



**MINUTES
PLANNING COMMISSION MEETING
OF THE CITY OF WHITE BEAR LAKE, MINNESOTA
MONDAY, MARCH 28, 2022
7:00 P.M. IN THE COUNCIL CHAMBERS**

1. CALL TO ORDER AND ATTENDANCE

Chair Jim Berry called the meeting to order at 7:00 p.m.

MEMBERS PRESENT: Mike Amundsen, Ken Baltzer, Jim Berry, Pamela Enz, Mark Lynch, Erich Reinhardt and Andrea West

MEMBERS ABSENT: None

STAFF PRESENT: Samantha Crosby, Planning & Zoning Coordinator and Ashton Miller, Planning Technician.

OTHERS PRESENT: Amy & Conner McCall, James Sanchez, Dagmara Larsen, Lynn & Jim Dierking, Daniel Winden, Oliver Din, Karin Doyle & Paul Rhode.

2. APPROVAL OF AGENDA

It was moved by Member **Lynch** seconded by Member **Baltzer**, to approve the agenda as presented.

Motion carried, 7:0

3. APPROVAL OF THE MINUTES

A. Minutes of February 28, 2022

It was moved by Member **Enz** seconded by Member **Baltzer**, to approve the minutes of the January 31, 2022 meeting as presented.

Motion carried, 7:0.

4. CASE ITEMS

A. Case No. 22-2-P: A request by **Jeff McDonnell / Tice Estate** for a Preliminary Plat, per Code Section 1402.020, to subdivide one parcel into five lots in order to construct two twin homes and two single-family residences at the property located at 1788 Highway 96 E.

Crosby discussed the case. Staff recommended approval of the request as proposed with a number of conditions.

In response to a question from Member Lynch, Crosby confirmed that the request is to divide the single lot into five and that no variances are required. Member Lynch asked if

the lots with the proposed twin homes could also be used for single family and whether the park cut through would be paved. Crosby replied that single family homes could be constructed on any of the lots and that the path would not be paved; there would just be a curb cut.

Member Lynch then asked if the path could be paved in the future if it becomes heavily used. Crosby reported there will be an easement covering the area, so working within the parameters of how that easement is described, future City Councils could choose to pave it.

Member Enz sought to confirm that the access easement was included in the current proposal. Crosby stated it is a condition of approval. An existing drainage and utility easement will become a drainage, utility, and access easement.

Member Amundsen commented that the applicants have listened to the neighbors and reduced the number of units proposed and eliminated the need for variances.

Member Berry opened the public hearing.

Paul Rhode, 1823 Park Avenue, stated that there will be lots of issues with park visitors using the cul-de-sac for parking. He asked if no parking signs will be put on one side of the road, since emergency vehicles already have difficulty fitting down the street. He questioned how the City will access the storm sewers with the holding ponds above. He noted the importance of testing the soil before development because there used to be a dump in the area.

Member Berry stated that residents in the neighborhood could request no parking signs if they wanted.

Jeff McDonnell, Tice-Hause Design Build, applicant. He stated that the proposal meets code and the engineering has been defined. The Engineering Department has had the chance to look at the proposal and has not raised concern over the location of the holding ponds. He expressed concern regarding the access easement because people will be walking through private property. It is not defined in any way, so people may walk outside the easement area.

Member Lynch noted that access easements exist in other places throughout the City. He asked the applicant if it would be better if the trail was paved. Mr. McDonnell responded that if they are going to allow the access, it should be done right, whether that is paving or fencing off the trail. He opposes an undefined access across private property.

Member Berry confirmed that the applicant wants to restrict the area used for access from encroaching too far into the private property. Mr. McDonnell stated that the

access is not required by code, but if the City is going to make it a condition of approval, it should be done properly. As proposed, the access reduces property value and negatively affects the owners of the private property.

Mr. McDonnell requested that the black locust on the property not count towards the tree preservation requirements. He explained that the State of Minnesota classifies it as a noxious tree. The large number of black locust on the property dramatically skews the replacement plan. Since they are not allowed to plant the species back, he does not think it should be counted in the replacement plan.

Member Enz sought to confirm that the applicant is requesting the condition regarding black locust be removed. Mr. McDonnell replied that the trees are spreading rapidly, which creates an unfair burden on the developers. Overall, he is ok with increasing the amount of trees planted or park dedication, but it should be taken into account that these trees are defined by the State of Minnesota as noxious and should be removed.

Member West asked if the applicant knew the number of black locust on the property and if there are a lot of other types of trees on the lot as well. Mr. McDonnell did not have the numbers off the top of his head, but directed the Commissioners to look in their packets. He has no issue with the rest of the tree replacement plan.

Member Enz reported that it looked like about 25 black locust were shown on the plans. She asked what a solution would look like to the applicant. Mr. McDonnell replied they are looking for a negotiated number that alleviates the burden.

