



AGENDA
PLANNING COMMISSION OF THE
CITY OF WHITE BEAR LAKE, MINNESOTA
MONDAY, NOVEMBER 27, 2023
7:00 P.M. IN THE CITY HALL COUNCIL CHAMBERS

1. CALL TO ORDER AND ATTENDANCE

2. APPROVAL OF AGENDA

3. APPROVAL OF THE MINUTES

A. Minutes of the Planning Commission meeting on October 30, 2023

4. PUBLIC HEARING

- A. **Case No. 23-28-Z:** A City-initiated text amendment to Zoning Code section 1301.040 to allow passage of proposed amendments by a majority vote of the City Council.
- B. ~~**Case No. 23-29-SHOP:** A request by **Christl Board** for a Special Home Occupation Permit, per Code Section 1302.120, in order to operate a massage therapy business out of a single family residence at 4871 Morehead Avenue. (WITHDRAWN at applicant’s request)~~

5. DISCUSSION ITEMS

A. City Council Meeting Overview

6. ADJOURNMENT

Next Zoning Update Community Advisory Committee Meeting.....December 5, 2023
 Next Regular City Council MeetingDecember 12, 2023
 Advisory Boards Joint City Council Meeting (7:00P.M.) January 16, 2024
 Next Regular Planning Commission Meeting January 29, 2024



**MINUTES
PLANNING COMMISSION MEETING
OF THE CITY OF WHITE BEAR LAKE, MINNESOTA
MONDAY, OCTOBER 30, 2023
7:00 P.M. IN THE COUNCIL CHAMBERS**

1. CALL TO ORDER AND ATTENDANCE

MEMBERS PRESENT: Mark Lynch, Andrea West, Jim Berry, Ken Baltzer, Pam Enz, Scott Bill

MEMBERS ABSENT: Mike Amundsen

STAFF PRESENT: Jason Lindahl, Community Development Director; Ashton Miller, City Planner; Shea Lawrence, Planning Technician

OTHERS PRESENT: Ami Wazlawik, Greg Moore

2. APPROVAL OF AGENDA

Member **Enz** moved to add a discussion item to the agenda to provide an update on the Downtown Mobility and Parking Study.

It was moved to approve the agenda with the addition of the Downtown Mobility and Parking Study discussion item. Motion carried, 6:0.

3. APPROVAL OF THE MINUTES

A. Minutes of August 28, 2023.

It was moved by Member **Bill** and seconded by Member **Baltzer** to approve the minutes of August 28, 2023.

Motion carried, 6:0.

4. CASE ITEMS

A. Case No. 23-27-CUP: A request by **Heartland Gun Club** for a Conditional Use Permit for retail sales in the Business Warehouse zoning district, per code section 1303.180, Subd.4.c, in order to sell sporting goods (including firearms) out of the proposed indoor commercial recreation facility at the property located at 4350 Centerville Road.

Ashton Miller, City Planner, discussed the case. Staff recommended approval of the case as proposed.

Member West explained that she understands the CUP is for the retail portion of the property but inquired about the gun range portion. Miller responded that the gun range is permitted by right in the Business Warehouse zoning district.

Member West asked about noise issues that could occur with the facility, referencing a DNR regulation 87A regarding sound and gun ranges. Miller responded that the case materials including a safety operations manual for this application were routed to other departments including Police, Fire and Building and they did not bring up any concerns about the noise. Member West added that she thinks it's worth looking into to determine if a sound barrier would be required. Lindahl added that staff can look into that statute and how it may apply to this facility and noted that the gun range will be entirely indoors. West explained that she wanted to bring it up now so the burden to address any noise issues doesn't fall solely on the nearby homeowners after the range is operational. Member Berry added that when he has been to indoor gun ranges he hasn't been able to hear gun fire outside the building and the sounds are muffled when inside the building.

