



**MINUTES
PLANNING COMMISSION MEETING
OF THE CITY OF WHITE BEAR LAKE, MINNESOTA
MONDAY, MAY 23, 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, Erich Reinhardt, and Andrea West

MEMBERS ABSENT: Pamela Enz and Mark Lynch

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

OTHERS PRESENT: Mike & Meagan Fox, Dustin & Annie Carlson, Terri Kaiser, Sue Brewer, Matt Nuebel, Andrea Gahn, Karen Bushee, Barb DeSarro, Phil & Graham Dommer, Rebecca Pacheco, Katie Anthony, Peter Orth, Erik Peterson, and Zach Zelickson.

2. APPROVAL OF AGENDA

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

Motion carried, 4:0

3. APPROVAL OF THE MINUTES

A. Minutes of April 25, 2022

It was moved by Member **Amundsen** seconded by Member **Baltzer**, to approve the minutes of the April 25, 2022 meeting as presented.

Motion carried, 5:0. (Member West arrived at 7:03 p.m.)

4. CASE ITEMS

A. Case No. 22-9-V: A request by **Mike Fox** for a 5.7 foot variance from the 30 foot setback along a side abutting a public right-of-way, per Code Section 1303.230, Subd.5.a.4, in order to construct a living addition above the garage and a 21 foot variance from the 30 foot rear yard setback, per Code Section 1303.060. Subd.5.c and an 11 foot variance from the 30 foot setback along a side abutting a public right-of-way, both in order to convert the east side deck into an enclosed porch at the property located at 4985 Johnson Avenue.

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

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

It was moved by Member **Baltzer** to recommend approval of Case No. 22-9-V, seconded by Member **Amundsen**.

Motion carried, 5:0.

- B. Case No. 22-5-CUP & 22-10-V:** A request by **Annie & Dustin Carlson** for a Conditional Use Permit for an accessory apartment, per Code Section 1302.125, and the following five variances:
- A 713 square foot variance from the 880 square foot maximum for a home accessory apartment, per Section 1302.125;
 - A 5.5 foot variance from the 15 foot height limit, as measured to the mean of the roof, per Section 1302.030, Subd.4.i.1.b;
 - A variance for a third accessory structure, per Section 1302.030, Subd.4.i;
 - A 968 square foot variance from the 625 square foot maximum size for a second accessory structure, per Section 1302.030, Subd.4.i.2.b; and
 - A 1,083 square foot variance from the 1,250 square foot maximum for all accessory structures combined, per the same Section,

All in order to construct an accessory dwelling unit above the detached garage, construct a new two car attached garage, and expand the existing four car detached garage at the property located at 2505 Lake Avenue.

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

Member Berry sought to clarify that staff support for the variances is based on the size of the lot. He asked if the accessory dwelling unit (ADU) transferred to new homeowners if the property ever sold. Lindahl confirmed that there does seem to be a connection between the potential development of the site and the overall size of the lot relative to the variances. The conditional use permit (CUP) for the ADU runs with the land, not the property owner. The ADU does require the principal structure to be occupied by the owner.

Member Berry wondered if a rental license would transfer to new owners as well. Crosby replied that if rented to family, a license is not needed. If rented to others, a license is required and needs to be renewed every two years.

Member Amundsen asked if anything changes if the detached garage is entirely torn down and rebuilt. Lindahl replied that it would not make a difference whether the

building was added to or demolished. He deferred to the applicants regarding the future of the garage.

Member West commented that ADUs that have two levels typically have a back door. She did not see one on the proposed plans and wondered if that was required. Lindahl explained that the need for an additional access point would be determined during the building permit review, although he is not aware of a requirement for a second door in a residential setting.

Member Berry opened the public hearing.

Dustin Carlson, 2505 Lake Avenue, applicant, he answered the questions raised by the Commissioners, stating that the ADU will not be rented out; rather it will be used for the grandparents. He is not sure if it will be a complete tear down of the garage yet, there are many unknowns that won't be answered until they start construction. The footings may limit what can be kept. Regardless of what is kept and what is rebuilt, they want the garage to feel like a carriage house. Lastly, they are willing to add a second door if the city inspector says they need it.

