

MINUTES OF PLANNING COMMISSION MEETING

April 13, 2015

Pursuant to due call and notice thereof, a regular Planning Commission meeting was held at City Hall on the 13th day of April, 2015 at 6:30 PM

THE FOLLOWING MEMBERS WERE PRESENT: Dean, Borgstrom, Sannes, Ferris and Torkelson

THE FOLLOWING WERE ABSENT: Richette and Stafford

THE FOLLOWING WERE ALSO PRESENT: Community Development Director Mike Martin and Admin Assistant Weigel, Mike Marti; Marti Electric, Charles Anderson and Dick Denny; American Legion Post 333, Tom Anderson; Cohen – Esrey Affordable Partners, Judy Ruport and Melissa Ferris,

CALL TO ORDER: Chairman Dean called the meeting to order at 6:30 PM.

Commissioner Borgstrom moved to add selection of co-chair as item 2.5.

MINUTES OF PREVIOUS PLANNING COMMISSION MEETING: Sannes made a motion to approve the minutes from March 9, 2015, Torkelson seconded. Ayes: Borgstrom, Sannes, Ferris and Torkelson. Abstained: Dean.

ELECTION OF CO-CHAIR: Commissioner Borgstrom recommended Commissioner Ferris to be the Co-Chair in the absence of Chairperson Dean. No discussion was had. Ayes: Borgstrom, Dean, Sannes, and Torkelson. Abstained: Ferris.

PUBLIC HEARING OPENED FOR MARTI ELECTRIC VARIANCE REQUEST: Community Development Director Martin stated Mike Marti of Marti Electric is requesting a variance to the front setback of his lot, which is in the C-M District; from 50' to 30' so that he can expand his building. There is a City sewer easement 4' off the back of the building that limits his expansion to the north. Mr. Marti approached the Commission in February and March regarding a possible code change instead of an individual variance. Martin was asked to look into what other cities have for C-M district setbacks and he found that it's all over the board. Very few had 50' setbacks; some had 100' for what reason no one knows because they generally grant variances. It's not common and it's not uncommon. Martin stated that there is also a variance request application in from the neighbors to the east and with some flood plain issues Martin suspects we will have a request from the neighbors to the west. NO PUBLIC COMMENTS. PUBLIC HEARING CLOSED

COMMISSIONER DISCUSSION –

Chairperson Dean indicated that as he understood it the consensus from last month was that we would rather look at these on a case by case basis than make a code change.

Commissioner Borgstrom maintained that variances are used for unique situations. If we are going to be doing this for three properties in the C-M district, then we are not looking at a unique situation. We should look at amending the code to change the setback and do this the right way.

Commissioner Sannes stated that last month it was mentioned that we also need to be concerned with what might be defined in the future and will this be appropriate for future C-M districts with the new setback.

Commissioner Borgstrom indicated it would because then the person that would come in and develop that property can size the lots accordingly when they go sell them. We are looking for a way to get more commercial business in town and need to use the land appropriately versus having grassy area. Of course

developers will still have to worry about land coverage and impervious soil but if we bring in another commercial area I would like to see a Commercial Manufacturing district. **Martin** emphasized that at least five acres is needed to justify that and we don't have a lot of five acre chunks. One possibly north of town but quite frankly as long as I'm here you won't see a staff recommendation for a C-M district; mixed districts like that are always creating conflicts and problems so the recommendation would be for manufacturing or commercial, pick one and go with it.

Commissioner Sannes stated that the feedback he was looking for then is what others think of the 30' setback. He is okay with it, from what he has heard from Mike it's all over the board from one city to the next.

Chairperson Dean confirmed that there doesn't seem to be any real overwhelming reason for it as far as it being 50' vs 30'. **Chairperson Dean** stated that he doesn't have a strong enough opinion about it either way to stand in the way of it if that's the way people want to go to decrease it to 30', don't see a big reason not to.

Commissioner Ferris advised that when he was working down the road in Byron several years ago he thought the setback was 50' but it doesn't matter what it is, if decreasing it will help local businesses grow and expand we should find a way to support him in doing that instead of having him keep coming back to planning and zoning again and again and again to discuss this, there has to be a way to simplify the whole process. **Commission Borgstrom** raised the question to **Ferris** that this would be a positive thing then to change the setback for the whole C-M District? **Ferris** confirmed that he had no heartburn with that at all.

Commissioner Torkelson indicated that he is for changing the setback for the C-M district.