Member Enz asked if there is any way to restrict what types of firearm products are sold, such as the types that have been used to harm large groups of people. Member Baltzer responded that the retail wouldn't be able to sell anything that is restricted by law. Lindahl added that the shooting range is a permitted use and that the retail use would be regulated based on state and federal laws regarding the sales of firearm products. Lindahl reiterated that the Police Department did not express any concerns about the retail sales.

Member Berry opened the public hearing.

Ami Wazlawik, a resident of White Bear Township, expressed concerns over what firearm products will be sold at the property, what restrictions and processes they have for purchasing, and the security of the building.

Greg Moore, the applicant noted that the firearm industry is heavily restricted by both state and federal laws. He explained that in order to purchase a firearm customers must fill out a form which is reviewed in accordance with federal and state licensing requirements just like any other retailer that sells firearms. In regards to the safety of the building, Moore explained that all handguns are required by law to be stored in a safe at the end of each day and that the safes are very durable. He added that the property will be equipped with a security system including cameras and motion detectors. He also noted that there is a state law that requires all firearms to be locked when in transport, that their customers must comply with when transporting their guns to and from the facility.

Member West asked about the applicant about the noise generated at the facility and the regulations surrounding that. Moore responded that Statute 87A regulates the sound level for indoor and outdoor ranges. He explained that indoor ranges are required to stay under a certain decibel outside the walls which is about equivalent to the hum of a highway. He

explained that outside the building you can't hear the noise generated by the firearms and that indoors the sound is muffled. Only inside the range portion of the facility is the noise significant, and hearing protection is required. Moore explained that the way the building is constructed keeps the noise levels down.

Member West asked if the applicant has opened any other gun ranges. Moore responded they have a facility in Rochester which has been open for about 4 years. Moore explained that it is their priority to open a first class facility with the best technology and high quality training programs. The facility will have membership options and will also be open to the public.

Member West asked if there would be sales of and training for semi-automatic and high caliber guns. Moore responded that the majority of their trainings are for handguns. He added that if someone requests training on a larger firearm that they legally obtained they will provide the training. He explained that if someone buys a firearm the gun club wants them to be properly trained on it. West expressed concern not only about the safety of the gun range but also the community as a whole. Moore added that a part of their standard operating procedure is that they always have a range safety officer in the range. Member West asked if staff will be trained on red flag laws. Moore responded no, that red flag laws are related to law enforcement not sales.

Member Bill commented that his family has been through similar trainings at Bill's Gun Range and that it's all about how to safely handle the weapon and is very extensive. He explained that once you've been through the background check and it's determined you can purchase a firearm and the ATF guidelines have been followed, at that point the seller can't control if the gun owner does something wrong or not. Member Bill added that it isn't really the seller's job to determine if someone can buy a high caliber gun— if the person has been approved to buy such a firearm they can. Member West replied that she still has concerns about those larger guns in particular.

Member West asked the applicant if all guns will be locked up. Moore responded yes, they are required by law to lock up all guns except shotguns, but that they plan to lock all guns up including the shotguns.

Member Berry closed the public hearing.

Member Bill added that there was a time in which there was a gun club in town at Highway 96 and White Bear Parkway.

Member Lynch noted that as a Planning Commission they are tasked with looking at the retail component which is what requires the conditional use permit. Because the proposed retail meets all the criteria for a conditional use permit, he will be voting yes. Member Berry added that he appreciated hearing the applicant respond to the questions and concerns regarding their practices for sales and training for firearms.

Member Enz expressed that she has a hard time with accepting that this is okay and that there is nothing that can really stop people from being able to purchase these higher caliber guns. She added that she was glad to hear that they will be providing training which is probably the first line of defense. She added that it's her duty to ensure that everything has been aligned with the zoning code and that she will be voting yes, but wishes she could vote no.

Member West added that she appreciated the applicant answering her questions. She explained it is their role as the Planning Commission to make sure that the proposal meets the requirements laid out in the zoning code and not decide based on personal beliefs so she will be voting for approval.

It was moved by Member **Baltzer** to approve Case No. 23-27-CUP, seconded by Member **Lynch**.