Member Berry closed the public hearing.

It was moved by Member **Reinhardt** to recommend approval of Case No. 22-5-CUP & 22-10-V, seconded by Member **Baltzer**.

Motion carried, 5:0.

- C. **Case No. 22-2-SHOP:** A request by **Rebecca Pacheco** for a Special Home Occupation Permit, per Code Section 1302.120, in order to operate a massage therapy business out of the single-family home located at 3791 Prairie Road.

Miller discussed the case. Staff recommended approval.

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

Member Amundson expressed appreciation for the neighbor's letter of support.

It was moved by Member **West** to recommend approval of Case No. 22-2-SHOP, seconded by Member **Reinhardt**.

Motion carried, 5:0.

- D. **Case No. 22-2-LS:** A request by **Prelude Holdings, LLC** for a minor subdivision, per Code Section 1407.030, to subdivide one lot into two and a recombination subdivision, per

Code Section 1407.040, to convey two tracts of land to abutting neighbors at the properties located at 4870 Otter Lake Road, 4859 Sandra Lane, and 1567 Quast Court.

Miller discussed the case. Staff recommended approval.

Member Berry opened the public hearing. As no one spoke, Member Berry closed the public hearing.

It was moved by Member **Amundsen** to recommend approval of Case No. 22-2-LS, seconded by Member **West**.

Motion carried, 5:0.

- E. Case No. 22-2-PUD & 22-1-PUD:** A request by **Marvin Development III, LLC** to subdivide one parcel into two, and approval of both “general concept stage” and “development stage” Planned Unit Development, per Code Section 1301.070, in order to construct a fast food restaurant with a drive-thru and pylon sign at the property located at 4600 Centerville Road.

Crosby discussed the case. Staff recommended denial of the request based on the findings listed in the report.

Member Amundsen asked about the letter sent by the applicants’ attorney to the mayor. He wondered if the case should be continued until all legal issues have been addressed. Crosby answered that she did not think the applicants wanted to wait and would appreciate the case moving forward.

Member Berry opened the public hearing.

Zach Zelickson, Border Foods, represents the applicant. He stated that the owners, the Moriartys, have been working on this property for the past 15 years. They had approvals in the past for retail and a second drive thru on the lot. The parcel is large and vacant, which is unique for this area of town. He provided a graphic depicting the flow of traffic, explaining that they will not route traffic the way staff has suggested. They foresee clients using the right-in, right-out access for both ingress and egress. The traffic report done by a third party engineering firm stated that traffic would not be affected. The grade for the area would remain at a “B”.

Mr. Zelickson stated that they have been working on and amending plans since October of 2021. They are proposing an overabundance of trees and shrubs. All of the stormwater will be captured on site through the use of an underground tank. He believes the proposed use as a Taco Bell is similar to other uses around the area. They typically hire around 40 employees at a single Taco Bell, so will be creating jobs. The company will also add to the tax base.

Mr. Zelickson continued that they have worked hard to meet the City's demands. They have plenty of sites that are the same or similar in size and do not have issues. The site is unique and the proposal fits with the description of the PZ – Performance Zone district. They have obtained approval from the State of Minnesota for the proposed utility connections. It is not unique for the applicants to connect to private lines since many of their restaurants are in malls and shopping centers. They want to work with the City and think the proposal is a great fit for the area.

Member Berry asked how the applicants are going to make the choice for clients to utilize the right-in, right-out access as opposed to driving in front of the Lunds & Byerlys. Mr. Zelickson replied that a lot of traffic will head north, so will leave the same way they entered. He referred back to the traffic report that states the traffic light will not be overburdened.

Member Berry followed up with a question regarding the size of the requested pylon sign. Mr. Zelickson answered that they thought it was a reasonable ask considering the existing McDonalds sign and the recent approval of a billboard north of the property. Theirs would be the shortest sign around and it would be the minimum needed for visibility on the road. They would be willing to work with Lunds and Byerlys to share a pylon sign if they want.