Chairperson Dean pointed out that another meeting for a public hearing would need to be held next month. **Martin** informed the Commission that the cleanest methodology since the Commission would be hard pressed to find reasons to deny the variance would be to have Mr. Marti withdraw his variance application now and schedule a public hearing for next month to consider a zoning amendment to take the exact same effect as what he is requesting but the Commission needs to act on his request one way or another unless he withdraws it. **Commissioner Borgstrom** asked if he withdraws it is his application fee reimbursed? **Martin** stated that is decided by council. **Ferris** asked if we are better off tabling this application until we go through the process. **Martin** indicated that the problem with tabling is that the 60 day clock still continues to run and we run into the situation if there is some hiccup next month, the variance is granted without it ever going to a vote; attorneys frown on us leaving things in limbo pushing up against the 60 days. **Commissioner Borgstrom** asked Mr. Marti if he was willing to withdraw the application. Mr. Marti responded that he had no problem withdrawing the application.

Chairperson Dean stated that the Commission seems to be in agreement that there should be an amendment changing the setback in the C-M district from 50' to 30' and will set the public hearing for next month.

Commissioner Sannes requested to make a recommendation to the City Council to have the variance application fee of \$200.00 refunded to Mr. Marti.

PUBLIC HEARING OPENED FOR AMERICAN LEGION POST 333 CUP REQUEST: Community Development

Director Martin informed the Commission that this request is to expand the existing CUP request, the building is already a conditional use in this zoning district. They are looking to expand their footprint by putting a 16' x 32' patio with a roof on the west side of the building. Charles Anderson, representing the American Legion stated that the building is used by most area booster clubs and often 4-5 civic meetings going on at a time; during the summer months this can be used for overflow. The building is difficult to get into so this will make the building more handicap accessible for veterans and other guests. The patio will be well lit and maintained by legion staff. It will be centered on the door that was put in last summer.

Martin advised that he did receive one comment by phone and the caller was basically in favor of granting the CUP the comment was "it will make it easier for the old people to get into the building".

Commissioner Borgstrom asked if the caller left their name. **Martin** responded that the caller was Janice Borgstrom-Durst. PUBLIC HEARING CLOSED

COMMISSIONER DISCUSSION –

Chairperson Dean indicated that there are fifteen points that need to be discussed and those are what we need to consider after looking at this as to whether or not we feel this is a good thing to recommend. As I read through here there a couple things that came to my mind right away *“Point 8 The traffic generated by the proposed use can be safely accommodated on the existing or planned street systems and the existing public roads providing access to the site will not need to be upgraded or improved by the city in order handle the additional traffic generated by the use.”* I don’t know that it will create more traffic but it does cut into their parking lot somewhat so we potentially have an issue with additional on street parking that maybe needs to be considered. *“Item 9 Adequate measures have been taken or are proposed to prevent or control offensive odor, fumes, dust, noise, vibration or lighting which would otherwise disturb the use of neighboring property.”* The two things that came up to me in item 9 were noise and lighting. You have people outside in the evening, you have to have lights, yes there will be a roof over it but there will be potential for additional noise from people from being outside and the noise that is being made from normal activity is not being contained from the building. I’m basically in favor of it, but I think these are the two things that need to be addressed. There aren’t a lot of residents around there but still things to consider.

Commissioner Torkelson asked what kind of fence will surround the patio. Mr. Anderson advised that they are currently planning on having a 4’ fence around the patio area to contain it. As far as noise all entertainment would be inside the building, there would be people outside laughing and talking as far as blaring music or anything like that, that shouldn’t be an issue. Regarding the parking we are getting close to our 100th anniversary and we just got this parking lot and have survived many years without it, the parking spaces that we will lose because of the patio shouldn’t impact us. We are looking at losing 2 parking spaces, maybe a little more. We have outgrown our current shed that we use for storage of medical equipment that is loaned out to veterans and anyone in the community that needs it; so we will be looking putting in a second, larger shed at the back of the lot to accommodate that equipment.

Commissioner Borgstrom questioned the ownership of the lot that the patio will be built on. **Martin** reminded him that the City sold that lot to the American Legion Post 333 last year. **Borgstrom** also questioned the liquor license for outside. Mr. Anderson pointed out that he has talked with the insurance company and has been assured that their coverage will extend from the building to the patio. **Martin** stated that the City will need to recognize that the liquor license needs to be extended to cover the patio area and will need to go before the City Council before it’s in effect.

Commissioner Torkelson raised the issue of the fence and does it need delineate the patio and the parking lot? **Martin** stated that yes there has to be some sort of structure that separates the patio from the rest of the parking lot. **Torkelson** was wondering what kind of fence they were going to have. Mr. Anderson responded that the fence would be 4’ high. **Martin** said 4’ would qualify.

Commissioner Borgstrom asked if the structure would be attached to the building. Mr. Anderson stated that the roof will be but nothing else will. **Borgstrom** indicated that the lighting would more than likely be under the roof so I don’t think that it should bother any of the residents in the area.

