

1 **WAYZATA PLANNING COMMISSION**
2 **MEETING MINUTES**
3 **MAY 21, 2018**

4
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6 **AGENDA ITEM 1. Call to Order and Roll Call**

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8 Chair Buchanan called the meeting to order at 7:00 p.m.

9
10 Present at roll call were Commissioners: Plantan, Murray, Young, Buchanan, Iverson, and
11 Flannigan. Absent: Douglas. Director of Planning and Building Jeff Thomson and City
12 Attorney David Schelzel were also present.

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15 **AGENDA ITEM 2. Approval of Agenda**

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17 Commissioner Flannigan made a motion, seconded by Commissioner Young, to approve the May
18 21, 2018 agenda as presented. The motion carried unanimously.

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21 **AGENDA ITEM 3. Consent Agenda**

22
23 **a.) Approval of May 7, 2018 Meeting Minutes**

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25 Commissioner Iverson made a motion, seconded by Commissioner Flannigan, to approve the
26 Consent Agenda as presented. The motion carried unanimously.

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29 **AGENDA ITEM 4. Old Business Items:**

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31 **a.) Benedict's Patio – 845 Lake St E**
32 **a. Conditional Use Permit and Variances**

33
34 Director of Planning and Building Jeff Thomson stated the applicant, Benedict's Morning Heroes,
35 and the property owner, Wayzata Bay West Retail LLC, have submitted a development application
36 to construct and operate an outdoor dining café on the sidewalk adjacent to the restaurant at 845
37 Lake St E. The development applications includes requests for approval of a conditional use
38 permit and a variance from the distance requirement from residentially-zoned properties for
39 establishments that hold a liquor license. The Planning Commission reviewed the development
40 application and held a public hearing at its May 7, 2018 meeting. At that meeting, the Planning
41 Commission expressed concerns about the internal layout of the patio, number of tables, and safely
42 maintaining pedestrian circulation on the sidewalk. Mr. Thomson noted that since the May 7th
43 meeting, the applicant submitted a revised plan in which the number of tables is reduced from 20
44 to 11, and which adds planters and ropes to enclose the patio and segregate it from the public
45 walkway. There would be a 6-foot pedestrian walkway between the outside of the planters and
46 the edge of the sidewalk, which exceeds the City's 5-foot minimum requirement. The City sent

1 notices to properties along Shady Lane E regarding the requested conditional use permit and
2 variance since these residential properties are within the 500-foot separation requirement for liquor
3 license holders under the CUP requirements but outside of the 350-foot public notice area for
4 development applications. The City received one public comment in support of the application.
5

6 Commissioner Flannigan asked Mr. Thomson if the Planning Commission could grant the
7 application for a one-year term, and then review it again next year to determine if there are any
8 problems with pedestrian traffic.
9

10 Mr. Thomson explained that the City regulates sidewalk cafes through a conditional use permit. A
11 conditional use permit, when approved, runs with the property as the use meets the conditions
12 specified in the City's CUP ordinance. Once this land use approval is given, a CUP cannot be
13 revoked unless there has been a violation to one of the conditions of approval. He recommended
14 the Planning Commission consider recommending conditions of approval that address the
15 concerns and potential impacts that the sidewalk café could have.
16

17 Commissioner Flannigan asked what the distance was between the patio and the planters that are
18 along the sidewalk.
19

20 Chair Buchanan stated the proposed walkway was 6-feet, and there was additional space from the
21 planting to the curb. He noted that the proposed walkway is larger than the walkway provided at
22 Gianni's or McCormick's sidewalk cafe.
23

24 Chair Buchanan recommended adding a condition that limited the hours of operation for the
25 sidewalk cafe to start time of 8 am.
26

27 Commissioner Flannigan stated he would like to see a one-year review to allow the residents the
28 opportunity to get a feel for the operation, and how it would impact the pedestrian traffic in that
29 area.
30

31 Mr. Thomson suggested adding a condition that the patio could not unreasonably obstruct
32 pedestrian flows, and if it does the City reserves the right to review the pedestrian separation
33 between the enclosure and the edge of the sidewalk.
34

35 There being no further questions for staff or the Applicant, Chair Buchanan asked for a motion
36 on the Application.
37

38 Commissioner Young made a motion, seconded by Commissioner Murray, to direct staff to
39 prepare a draft Planning Commission Report and Recommendation, recommending approval of
40 conditional use permit and variance for a patio at Benedict's located at 845 Lake St E, including
41 the conditions discussed by the Commission. The motion carried unanimously.
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43

44 **AGENDA ITEM 5. Public Hearing Items:**
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46 a.) **Benton Harbor – 310Benton Ave N and 1023 Gardner St E**

1 **i. Preliminary and Final Plat Subdivision**
2

3 Chair Buchanan stated that staff had determined that the application is incomplete, and thus the
4 Planning Commission will open the public hearing on the application but continue it the next
5 meeting, when a complete application should be presented.
6