Motion carried, 6:0.

5. DISCUSSION ITEMS

A. City Council Meeting Overview

Lindahl explained that City Council approved the height variance for the Pillars located at 4669 Lake Ave and the fence at 2175 Gardenette Drive. Both applicants have applied for zoning permits.

Lindahl added that the City Council also considered new zoning regulations for tobacco shops and cannabis sales. The Council voted to approve the option which allows sales of low potency THC and decided not to act on adding regulations for dispensary sales yet. Lindahl explained that these lower potency edible sales can occur in any commercial zone, but the business must have a valid tobacco or liquor license. City Council wanted to proceed cautiously as the State Office of Cannabis Management is still being established. Member Enz asked when these new regulations take effect. Lindahl explained it is already in effect. Member Berry asked how this is related to the limit of how many cannabis shops can be in the city. Lindahl explained that this would not be related to that. Lindahl added that the discussion of buffer zones and limiting the number of retailers was in relation to the full dispensary type retailers which the City Council did not act on. Member Berry asked if the Council had discussed the City owning and operating cannabis dispensaries. Lindahl explained that was briefly discussed by the Council but it didn't seem to gain traction with the City Council.

Member Lynch asked if there are currently businesses that don't have a liquor or tobacco license that are already selling these products. Lindahl responded no. Member Berry asked if CBD products are affected by these new regulations noting that there are numerous

retailers that sell CBD products throughout the city. Member Bill responded that CBD is separate from THC.

Member Lynch asked about the proposed new tobacco zoning regulations that were recently brought to the Planning Commission and City Council. Lindahl explained that the new zoning standards for tobacco did go into effect which restricts new tobacco shops to the B-4 district subject to the buffers that were discussed and that there will also be a limit of ten for licensing. The existing tobacco shops which don't meet these zoning criteria will be allowed to continue operations because they are now "grandfathered" in. Any new tobacco retailers would have to meet the new standards.

B. Zoning Code Update – Community Advisory Committee (CAC) Meeting Overview

Lindahl explained that the kick off meeting for the Zoning Code Update took place in September. The meeting was an opportunity to introduce the project, staff and consulting team, and discuss the purpose of the CAC. During the meeting the project scope and timeline, as well as the process for the update and goals were discussed. The consultants outlined the next steps in the process which is a place types analysis of the City as it relates to the Comprehensive Plan, existing conditions in the City and the current zoning map. They plan to come back to the CAC at the next meeting with this information for further discussion. There was also discussion on potential public outreach. Lindahl explained that there was also a focus group meeting with local developers to provide their thoughts and insights on the zoning ordinance, what they are seeing in the market and the development process. Lindahl added that a summary of these meetings are posted to the City website along with the meeting materials.

Member Lynch asked for more information on the summaries that are provided on the website. Member Berry responded that the place types discussed during the CAC meeting are a way of analyzing individual neighborhoods as well as the 24 existing zones laid out in our zoning code. He added that this analysis could help to make the new code more user friendly for community members and developers. Member Berry added that the consultants will start drafting up parts of a zoning code for the CAC to review.

Lindahl added that there will be a draft of the place type maps for the next CAC meeting and discussion on how that can fit in with potential zoning districts. The consultants will take the feedback they get from the CAC meetings and focus group meetings as well as information provided in the Comprehensive Plan, Housing Taskforce Report, and other documents and create a framework that will be reviewed with the committee and used as an outline for drafting the zoning code. A draft of the place types will be presented for discussion at the December meeting to ensure the committee is in agreement on the direction of the update. Lindahl added that once there are draft sections of the zoning code, it will be brought to the Planning Commission for review.