Chairperson Dean maintained that basically he is in favor of it. **Martin** responded with you guys aren’t giving me a lot for findings but you’re essentially saying that out of 11 of the 13 findings of facts there is no impact. For *“#8 The traffic generated by the proposed use can be safely accommodated on the existing or planned street systems and the existing public roads providing access to the site will not need to be upgraded or improved by the city in order handle the additional traffic generated by the use.”* there may be an impact on off street parking but it has been operated without those parking spots before and shouldn’t be a problem and for *“9 Adequate measures have been taken or are proposed to prevent or control offensive odor, fumes, dust, noise, vibration or lighting which would otherwise disturb the use of*

neighboring property.” there is a potential for noise and lighting to be an impact for the surrounding community but the roof and the fence should be mitigation enough. **Martin** initiated discussion regarding a proposed condition from Public Works Director Fjerstad. From the back side of the building or the south side of the building there is a sump pump that exits directly out the back of the building, it is above grade and it goes directly across the parking lot down to the ditch near the railroad tracks. For many years the Public Works Director has been trying to get that pipe buried so that it flows in a pipe down to the rail road tracks. He is asking the Commission if you are going to grant this CUP to make a condition to install an underground pipe. **Borgstrom** questioned just to the grassy area? **Martin** responded yes just to the grass because its doing two things one, its washing away whatever gravel comes in there and two as soon as it starts to freeze it’s a skating rink back there. **Borgstrom** expressed that he agrees and was going to mention it but didn’t know if the Commission could propose that or not. **Martin** advised that there are other buildings down there that are in the same situation. Mr. Anderson asked about where their property line ends and where the Cities property starts. Martin stated that the City would grant an easement for this purpose. Mr. Anderson asked how deep the sump pump needed to be. **Martin** answered probably about 4’. Could we just say that we will investigate the feasibility of burying the sump pump? Mr. Anderson replied that was fine with them.

Motion: Sannes made a motion to approve the Conditional Use Permit with the conditions discussed and the additional condition regarding the discussion of the sump pump feasibility, second by Ferris. Ayes – Dean, Borgstrom, Sannes, Ferris and Torkelson Nays – none.

PUBLIC HEARING OPENED FOR BUILDING SIZE CODE AMENDMENT: **Community Development Director Martin** advised the Commissioners that a Public Hearing is required to amend any land use code. In this case we are asking to amend one word. Section 150.20 defines a structure or building that is to say anything that we would have to issue a building permit for as anything LESS THAN 200 square feet. The number was changed by the Legislature last year, but we were already going by that 200 square foot standard. The issue becomes the LESS THAN. I read it, the City Attorney read it; several people read it and it doesn’t make any sense so we are amending our code to say a building is a structure of MORE THAN 200 square feet. That is the change that we are asking you to hold a public hearing on and to recommend to the City Council. NO PUBLIC COMMENTS PUBLIC HEARING CLOSED

COMMISSIONER DISCUSSION –

Chairperson Dean I don’t know this strikes me as one of those things that somehow was supposed to always read the way we are trying to make it just something happened. **Martin** interjected that we haven’t reviewed it in 8 years and simply never noticed.

No other commissioner discussion

Motion: Sannes made a motion to recommend approval of the amendment of Section 150.20 of the municipal code striking the word LESS and substitute the word MORE, second by Torkelson. Ayes – Dean, Borgstrom, Sannes, Ferris and Torkelson Nays – none

DISCUSSION OF COHEN-ESREY PROPOSAL: **Chairperson Dean** clarified with everyone in attendance that there will be no action taken on anything regarding this topic tonight and this is not a public hearing. **Community Development Director Martin** informed the Commission that Cohen-Esrey Affordable Partners has entered into an agreement with the current owners to purchase the property that we know as the Old Elementary School. They have indicated that their plans are to rehabilitate the building into 25 units of affordable housing. They will be filing an application with the Minnesota Housing Finance Agency for tax credits to assist them in rehabilitating this structure and to strengthen their application to get more points they have applied for a Conditional Use Permit from the City as an indication that yes the project

could go forward if the tax credits were granted. Multi-family housing is a permitted conditional use in this zoning district so it has been our tradition that the conditional use permit should be issued; however, there are conditions that you may place on it that you see fit. Looking at the proposal that has been brought forth there are variances that will be required in order to make this fly, like the off street parking, our requirement is for two parking spaces per housing unit and this site simply does not have the room to make that possible. They are proposing to use on street parking as part of their total. We also have an issue of lot coverage in this area. They have managed to bring it down to 58% of lot coverage but our ordinance says 50%. So those are two potential variances that we are going to have to look at or we can deal with it in the conditions to the Conditional Use Permit by saying something that only the number of units that can be supported by off street parking will be permitted. So you may want to limit the parking lot strictly to the 50% lot coverage. Those are all issues that can be dealt with after the public hearing but those are some of the things that you are going to have to potentially worry about. The purpose of bringing it up at this point is actually to familiarize you with the project and the facts of the project as they stand but most importantly to grant the commission members an opportunity to tell the developer what further information you want to see, if any. They have submitted a complete application package, everything that we require in our conditional use permit; however, our ordinance does give the commission authority to ask for further information. **Chairperson Dean** scheduled a public hearing for May 11, 2015 for a Conditional Use Permit and variances if they are applied for in the necessary time line.