7 Director of Planning and Building Jeff Thomson stated the applicant and property owner, Invest
8 Capital Group, LLC, has submitted a development application to subdivide the properties at 310
9 Benton Ave N and 1023 Gardner St E. The applicant is proposing to subdivide the two existing
10 properties into four single-family residential lots. The existing homes would be demolished and
11 four new homes would be constructed. The applicant has submitted a preliminary plat which
12 shows the proposed lot layout. However, the application does not include several items required
13 by the City's subdivision ordinance, including a grading, drainage and erosion control plan, a
14 utility plan, and a tree preservation plan.
15

16 Applicant's representative, Mr. Mike Sharratt, Sharratt Design, 464 2nd St, Excelsior, stated they
17 are trying to make the best use of the property that is not being utilized. They had been unaware
18 that a concept plan had to be provided. He asked for clarification on what this would look like,
19 since each house would be custom and what they show may not be what is built on the property.
20

21 Mr. Thomson stated the Commission would not be looking for the final house design or footprint
22 for each lot, but rather a general building pad and grading plan for each lot. This allows the
23 Commission to see what impacts the subdivision may have on the surrounding neighborhood. The
24 final plans should be consistent with the general plans that are submitted to the City for approval
25 but the City is aware that there might be some changes to the final design because these would be
26 custom homes.
27

28 Commissioner Iverson asked how large the homes were expected to be.
29

30 Mr. Sharratt stated there would not be basements to these homes and they would be 1-1/2 to 2
31 story homes. He would expect the mass of the buildings to be based on economics. The footprint
32 and driveway would be determined by hardcover.
33

34 Chair Buchanan asked if these properties were difficult to build on.
35

36 Mr. Sharratt stated based on the construction going on across the street, there are likely
37 questionable soils for these properties, which means either there is not adequate bearing capacity
38 or they have organic material.
39

40 Commissioner Flannigan asked what the elevation change would be from the back of the properties
41 to the front of the properties and the highway.
42

43 Mr. Sharratt stated he did not have a topography of the highway at this time, so he would not be
44 able to answer this.
45

1 Commissioner Flannigan asked if there would be something to visually screen the highway and
2 buffer the noise.

3
4 Mr. Sharratt stated that these would be custom homes, and this would be something that would be
5 determined by the home buyer for each lot. He stated that there would not be a sound wall
6 constructed.

7
8 Chair Buchanan asked if the applicant would consider three lots instead of four.

9
10 Mr. Sharratt stated there is a compromise in development approach because of the lot quality, and
11 in order to make it economically viable, they really need to do four lots.

12
13 Chair Buchanan opened the public hearing at 7:28 p.m.

14
15 Alex Hoag, 264 Benton Ave, Wayzata, stated there is not a lot of highway traffic noise because
16 the property is lower than the highway. She expressed concerns about the flow of the water
17 impacting the property. She stated that the City is responsible for the maintenance of the ditches,
18 and she has been talking to staff about this. She is excited about having the new homes in the
19 neighborhood.

20
21 Commissioner Iverson stated it was nice that someone was interested in developing these lots.

22
23 Commissioner Flannigan stated the density and traffic do not appear to be impacted with this
24 development, and four lots do fit in this area.

25
26 Chair Buchanan asked for a motion to continue the public hearing and further consideration of the
27 application until a complete application is submitted.

28
29 Commissioner Young made a motion, seconded by Commissioner Flannigan, to continue the
30 public hearing and further consideration of the application for the Benton Harbor subdivision to
31 the next Planning Commission meeting and request the applicant provide a complete application.
32 The motion carried unanimously.

33
34 **b.) Baja Haus Patio – 830 Lake St E**
35 **i. Conditional Use Permit and Variance**

36
37 Director of Planning and Building Jeff Thomson stated the applicant Baja Haus, and the property
38 owner, Bar Lazy H Three, LLC, have submitted a development application to construct and
39 operate an outdoor dining patio within the parking lot adjacent to the restaurant at 830 Lake St E.
40 The applicant is requesting approval of a conditional use permit for outdoor services or sales as
41 an accessory use and a variance from applicable parking requirements. The conditional use
42 permit standards for outdoor services or sales state that the use may not take up parking space
43 that is required by the zoning ordinance. The proposed patio would occupy two stalls that are
44 needed to meet the minimum parking requirement for the shopping center. The applicant has
45 provided renderings of the proposed patio. The pergola would not be included in the
46 construction, as this had not been approved by the property owner, and revised plans would be

1 submitted by the applicant. The patio would be open during their regular business hours of
2 Monday to Thursday 4 pm to 9 pm and Friday and Saturday from 4 pm to 10 pm. This patio
3 would not be located within the City's right-of-way. The City's parking ordinance requires one
4 parking stall for each 150-square feet of floor area of the shopping center, which is
5 approximately 43,200-square feet. Based on this the property is required to have 259 parking
6 stalls and there are only 164 on-site parking stalls provided. Therefore, the property is non-
7 conforming and does not meet the minimum parking requirements. The City did receive one
8 public comment via email expressing concerns about parking.

9
10 Commissioner Flannigan asked what type of safety measures would be taken because there
11 would be cars passing within 2 to 3 feet of the patio.

12
13 Mr. Thomson stated the patio would be on a platform surrounded by railings, similar to the patio
14 at Gianni's. The patio is directly adjacent to two parking stalls. The property owner has agreed
15 to the removal of only the two parking stalls for the proposed patio.