C. Downtown Mobility and Parking Study Update

Member Enz provided an update on the latest meeting of the Downtown Mobility Study. She explained that the community input portion of the study is closed now. She explained that one key thing they have discussed is how to get people to accept the idea of not parking directly in front of the business they intend to patronize. She added that the consultants conducted counts of parking and only a few locations at certain times reach capacity, and that there is typically parking available downtown. The question they face is how to educate people on this. One of the options discussed was making the sidewalks more appealing with better lighting and landscaping and better connecting different routes. They also discussed bike routes and that there aren't many secure places to keep bikes. The group also discussed modification to the intersection at Highway 61 and 4th Street to make it safer for drivers and pedestrians. Additionally, they discussed potential one way streets in downtown and additional landscaping and greenspaces for pedestrians to enjoy downtown.

Member Lynch expressed some concerns about one way streets in downtown explaining that when everyone is going one direction people actually drive faster. He added that communities are starting to move away from one way streets in their downtowns. Member Enz explained she will take that input to the group. Lindahl clarified that the discussion about one way streets was to prioritize more space for parking and pedestrian amenities. The potential one way streets could have wider sidewalks, additional parking, angled parking, or bike lanes which would work to slow traffic.

Member Enz explained that much of what they discussed involved how to get people accustomed walking more downtown and not having the expectation of parking right in front of the businesses they go to as opposed to discussions around building a parking ramp.

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 8:03 p.m.



City of White Bear Lake
Community Development Department

MEMORANDUM

To: Planning Commission
From: Shea Lawrence, Planning Technician
 Jason Lindahl, AICP Community Development Director
Date: November 27, 2023
Subject: **Case No. 23-28-Z: Zoning Ordinance Text Amendment Regarding Notice and Voting Requirements for Planned Unit Development (PUD), Rezoning and Zoning Code Text Amendment Applications**

SUMMARY

The Planning Commission will consider changes to the notice and approval requirements for planned unit developments (PUD), rezoning or zoning code text amendment applications. This item was initiated by staff as a “housekeeping” item at the direction of the City Attorney to bring the City’s zoning regulations in-line with the City Charter and state statute. Should the City approve the recommended changes, the voting requirements to approve PUDs, rezoning or zoning code text amendment applications would change from a supermajority (4/5) vote to a simple majority (3/5) vote of the City Council.

BACKGROUND

The City is initiating an amendment to the Zoning Code to address inconsistent voting requirements between the City’s Zoning Code, the City Charter and state statute regarding the passage of ordinances to either rezone a property or amend the zoning regulations text. The City Attorney provided a memo to staff with background on the voting requirements for such ordinances and recommended the Zoning Code be amended to require a simple majority vote from City Council for the passage of zoning ordinance text amendments and planned unit developments.

Currently, the Zoning Code requires a supermajority fourth-fifths (4/5) vote of the City Council to amend the Zoning Code or approve a planned unit development (PUD). However, the City Charter states an “affirmative vote of a majority of all members of the Council shall be required for the passage of all ordinances, motions and resolutions, except as otherwise provided in this Charter.” The proposed amendment to the Zoning Code would require a simple majority vote of the Council in-line with the requirements prescribed in the City Charter. It should be noted that rezoning a property from a residential to a commercial or industrial zone would continue to require a supermajority vote from City Council as required by state statute.

Previously, there was a provision in Minnesota Statute that required a supermajority vote of City Council to amend the Zoning Code or rezone a property. This provision has since been amended to reduce the voting requirement to a simple majority which aligns with the standard prescribed in the City Charter. Current State Statute 462.357 Subd 2(b) states "...the governing body may adopt and amend a zoning ordinance by a majority vote of all its members." Statute continues to require a supermajority vote for the approval of rezoning properties from residential to commercial or industrial.

Approval of the proposed amendment to reduce the voting requirement from a supermajority (4/5) vote of Council to a simple majority (3/5) vote for rezonings, zoning text amendments and planned unit developments would bring the Zoning Code into alignment with the standards prescribed in the City Charter and by state statute. A draft of the proposed zoning ordinance amendment is attached for your review and consideration.