Member Lynch asked if this is something that can be negotiated between staff and the applicant. Crosby stated that when the Zoning Code is updated, noxious species will not count towards the preservation. She added that the tree preservation calculation is like a sliding scale ratio in relation to the number of trees on site to the number of trees removed. If the trees are not counted as removal, they do not get to be counted as on site, so she is not sure there is a big difference in the calculation with the trees and without the trees.

Member Baltzer asked if condition 18 could be removed. Crosby requested the second sentence of the condition be retained.

Member Enz stated that she tends to agree with the applicant regarding the access easement, noting potential liability and insurance issues.

Member Lynch believes that the path should be delineated.

Mr. McDonnell agreed with the Commissioners, stating the developer is willing to give access to the park, but it needs to be marked to keep everyone safe.

Member Berry closed the public hearing.

In response to a question from Member Berry, Crosby confirmed that a condition could be added to the resolution requiring the access be paved.

Member Reinhardt commented that he would be supportive of a condition requiring the access to be paved.

Member Lynch wondered about the width of the easement. Crosby replied that the curb cut at the street will be at least vehicular width because the easement is also for vehicular access to maintain the stormwater ponds. It will be plenty wide to support a paved walking path.

Member Berry asked about renaming the easement. Crosby read condition number 7 that requires an east to west access easement.

Member Amundsen asked if making the path a right-of-way would solve the issue. Crosby replied that it is probably not preferred by the City Engineer.

Member Baltzer noted that the pavement does not need to be as wide as the easement. He thought the condition should limit the width of the easement between three to five feet. He wants to prevent a ten foot wide strip of pavement from being constructed.

Crosby suggested that if they wanted, the Commissioners could add a separate condition requiring that a pedestrian path from the end of the cul-de-sac to the park be paved.

Member Amundsen moved to recommend a motion for two amendments, first to amend condition 18 striking the first sentence pertaining to black locust and, second, adding a condition for a paved trail as noted by staff.

Member Reinhardt proposed that condition 7 be amended to say a paved east-west easement to allow for walking and to be less than the width of a motorized vehicle to point out that they do not want cars driving on the path. In response to a suggestion from Member Berry, he stated they could also phrase it as "up to five feet wide" to really spell out that they do not want a large path.

Member Amundsen thought the condition should be separate and that the design of the path be at the discretion of the City Engineer and Planner. He did not think the Planning Commission should define conditions so specifically because City staff are the experts.

Crosby read what she had jotted down as an added condition: "a pedestrian path between the end of the cul-de-sac and the west property line shall be paved."

Member Enz seconded the motion to amend the conditions. Motion carried, 7:0.

It was moved by Member **Amundsen** to recommend approval of Case No. 22-2-P as amended, seconded by Member **Lynch**.

Motion carried, 7:0.

- B. Case No. 22-7-V:** A request by **McNeely Music Center** for the following five variances: A five foot variance from the ten foot (east) side yard setback, a six foot variance from the 30 foot setback from the (west) side abutting a public right-of-way, and a six foot variance from the 30 foot front yard (south) setback, all per Code Section 1303.150, Subd.5.c; a parking variance, per Code Section 1302.050, Subd.8.cc, to allow 18 parking spaces; and a variance from the 50% limit on the use of metal panels as an exterior building material, per Code Section 1303.150, Subd.6.c, to allow 69%, all in order to demolish the existing building and reconstruct a new music center on generally the same footprint at the property located at 4910 Highway 61.

Crosby discussed the case. Staff recommended approval of four variances and denial of the one pertaining to the metal siding.

Member Amundsen asked if the City would be apt to support the metal panel variance if the same flat looking material used at the Walser dealerships was proposed. Crosby replied yes, in that case, the variance would be similar to what has previously been approved.

Member Enz asked why the proposed design does not meet code. Crosby stated the code allows up to 50% of the siding to be corrugated metal. The difficulty that she is running into is how to differentiate the material that is being proposed from pole barn type siding. There are some nuances, such as shape of the corrugation and depth of the gauge, but those are pretty nebulous and hard to nail down. She noted that the applicants could probably speak more to the issue.

Member Reinhardt added that the limit is likely to dissuade people from building cheap pole barn type structures.

Member Lynch was not sure he would support the variance even if it were the flat material because there is no hardship. He wondered if the maple tree in the front would be preserved.

Member Berry opened the public hearing.

Dagmara Larsen, MSR Design, architectural firm representing the applicant. She asked the Commissioners to approve the 69% material variance. She posited that someone could put up cheap material on 50% of the building. They are proposing higher quality

material, creating a memorable building and bringing a spark to the area. The material has a champagne sheen to it and in different light conditions will have different reflections, which will bring interest. It is a higher gauge, cost, and quality than any pole barn material. The flat panels do not bring any interest, so they are not preferred. Ms. Larsen confirmed that it is their intent to preserve the tree.

Member Baltzer asked where they anticipate students to come from. Ms. Larsen responded that most of the clientele will be young children and teens from nearby high schools, but will be open to all ages. Most students will be dropped off by their parents.

