

**WAYZATA PLANNING COMMISSION
MEETING MINUTES
MAY 7, 2018**

AGENDA ITEM 1. Call to Order and Roll Call

Vice Chair Flannigan called the meeting to order at 7:00 p.m.

Present at roll call were Commissioners: Plantan, Murray, Iverson, Flannigan, and Douglas.
Absent: Young and Buchanan. Director of Planning and Building Jeff Thomson and City Attorney David Schelzel were also present.

AGENDA ITEM 2. Approval of Agenda

The May 7, 2018 meeting agenda was approved as presented.

AGENDA ITEM 3. Consent Agenda

- a.) Approval of April 16, 2018 Meeting Minutes
- b.) Adoption of Report and Recommendation of Approval of Conditional Use Permit at 433 Bushaway Rd

Vice Chair Flannigan read the items on the Consent Agenda and asked if the Commissioners wished to remove any items for further discussion. Hearing no such requests, Vice Chair Flannigan asked for a motion to approve the Consent Agenda as presented.

Commissioner Douglas made a motion, seconded by Commissioner Murray to approve the Consent Agenda as presented. The motion carried unanimously.

AGENDA ITEM 4. Old Business Items:

- a.) None.

AGENDA ITEM 5. Public Hearing Items:

- a.) Benedict's Patio – 845 Lake St E
 - i. Conditional Use Permit and Variances

Director of Planning and Building Jeff Thomson stated the applicant, Benedict's Morning Heroes, and the property owner, Wayzata Bay West Retail LLC, have submitted a development application to construct and operate an outdoor dining café on the sidewalk adjacent to the

1 restaurant at 845 Lake St E. The development application request approval of a conditional use
2 permit and a variance. The property is zoned PUD district and within that district, outdoor cafes
3 are a conditional use. In addition, the conditional use permit standards for outdoor sidewalk
4 cafes require that the café be at least 500-feet from a residential zoning district if the restaurant
5 has a liquor license. Given the restaurant holds a liquor license, and the proposed sidewalk café
6 would be located with 500-feet of single-family homes on Shady Lane E to the south of the
7 property, a variance would be needed.

8
9 Commissioner Iverson asked whether people would be walking within inches of the proposed
10 tables if they were walking on the sidewalk, and Mr. Thomson stated this was correct.

11
12 Commissioner Douglas asked how wide the sidewalk was.

13
14 Mr. Thomson stated the sidewalk is 12-feet wide.

15
16 Vice Chair Flannigan asked if the conditional use permit would be renewed automatically
17 annually.

18
19 Mr. Thomson explained that a conditional use permit and variance would run with the land and
20 would not be reviewed annually by the City. The City can add a condition that establishes times
21 when the patio would be allowed to be setup. He noted that there is an annual license that staff
22 would approve to ensure they are meeting the ordinance requirements, as well as liquor license
23 and liability insurance requirements, but such requests would not come back to the Planning
24 Commission.

25
26 Commissioner Douglas asked if there were City fees for being on the public sidewalk.

27
28 Mr. Thomson stated the City does not charge a lease rate for being in the public right-of-way, but
29 there is an annual license fee to cover administration costs. He clarified the City is in the process
30 of updating the City's right-of-way management ordinance and as part of this, the City is looking
31 at changing how they regulate outdoor patios. He noted it is a unique approach for a city to
32 regulate an outdoor patio in the public right-of-way as a conditional use. A conditional use
33 permit is typically required for development on private property. The City is looking to put this
34 type of use request into the right-of-way ordinance as an encroachment permit, rather than part of
35 the zoning ordinance. The request presented at this time is being presented as the ordinance is
36 currently written and administered.

37
38 Commissioner Murray asked if the residences within 500-feet of the property were provided
39 notice, and if there were different liability issues for a private company operating within the City
40 right-of-way.

41
42 Mr. Thomson answered that the City's notice requirement is to provide notice to those properties
43 within 350-feet of the property requesting land use approvals, so those residences that are within
44 the 350-500-foot range of this application were not notified of the public hearing. At the time of
45 notification was given for the application, the City had not been aware of the variance
46 requirement. He noted that the City can electively expand the notification area.

1
2 City Attorney Schelzel answered that allowing a private business to operate in the City right-of-
3 way does expose the City to potential liabilities that it would not otherwise be exposed to and
4 because of this, the zoning ordinance requires a hold harmless agreement and proof of insurance
5 as a condition of approval of this kind of CUP.
6

7 Applicant Representative, Ms. Karen Ingram, General Manager for Benedict's Morning Heroes,
8 436 Pondridge Circle, Wayzata, stated the restaurant is open 6:30 am to 3:00 pm. There would
9 not be music playing outside on the patio and hope to allow residents the opportunity to enjoy
10 sitting outdoors.
11

12 Commissioner Douglas asked how large the tables would be.
13

14 Ms. Ingram stated the tables would be approximately 4-feet by 4-feet and 4-feet by 2-feet and
15 these would be tucked in next to the building. The tables would be able to seat 2-4 people. She
16 explained the layout would be different than the rendering submitted with the application.
17

18 Commissioner Douglas asked if Benedict's planned to change their hours of operation.
19

20 Ms. Ingram stated Benedict's was hoping to change their hours on Friday and Saturday to stay
21 open until 6:00 pm but this has not been confirmed.
22

