser variance because it has a small frontage and is in the back, so is perfect for some office space.

The motion passed by a vote of 7-0.

- C. **Case No. 21-8-V:** A request by **Patty Flanagan** for a six foot variance from the 20 foot side yard setback, and a six foot variance from the six foot front footing setback, both for an above-ground pool, both per Code Section 1302.030, Subd.20.b.2.a.1, in order to install a 112 square foot (1,727 gallon) swim spa 14 feet from the south property line at the property 3562 Highland Avenue.

Crosby discussed the case. Staff recommended approval subject to the conditions listed in the report.

Member Baltzer opened the public hearing.

Patty Flanagan, 3562 Highland Ave, applicant, expressed appreciation for the City's help throughout the application process.

Member Baltzer closed the public hearing.

Member Lynch moved to recommend approval of Case No. 21-8-V. Member Enz seconded the motion. The motion passed by a vote of 7-0.

- D. **Case No. 21-9-V:** A request by **James Mattson** for a 1.5 foot variance from the six foot height limit, per Code Section 1302.030, Subd.6.h.3, and a 2.75 foot variance from the 4 foot height limit in the front yard, per Code Section 1302.030, Subd.6.h.4, in order to construct a fence on the south side of the lot at the property located at 3444 White Bear Avenue.

Miller discussed the case. Staff recommended approval of the request.

Member Lynch asked if the fence would interfere with the flow of water. Miller replied that generally, fences do not affect the flow of water, and in this case, the water flows from the roads to the swale.

Member Baltzer opened the public hearing.

James Mattson, 3444 White Bear Avenue, applicant, explained that based on the contour of the land, the taller fence is needed and would be more aesthetically pleasing if it remained level along the top.

Member Baltzer closed the public hearing.

Member Enz moved to recommend approval of Case No. 21-9-V. Member Berry seconded the motion. The motion passed by a vote of 7-0.

- E. **Case No. 21-1-LS:** A request by **Matthew & Andrea Hare and Jacqueline Mager** for a recombination subdivision, per Code Section 1407.040, to convey 16,000 square feet of land to 1996 Elm Street from 3465 White Bear Avenue.

Miller discussed the case. Staff recommended approval of the request.

Member Lynch noted that it makes him happy when neighbors work together.

Member Amundsen expressed excitement at seeing the master plan for his neighborhood.

Member Lynch moved to recommend approval of Case No. 21-1-LS. Member Enz seconded the motion. The motion passed by a vote of 7-0.

## 5. **DISCUSSION ITEMS:**

- A. City Council Meeting Summary of April 13, 2021.

Member Lynch asked about the discussion on when in person meetings will be held again. Kane responded that the City Council is starting to have hybrid meetings, which will provide flexibility while more people become vaccinated. She was unsure of an exact date when the Planning Commission would be able to meet at City Hall, but was hopeful for the next few months.

Member Enz asked if masks will be required. Kane stated that she was unsure, but that CDC guidelines would be followed.

**B.** Park Advisory Commission Meeting Minutes of January 21, 2021.

Member Enz commended the replacement of trees at Railroad Park.

**6. ADJOURNMENT:**

Member Berry moved to adjourn, seconded by Member Enz. The motion passed unanimously (7-0), and the April 26, 2021 Planning Commission meeting was adjourned at 8:11 p.m.