LIBRARY SITE PLAN ADJUSTMENTS: **Community Development Director Martin** addressed the drive through parking lot and informed the Commission that the design for various reason has been shortened and the entrance onto Second Street has been eliminated. **Martin** wanted to bring this change before the Commission to make sure no significant problems were created. **Martin** stated that he has talked to the Fire Department and they don't have any trouble with it. The City Engineer does not have a problem with it because it and it doesn't alter the drainage patterns that much. It still meets the code requirements for parking spaces and increases the amount of impervious space. **Commissioner Torkelson** asked what the reason for the change was. **Martin** replied that the reason was primarily cost considerations. **Chairperson Dean** asked what it does to increase traffic with the one entrance that is left. I don't know what the vehicle traffic to the library is going to be like. **Martin** replied that it's hard to say but when you have an occupancy estimate of less than 100 it's not going to be massive; you will see a much bigger impact on the church next door on Sundays or days when there is a funeral. Unless you tell me otherwise I'm going to tell them everything is fine.

Other Business: **Chairperson Dean** initiated the discussion regarding no staff recommendations in the packet for tonight's meeting and would like feedback from the rest of Commissioners on feelings about that. He for instance likes having all the information he can get to make a decision but for various reasons those are not there now. **Commissioner Borgstrom** stated that he is the driving force behind them not being there because he has been on the Planning and Zoning Commission for 15 years or so and for the last how many years the Commissioners sit there and no one ever brings their books and tonight we don't have staff recommendations and we don't do our due diligence by looking in the books and the staff is here to help and Mike does a very good job; he's caught me a few times at City Council and I've been talking about this directly with Mike. The reason being is we need to look at these books; I know it's a volunteer board but you also have to know what you're doing. You have to be able to go in there and find this stuff and you guys have had it pretty good between me and Mike here when you have a question you can look one way or the other and get the answer. I'm really a firm believer that if you want to be on these boards then you need to work for it. Not every night do you get the chance to read the packet, I understand that, but sit down and read it before the meeting or whatever. This is a volunteer board you need this book here and you need to learn what's in it for these CUPs and variances, that's what's driving all of this. I've been after this for a while and I'm finally pushing the issue. **Chairperson Sannes** stated that

not all staff recommendations can come out of the book. I do look to you (referencing Borgstrom) often because of your background and the same thing with Mike (Martin) with what we see and what we don't see. In some ways I like hearing the staff recommendations as a preview prior to the meeting instead of just hearing them during the meeting to digest at that time. I do understand where you're coming from where the guidance shouldn't be just follow the guidance and the recommendations but I also appreciate the recommendations from the knowledgeable people. **Commissioner Borgstrom** advised that the recommendations don't have to come only from Martin. In the last 5 years it's just been bobble heads in here. **Martin** interjected that the reasons he makes the staff recommendations especially with the conditional use permits is that it's the most efficient way for him to get the technical findings, the things that the Commissioners don't have any knowledge of like how big the water pipe is to those apartments or what the sewer pipe is; you don't get a chance to ask Burt about the drainage situation. So the staff recommendations I can put it in there; that the utilities are adequate to this site because I double check them for review that you guys don't have patience for. I would like you to know which of those questions have to be answered and what the right answer is but your primary role as I see it is a check on me, your judgment by law is considered superior to mine. I would like to see a little bit more judgement from you on the recommendations I make. **Commissioner Ferris** likes having the staff recommendations because there are things that he doesn't know about every place in town for instance the American Legion, he didn't know anything about a sump pump there. **Chairperson Dean** would prefer to go back to the way it was before; he could suggest changes and agree or disagree with the staff recommendations. Its more stuff I can look at before I sit down I want the information before I get here. I don't think there is such a thing of having too much information; that's my thought on that. **Martin** informed the Commission that it will be put it on the agenda for the next meeting.

ADJOURN: Since the agenda had been met the meeting was adjourned at 9:00 pm.

ATTEST:

Krista Weigel
Administrative Assistant

Michael Martin
Community Development Director