Community Comment. Under the City's zoning regulations, zoning amendment applications require a public hearing. Accordingly, the City published notice of this request and the public hearing in the White Bear Press. That notice directed all interested parties to send questions or comments to the Planning Department by mail, phone or email or to attend the public hearing where they could learn about the request, ask questions and provide feedback. As of the writing of this report, the city had received no comments or questions regarding this request. During the public hearing, staff will provide an update on all public comments received.

ANALYSIS

City Code Section 1301.040 outlines the process for amendments to the zoning code. It requires the Planning Commission to hold a public hearing to review the proposed amendment and then make a recommendation to the City Council. The City Council must then review the recommendation from the Planning Commission and hold two readings of the proposed ordinance before it can be published and put into effect. A draft of the proposed zoning ordinance text amendment is attached for your reference.

Section 1301.040, Subdivision 1 outlines six (6) criteria for the Planning Commission and City Council to weigh when considering a zoning amendment. These criteria and staff's finding for each are outlined below. Based on these findings, staff recommends approval of the attached draft ordinance.

1. The proposed action has been considered in relation to the specific policies and provisions of and has been found to be consistent with the official City Comprehensive Plan.

Finding: The proposed text amendment is consistent with the 2040 Comprehensive Plan. One of the purposes of the Comprehensive Plan is to encourage orderliness and efficiency in city government. Passage of the proposed amendment will serve this purpose by creating consistency between the zoning regulations, City Charter and state statute. In this case, state statute and the City Charter are the guiding documents for the City, so the Zoning Code must be consistent with these documents.

2. The proposed use is or will be compatible with present and future land uses of the area.

Finding: Since the proposed ordinance creates new regulations and not a new use, this standard does not directly apply. However, it should be noted that the proposed regulations will bring the city's zoning regulations in alignment with the City Charter and state statute.

3. The proposed use conforms with all performance standards contained herein.

Finding: Since the proposed ordinance creates new regulations and not a new use, this standard does not directly apply. However, it should be noted that the proposed regulations will bring the city's zoning regulations in alignment with the City Charter and state statute.

4. The proposed use will not tend to or actually depreciate the area in which it is proposed.

Finding: Since the proposed ordinance creates new regulations and not a new use, this standard does not directly apply. However, it should be noted that the proposed regulations will bring the city's zoning regulations in alignment with the City Charter and state statute.

5. The proposed use can be accommodated with existing public services and will not overburden the City's service capacity.

Finding: Since the proposed ordinance creates new regulations and not a new use, this standard does not directly apply.

6. Traffic generation by the proposed use is within capabilities of streets serving the property.

Finding: Since the proposed ordinance creates new regulations and not a new use, this standard does not directly apply.

RECOMMENDATION

Staff recommends approval of an ordinance amending the notice and voting requirements for planned unit development, rezoning and zoning code text amendment applications.

ATTACHMENTS

Ordinance
City Attorney Memo

CITY OF WHITE BEAR LAKE
ORDINANCE NO. _____

AN ORDINANCE AMENDING THE ZONING
REGULATIONS IN THE MUNICIPAL CODE OF THE CITY OF
WHITE BEAR LAKE REGARDING NOTICE AND VOTING REQUIREMENTS

The Council of the City of White Bear Lake does ordain:

ARTICLE I. Amendments. Article XIII, Section 1301.040, Subd. 1(b) & (m) of the Municipal Code of the City of White Bear Lake is hereby amended as follows:

b) Upon receipt of said application, the City Clerk shall set a public hearing following proper hearing notification. The City shall provide at least ten (10) days published notice of the date, time, place, and purpose of the hearing. The Planning Commission shall conduct the hearing, and report its findings and make recommendations to the City Council. When an amendment involves changes in district boundaries affecting an area of five acres or less, notice of said hearing shall ~~consist of a legal property description and description of request and shall be published in the official newspaper at least ten (10) days prior to the hearing and written notification of said hearing shall~~ also be mailed at least ten (10) days prior to all owners of land situated wholly or partly within three hundred fifty (350) feet of the boundary of the property in question. Such property owner list shall be obtained from and certified by a title company, or obtained from the County in which the property lies, the City, or other source approved by the City. The City shall retain for the record a copy of the mailed notice and a list of the owners and their addresses to which the notice was mailed. A failure to give mailed notice to individual property owners, or defects in the notice, shall not invalidate the proceedings, provided the City made a bona fide attempt to comply with the notice requirement. ~~When an amendment involves changes in district boundaries affecting an area of greater than five acres, notification to only those affected property owners within the boundary is required (as per M.S.A Section 462.357 Subd.3). Prior to reducing the notification requirement, the City Council shall review and approve said reduction with a 4/5 majority vote.~~