16
17 Chair Buchanan asked where the lights would be hung since the pergola would not be included.

18
19 Applicant, Billy Tserenbat, 830 Lake Street, Wayzata, stated the lights would be hung from the
20 posts along the patio. The lights would be hooded since the pergola would not be included in the
21 project.

22
23 Chair Buchanan opened the public hearing at 7:41 p.m.

24
25 There being no one wishing to speak on the application, Chair Buchanan closed the public
26 hearing at 7:42 p.m. and opened the discussion to the commissioners.

27
28 Commissioner Plantan expressed concerns about removing two more parking stalls from this
29 property.

30
31 Commissioner Young expressed additional concerns with other restaurants wanting to use their
32 parking lots for patio space, especially in areas that are already deficient in the parking available.

33
34 Chair Iverson stated the Commission received a letter from another business owner on the
35 property, Jim Wessling from Village Meats and Deli, expressing concerns his clients have about
36 the parking issues they experience currently.

37
38 Mr. Tserenbat stated Baja Haus is not open for lunch so that they do not impact Village Meats
39 and Deli's daily clientele and lunch traffic. Each business has two designated parking stalls for
40 quick in and out customers. Baja Haus would be giving up these two stalls.

41
42 Commissioner Iverson stated the increased seating that the patio would provide would also
43 require additional parking stalls, and this requirement would not be met.

44

1 Commissioner Flannigan expressed empathy for Mr. Wessling but stated his concerns were more
2 of a property management issue than a City issue. He expressed concerns for the safety of
3 patrons with having a patio in the parking lot.

4
5 Chair Buchanan agreed with the Commissioners in that this is not a good solution for this
6 property.

7
8 There being no further discussion, Chair Buchanan asked for a motion on the application.

9
10 Commissioner Young made a motion, seconded by Commissioner Iverson, to direct staff to
11 prepare a draft Planning Commission Report and Recommendation recommending denial of the
12 conditional use permit and variance for a patio for Baja House located at 830 Lake St E.

13
14 Commissioner Murray asked if this proposal would be possible if there were a different parking
15 mitigation plan in place, or if the other restaurants in the building agreed to not request patios.

16
17 Chair Buchanan stated precedent of granting approval in this case does not matter because the
18 Commission would not have to approve any subsequent applications.

19
20 Mr. Thomson stated staff had discussed the fee in lieu of parking policy the City has as a
21 possible way to address the parking requirements. This policy allows applicants to use public
22 parking to meet their parking requirements. But there is no guarantee that the City would
23 approve the application, and staff had difficulties in identifying the public facilities that could be
24 used in place of the impacted parking stalls.

25
26 Chair Buchanan called for a vote on the motion. The motion carried unanimously.

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29 **AGENDA ITEM 6. Other Items:**

30
31 **a.) May 15th City Council Meeting Report – Commissioner Plantan**

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33 Commissioner Plantan provided a report on the May 15, 2018 City Council meeting. She noted
34 that the Council workshop meeting included a presentation by Barry Petit representing the
35 Museum of Minnetonka, of conceptual plans for a new proposed facility to house the Minnehaha
36 steamboat. The Council discussed whether this would be something the City would be interested
37 in having included in the Lake Effect project with Civitas. Topics taken up at the regular meeting
38 included the introduction of two new firefighters, concerns brought forward by a resident regarding
39 developer's tree removal in the City, the approval of the CUP for a fence on Bushaway Road, and
40 the continuation of the public hearing for the vacation of the easement on North Beach Road. The
41 City also approved a permit for the Bash for the Boardwalk event scheduled for June 21 to June
42 24.

43
44 **b.) Review of Development Activities**

45

1 Director of Planning and Building Jeff Thomson stated five development applications have been
2 submitted in the last week, and these will be scheduled during the June and early July Planning
3 Commission meetings. He stated staff would check to see if there would be a quorum present for
4 the Planning Commission meeting scheduled for July 2 or if it would need to be rescheduled.
5
6

7 **c.) Next Meeting is June 4, 2018**
8

9 Director of Planning and Building Thomson noted the next regular meeting of the Planning
10 Commission is scheduled for June 4, 2018 at 7:00 p.m. and would include the Planning
11 Commission Reports for two of the applications reviewed at this evening's meeting.
12

13 Commissioner Flannigan stated he would agree with Commissioner Iverson that it would be
14 beneficial for the City to go to the developments that are occurring in the City, and make sure they
15 are complying with the submitted tree preservation plans. He expressed specific concerns with the
16 project on Central Avenue.
17

18 **AGENDA ITEM 7. Adjournment.**
19

20 There being no further business on the agenda, Chair Buchanan asked for a motion to adjourn.
21

22 Commissioner Flannigan made a motion, seconded by Commissioner Murray, to adjourn the
23 Planning Commission meeting. The motion carried unanimously.
24

25 The Planning Commission meeting was adjourned at 7:58 p.m.
26

27 Respectfully submitted,
28

28 Tina Borg

29 *TimeSaver Off Site Secretarial, Inc.*