Member Baltzer stated he likes the project, but thinks it is in the wrong location. Highway 61 cuts off North Campus from the music center. Years ago a child was killed crossing the highway, which is why they built a big fence along the road, which stops directly in line with the applicants building. He is very concerned with children crossing the road, especially since there is no crossing signal at 8th Street. Ms. Larsen replied that she did not think the life safety issues should play into whether the variances are approved or not.

Ms. Larsen pointed to condition 4 that limits the studios to one student. The studios are small, so it is rare there will be more than one teacher and one student, but she does not want to exclude two siblings.

Member Amundsen asked if the limit is fire code related. Crosby replied no, it was in relation to the number of available parking stalls.

Member Enz expressed that she did not know how the City would be able to regulate that condition.

Member Amundsen wondered if the applicants would be open to doing just one EIFS wall. Ms. Larsen explained that they would want to stay true to the design, so would like to use the metal panels on all four walls.

Member Lynch asked if the metal panels will create a glare for vehicles and nearby homes. Ms. Larsen stated the finish is going to be almost a matte finish. It is shiny, but not reflective.

Member West followed up with a question on whether the material will be like the cars that have the mica finish. Ms. Larsen stated it will be similar to aluminum windows and doors that have a champagne color to them. Ms. Larsen clarified that the material is described as corrugated, but it is not the same as the material used on pole barns. It is really there to create depth depending on how the light hits it.

Member Berry closed the public hearing.

Member Lynch moved to amend condition 4 to allow two students in each studio. Member West seconded the motion. Member Enz stated she does not believe the condition should be included at all, since it will be hard to regulate. Member Lynch withdrew the motion.

Member Enz asked a procedural question about recommending approval of the proposal as requested by the applicants. Member Berry explained that a motion could be made to recommend approval of all variances, rather than as recommended by staff.

Member Lynch recommended removal of condition 4. Member West seconded the motion. Motion carried, 7:0.

Member Berry stated he has been involved the past several years in the creation of the Arts District. The intention was to draw in projects exactly like this one into the Arts District, rather than on the opposite side of Highway 61. He thinks that eventually the applicants may want to move over to where the students will be. He is in favor of the request overall.

Member Lynch stated that he does not see the hardship, so he is not in support of the metal panel variance, but will vote in favor of the project in its entirety because he thinks it is a great idea.

Member Reinhardt stated that with the quality of design proposed, he does not believe anyone will equate the building with a pole barn.

It was moved by Member **Enz** to recommend approval of Case No. 22-7-V as amended and as proposed by the applicant, seconded by Member **Reinhardt**.

Member Amundsen sought to clarify that the motion was to approve all five variances against staff's recommendation to deny the metal panel variance. Member Enz confirmed that was her motion.

Motion carried, 5:2. Member Baltzer and Member Amundsen opposed.

- C. Case No. 22-6-V:** A request by **Jim & Lynn Dierking** for a six foot variance from the 15 foot setback from a side property line, per Code Section 1303.040, Subd.5.c.2, in order to construct a mudroom nine feet from the property line at the property located at 4743 Lake Avenue.

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

Member Lynch asked if the variance would be needed if the garage were attached. Crosby answered garages have different side yard setbacks, so a variance would still be needed.

Member Berry opened the public hearing.

Jim Dierking, 4743 Lake Avenue, applicant, stated that he was available to answer any questions the Commissioners may have. He does not think there is an alternative location for this addition.

Member Berry closed the public hearing.

It was moved by Member **Lynch** to recommend approval of Case No. 22-6-V, seconded by Member **Baltzer**.

Motion carried, 7:0.

- D. Case No. 22-1-LS:** A request by **James Sanchez** for a minor subdivision to untie two historic lots of record, per Code Section 1302.030, Subd.3.c, at the property located at 5008 Stewart Avenue.

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

Member Berry opened the public hearing.

James Sanchez, 2284 Randy Avenue, applicant, he asked if his bond would be remitted if he sold lot 8. Crosby stated the new owner would need to submit a bond in its place and it would not be released until the garage is built.

Member Amundsen commented that the request is straightforward and he supports it.

It was moved by Member **Baltzer** to recommend approval of Case No. 22-1-LS, seconded by Member **Amundson**.

Motion carried, 7:0.

5. DISCUSSION ITEMS

- A. City Council Summary Minutes of March 8, 2022.

Member Amundsen asked about the new proposal from the residents at 4264 Cottage Park. Crosby explained that the City Council asked the applicants to redesign the proposal with an additional two foot setback. It does not have to come back to the Planning Commission for review.

Member West wondered when the Housing Task Force recommendations will be revisited. Crosby believed that a Council workshop will be planned soon. She offered to inform the Commissioners if she hears anything further.

B. Park Advisory Commission Minutes of March 17, 2022 – Meeting Canceled.

No Discussion

6. ADJOURNMENT

There being no further business before the Commission, it was moved by Member **Baltzer** seconded by Member **Enz** to adjourn the meeting at **8:31** p.m.

Motion carried, 7:0