Member Berry wondered if the stacking will ever wrap around towards the Anytime Fitness. Mr. Zelickson explained that they will have nine stacking spaces from the pickup window, so he does not think there will be a problem. The speed of service is high, so they do not have the stacking issues other fast food restaurants face. At a certain point in time, there were approvals for an additional 9,000 square feet of real estate on the lot. The proposed building is one-third of that size.

Member Amundsen asked about the subdivision and if there were considerations to purchase the whole property. It appears that by asking for the lot split, the applicants are creating many of the issues that staff has with the proposal. The project was previously approved as one parcel. Mr. Zelickson responded that even with the split, all the easements and agreements remain. They would have to work out the details with current owners, but they need their own freestanding building as a Taco Bell. Owning the whole parcel or leasing from the existing owners just complicates the matter. However, if the property line is the deciding factor, he would entertain more dialogue with the City.

Member Amundsen commented that, as noted by staff, landlocked parcels are not common or supported in White Bear Lake. Mr. Zelickson acknowledged it is a unique situation, but this request allows them to take an empty piece of land and develop it in a positive way.

Member Baltzer noted that he does not support the pylon sign. Mr. Zelickson asked if the Commission would be supportive if the applicants were willing to omit the sign from the request. It is something they may consider, but the visibility of the pylon sign is very important to them. Member Baltzer stated he personally would be more open to the proposal if the sign was removed.

Member Berry closed the public hearing.

Member Amundsen questioned if the access was needed for fire, and if not, if it could be closed to prevent customers from driving through the Lunds and Byerlys lot. Crosby stated that the access serves multiple properties in the area, including Walgreens and McDonalds, so it would not be a good solution.

Member Reinhardt asked if the Minnesota Department of Labor & Industry would need to approve the utility connections. Crosby confirmed that it would. There have been preliminary conversations that indicate the proposal could be approved by the State. She added that the building would connect to White Bear Township sewer, so there is another entity involved.

Member West commented that she has a lot of concern about the traffic. She is skeptical of the notion that people will use the same entrance for ingress and egress. It is safer to go to the light, so that is the route people will tend to take. She thinks that people going to Anytime Fitness will be affected by the increase in traffic.

Member Berry noted that timing is everything, considering the development around the area. It seems the applicants are trying to shoehorn the project into the area and it may negatively impact the existing grocery store and other businesses.

Member Amundsen reported that the email forwarded to the Planning Commissioners from the applicants' lawyer has caused some concern. He does not want to approve something that will later be changed by the City Attorney.

Lindahl explained that the letter came from the applicants' attorney, but there does not seem to be a legal question raised in the memo. Since the letter was just received over the weekend, the City Attorney has not had time to provide comments, but will before the case is heard at the City Council meeting. Staff's read of the letter is that the general assertion is that the PUD process outlined for the applicant equates to some sort of inherent approval. Staff does not agree with that assertion.

Lindahl continued that the PUD process is the only possible process that the applicant could go through because of the configuration of the site and the proposed use. Staff has worked with the applicant for quite some time, trying to find a solution. In the end, staff found that this is not something that can be approved. The applicant is understandably disappointed. In this case, there is no entitlement to development

because the PUD grants the City a high level of discretion in this matter. The idea is that if a site has deficiencies, the applicant provides enhancements that correct or minimize the challenges that are faced. They have not been able to find a way to address the intensification of the use and access challenges inherent in the site.

It was moved by Member **Amundsen** to recommend denial of Case No. 22-1-P & 22-1-PUD, seconded by Member **Berry**.

Motion carried, 5:0.

- F. **Case No. 22-2-PUD:** A request by **Schafer Richardson** for concept stage approval of a Planned Unit Development, per Code Section 1301.070, in order to construct 243 units of multi-family apartments in two buildings at the properties located at 3600 and 3646 Hoffman Road.

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

Member Berry wondered if there is any way to limit the traffic using Linden Street. He believes that Hoffman Road is so underused, comparatively, and wishes there was a way to force people there instead of Linden. Crosby replied the connecting access could be removed, but then the applicants need to provide access all the way around the building or a turn around, so the project would need to be redesigned. The Fire Department does not want to have to back out of the parking lot.