m) Approval of a proposed amendment shall require ~~passage by a four-fifths (4/5) vote of the entire~~ a majority vote of the entire City Council. Any amendment proposing to change all or part of the existing classification of a zoning district from residential to either commercial or industrial requires a 4/5 majority vote of the entire City Council.

ARTICLE II. Planned Unit Developments. Article XIII, Section 1301.070, Subd. 4(a) of the Municipal Code of the City of White Bear Lake is hereby amended as follows:

a) Approval. The establishment of a PUD shall be subject to a ~~super-majority~~ majority vote by of the entire the City Council, which may impose any condition it considers necessary to protect the public health, safety and welfare.

ARTICLE III. Effective Date. This ordinance shall become effective on the first day of publication after adoption.

Adopted by the City Council of the City of White Bear Lake, Minnesota on the ___ day of _____ 2023.

Dan Louismet, Mayor

ATTEST:

Caley Longendyke, City Clerk

~~Stricken~~ material is deleted and double underlined material is added.

First Reading: _____

Initial Publication: _____

Second Reading: _____

Final Publication: _____

Codified: _____

Posted on web: _____

Kennedy

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CHARTERED

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MEMORANDUM

To: Jason Lindahl
Community Developer Director

From: Troy Gilchrist
City Attorney

Date: November 17, 2023

Re: Updating the Voting and Notice Requirements in the Zoning Code

We have previously discussed with the City Council the need to update the voting requirements in the Zoning Code within the Municipal Code. To follow up on that discussion, I will point out the amendments I recommend and reasons for each. I have prepared an enclosed an ordinance with the amendments described below.

By way of background, the zoning statutes in Minn. Stat., Chap. 462 only require, with limited exception, a majority vote to adopt something. Generally, a city should not attempt to impose on itself voting requirements for a zoning action that are stricter than those required by statute. For example, a majority vote of a quorum is usually all that is required to adopt a zoning permit, which could be as few as two. However, under Section 4.14 of the City Charter, an “affirmative vote of a majority of all members of the Council shall be required for the passage of all ordinances, motions and resolutions, except as otherwise provided in this Charter.” Under the City Charter language, a minimum of three votes is required to adopt an ordinance or grant any zoning approval unless a super majority is otherwise required by law.

At one time, the zoning statute did require a super-majority vote to amend a zoning ordinance or to rezone property, but the statute was amended several years ago to only require a majority vote of all the members to adopt or amend a zoning ordinance (except in a very limited situation). Further, the Attorney General issued an opinion indicating that the statutory language prevails over inconsistent ordinance or charter provisions. It just so happens that the change in the statutory language aligns with the language in the City Charter (majority vote of all members). So, the goal is to align the voting requirements in the Zoning Code with the statute.

Notice and Voting Requirements for Amendments

- The language in Section 1301.040, Subd. 1(b) was revised to more closely track with the statutory notice requirements in Minn. Stat. § 462.357, subd. 3. In most cases, only 10 days published notice is required for a hearing on an ordinance amendment. Duplicate notice language and the language about voting to reduce notice requirements were deleted.
- The amendment to Section 1301.040, Subd. 1(m) reflects the super-majority vote required by Minn. Stat. § 462.357, subd. 2(b) for a specific rezoning situation.

Voting Requirement for Planned Unit Development

- The amendment deletes the super majority voting requirement to approve a PUD and makes it clear a majority vote of the entire City Council is required.