23 Vice Chair Flannigan requested that the Applicant provide an updated rendering of the layout
24 because there are concerns on the amount of walkway that would be available if the requested
25 outdoor sidewalk café was approved.
26

27 Commissioner Iverson asked if a fence or bollards were required for the sidewalk café because
28 there would be liquor involved, and if plantings would be included.
29

30 Ms. Ingram stated there would be 4 planters on each side of the door and stanchions with ropes
31 for the first year. She further stated that they can have an updated rendering to the City on
32 Tuesday.
33

34 Commissioner Iverson stated she would like to see a more complete application because what is
35 presented is incomplete.
36

37 Vice Chair Flannigan opened the public hearing at 7:24 p.m.
38

39 There being no one wishing to speak on the application, Vice Chair Flannigan closed the public
40 hearing at 7:25 p.m.
41

42 Commissioner Plantan stated she would like to see an updated plan with the table layout,
43 plantings and barriers.
44

45 Commissioner Murray asked whether the Commission wanted the distance between the tables
46 clarified, and not the size and shape of the tables or how much chair space the servers have.

1
2 Mr. Thomson explained the applicant has submitted the information to determine if the patio
3 would be functional and meet the City's requirements. If there are further specific requirements
4 and conditions the Commission would want included, these would need to be included in the
5 Commission's report and recommendation to the City Council.
6

7 Commissioner Iverson stated it is important to have a complete plan that outlines everything.
8 She stated concerns that there would be 6-feet beyond the patio for pedestrians to walk on the
9 sidewalk. She stated the proposed number of tables was too high for the space.
10

11 Vice Chair Flannigan stated he agreed that it did not appear there would be enough room on the
12 sidewalk for the outdoor patio and for pedestrians to walk on the sidewalk.
13

14 Commissioner Douglas stated she did not think there would be room on the sidewalk for more
15 than one row of tables.
16

17 Vice Chair Flannigan stated the 12-foot sidewalk in front of the restaurant was built for
18 pedestrian traffic flow, and what is desirable for a pedestrian friendly City. He suggested the
19 applicant bring back a redesign that would tighten the proposed sidewalk café space to bring it
20 closer to the windows and maximize the walking space. He also stated he would like to see this
21 request renewed annually and not an administrative review.
22

23 Mr. Thomson stated staff would work with the applicant to provide the information requested by
24 the Planning Commission. He asked whether the Commission wanted staff to bring back a draft
25 report and recommendation for consideration at the next Planning Commission meeting.
26

27 Vice Chair Flannigan suggested the Commission wait to make a recommendation until the
28 applicant has provided the requested information.
29

30 Commissioner Iverson stated the City has not adequately enforced the outdoor patio
31 requirements and that the City should keep the bollards, planters, and tables from migrating
32 further onto the sidewalk than the application allows.
33

34 There being no further questions for staff or the Applicant, Vice Chair Flannigan asked for a
35 motion on the Application.
36

37 Commissioner Murray made a motion, seconded by Commissioner Plantan, to table and continue
38 the application to the next Planning Commission meeting, and direct staff to work with the
39 applicant to finalize plans that will meet City code, and take into consideration the comments of
40 the Planning Commission. The motion carried unanimously.
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42

43 **AGENDA ITEM 6. Other Items:**
44

45 **a.) April 17th City Council Meeting Report – Commissioner Iverson**
46

1 Commissioner Iverson provided a report on the April 17, 2018 City Council meeting. She noted
2 that the Council meeting included approval of the two applications on Ferndale Road.
3
4

5 **b.) May 1st City Council Meeting Report – Commissioner Murray**
6

7 Commissioner Murray provided a report on the May 1, 2018 City Council meeting. He noted that
8 the City Council meeting included a presentation on the Lake Effect, and introduction of a new
9 Project Engineer.
10

11 Director of Planning and Building Jeff Thomson stated the agenda also included acceptance of the
12 Lake Effect Environmental Assessment Worksheet.
13

14 **c.) Review of Development Activities**
15

16 Director of Planning and Building Jeff Thomson stated there are currently two development
17 applications on the next agenda, including a subdivision at the end of Benton Avenue and an
18 outdoor patio for Baha House. He further noted that there is a joint City Council and Planning
19 Commission workshop scheduled for May 21 at 5:30. There will be a Lake Effect Community
20 Open House on May 17 at 6:00 pm.
21

22 Vice Chair Flannigan stated there would also be an Open House discussion on Wayzata Blvd on
23 May 22 from 6:00 p.m. to 8:00 p.m.
24

25 **d.) Next Meeting is May 21, 2018**

26 **i. 5:30 p.m. – Workshop with City Council**

27 **ii. 7:00 p.m. – Regular Meeting**
28

29 Director of Planning and Building Thomson noted the next regular meeting of the Planning
30 Commission is scheduled for May 21, 2018 at 7:00 p.m., and there would be a joint workshop with
31 the City Council at 5:30 p.m. to discuss the tree ordinance.
32
33

34 **AGENDA ITEM 7. Adjournment.**
35

36 There being no further business on the agenda, Vice Chair Flannigan asked for a motion to adjourn.
37

38 Commissioner Murray made a motion, seconded by Commissioner Plantan, to adjourn the
39 Planning Commission meeting. The motion carried unanimously.
40

41 The Planning Commission meeting was adjourned at 7:47 p.m.
42

43 Respectfully submitted,

44 Tina Borg

45 *TimeSaver Off Site Secretarial, Inc.*