In reference to the title of the project being “phase two”, Member Amundsen sought to confirm that the project was separate from the Barnum. He was surprised the proposal was not identical to the Barnum. Crosby provided a background stating that Schafer Richardson bought the parcels at same time, so staff knew a proposal would be coming. The Barnum is now owned by a conglomerate, which includes Schafer Richardson, but is essentially a different company. The proposal is complimentary in color to the Barnum, but a bit different with the style of the building and flat roof.

Member Amundsen sought more information on the number of parking stalls per unit, the use of counting stalls per bedroom, and the availability of proof of parking. The narrative states 1.59 stalls per unit and 1.02 stalls per bedroom will be provided. He wondered what the 1.14 stalls per bedroom that staff is requesting equates to in stalls per unit. He does not want to require more parking than needed, but does not want to undersize the lot either.

Crosby stated that she did not have that number readily available, but they were going out on a limb with the parking at the Barnum. The proof of parking, or the ability to provide more stalls if needed, helped alleviate some concerns. If proof of parking were available for this site, it would make the City feel a little better about the proposed

number of stalls. The City is unwilling to go much less than 1.14 stalls per bedroom at this time, since that is what was approved at the Barnum.

Member Berry opened the public hearing.

Karen Bushee, 3614 Linden Avenue, she referred to pictures she submitted of vehicles turning onto Linden and explained that her neighbor's driveway is very close to the intersection. The neighbors have to turn their hazard lights on before turning into their driveways to avoid being hit by the cars driving too fast on Linden Street. She thinks the traffic study is off, since the original apartment cited an increase in 836 trips a day from 192 units, with 57% using Linden Street. This proposal will add more units, so will generate many more trips in a day. She is requesting that access not be granted between the new apartments and the Barnum.

Barb DeSarro, 3610 Linden Avenue, she stated that the entire neighborhood has issues with the traffic and speed in which people drive. She concurred that they do not want any more traffic diverted to Linden Street.

Member West asked Ms. DeSarro whether her driveway was by itself or shared. Ms. DeSarro stated she has her own driveway. There are three access points along Linden Street from their building.

Andrea Gahn, 1711 County Road E #117, stated that the new building is going to take away her sunset. She explained that she enters the parking lot along Linden Street since there is never any parking in the front. It is a really tight entrance/exit. She agreed that there should not be access between the two parking lots, since there are already congestion issues on Linden.

Peter Orth, Schafer Richardson, Development Manager, he confirmed that this is phase two, next door to the Barnum. Having the Barnum right next door has been beneficial in the planning and programming of the project. There is a lot of demand for this type of housing in White Bear Lake.

Mr. Orth spoke about the addition of affordable units in this phase. It makes sense for this project to include affordable units based on where the housing market is right now. It is a benefit to the community to have a diverse set of tenants. They are aiming to have 20% of units occupied by households at or below 50% Area Median Income (AMI). It is part of the Schafer Richardson mission to address the stigma of affordable housing. The Barnum was not able to have affordable units, so they are trying to have them with this project.

Mr. Orth stated there is a right-in, right-out access on County Road E. There is underground parking that is all connected, so tenants can use either the Hoffman Road or County Road E entrance/exit. The goal is to have as much underground parking as

possible. At the same time, they are trying to manage the building size, costs, setbacks, and open space. They originally wanted a temporary barrier for the connection between the parking lots. He thinks there is an easy fix in convincing the fire marshal that they could use a temporary bollard system to block the way except for emergency.

Mr. Orth continued that they had discussed the option of a shared parking lot on the east side close to the Barnum, but thought it would negatively impact Barnum residents. They had two versions of traffic scenarios studied, connected and blocked access, and both resulted in a B grade. He thinks the neighbors' concerns about traffic are more related to speed over the quantity of vehicles. He wants to work with the neighbors to address their concerns. He commented that redesigning the parking lot will reduce the amount of green space, which provides a buffer between the two buildings.

Member Amundsen asked if there is dedicated guest parking. Mr. Orth confirmed that there are 8 to 10 stalls near the Hoffman Road entrance.

Mr. Orth continued that in terms of appearance of the new buildings, they wanted to be comparable to the Barnum, but different. They agree with staff's recommendation to add more undulations and other features to make it look less flat. The number of parking stalls proposed is 1.59 per unit, which is what the Barnum is at when the proof of parking is included. They do not want the project to be under parked. That is the worst scenario for developers. It is comparable to the Barnum, but the make-up of units is different. There are no three-bedroom units in the Barnum, which this proposal has and it would be rare to have three drivers in one unit. There are also more studios, so the parking demand should be less, therefore the Barnum parking ratio should not be used here.

Member Berry asked about the number of underground parking stalls, if rent is charged for those spaces, and if access for emergency vehicles is provided underground. Mr. Orth stated there are fewer underground stalls than surface. Rent is charged for underground, but it is less about the income generated, and more about the demand. There is a waitlist at the Barnum. Further, there is a 24-foot wide drive aisle that provides connection, which could fit a fire truck.

Mr. Orth stated that the Barnum is 97% leased right now, and parking seems to be a good fit, which is why they are basing the proposal on those numbers. He does not think the 1.14 ratio is applicable to this project; parking should be based on bedrooms.

Member Amundsen asked the applicant about staff's condition to raise the building to make the first floor true walk up units. Mr. Orth thinks there are architectural features that they could add to make the units look better, rather than raising the building. Issues like ADA limitations, insulating the underground parking, and building costs go up when lifting the structure.

Member Amundsen asked where the pedestrian connection would be, since there is already a sidewalk on the south side. Mr. Orth stated they can create a connection on the north side and that the intent is to provide access to the Bruce Vento trailhead.

Member Berry closed the public hearing.

Member Berry wondered about the proposed barrier between the White Bear Center for the Arts parking lot and Division Avenue. Crosby stated that it was not approved and a turnaround was needed.

Crosby stated that she did some math and a 1.14 per bedroom ratio would equal 1.7 stalls per unit. The applicants are proposing 1.59 per unit, which is about a 45 stall difference.

Member Baltzer stated he does not want to increase the traffic on Linden Street. He thinks the access should be blocked off or a temporary barrier used.

Member Reinhardt agreed, noting that he is a fan of the Barnum, but knows parking has been an issue. The Barnum parking lot is always full and there are not a lot of spots for visitors. He does not want to lose green space, but providing parking on the east side may be the best solution.

Member Baltzer asked if the green space across the street could be used for parking. Crosby stated that the idea had been discussed, but she thinks the applicants would like to retain that parcel for commercial use in the future.

Member Amundsen stated he really likes the affordable aspect of the proposal. He thinks the connection between the properties makes sense and he does not want to make the applicants redesign everything. He asked for clarification on the PUD process.

Crosby explained that this is the general concept review stage. It will come back to the Planning Commission for development stage at a later date. The access issue can be revisited, but this is the point in development when the applicants are looking for feedback.

Lindahl reiterated that this is the concept phase. He summed up the Planning Commissioners preference for some closure of the access, but a retained fire access.

Member West revisited the condition to raise the building. She felt the applicant had strong reservations about that and wondered if the condition should be further discussed. She appreciates the concern surrounding ADA regulations and the increased cost. She would be okay with making architectural changes as opposed to raising the building.

Member Amundsen and Member Berry both concurred.

It was moved by Member **Amundsen** to recommend approval of Case No. 22-2-PUD with an amendment to condition 2.c to strike the requirement to elevate the entrances, seconded by Member **West**.

Motion carried, 5:0.

5. DISCUSSION ITEMS

A. City Council Summary Minutes of May 10, 2022.

Member West asked how improvements at Whitaker Street and 8th Street along Highway 61 will be impacted if the Purple Line route is altered. If there will not be any improvements at 8th Street, she is concerned with pedestrian safety in conjunction with the Music Center they approved in April.

Crosby responded that the addition to the high school also triggered a requirement for improvements at the intersection, so something like a traffic light will be installed.

Member Amundsen reported that he is part of the County Road E Corridor Planning Study Project Team.

B. Park Advisory Commission Minutes of April 21, 2022 – Not Available.

No Discussion.

6. ADJOURNMENT

There being no further business before the Commission, it was moved by Member **Baltzer**, seconded by Member **West** to adjourn the meeting at 9:26 p.m.

Motion carried, 5:0