

## APPROVED MINUTES



### MINUTES OF THE BROOKLYN PARK PLANNING COMMISSION Regular Meeting – June 9, 2021

#### 1. CALL TO ORDER/SWEAR IN NEW MEMBER

The meeting was called to order at 7:01 PM.

##### A. New Member – Christopher Udomah

Community Development Director Berggren, noted that Christopher Udomah was not yet on the meeting call and introduced the City's new Planning Director, Paul Mogush. She gave a brief overview of his background, education, and experience.

Christopher Udomah joined the meeting and Community Development Director Berggren administered the Oath of Office.

#### 2. ROLL CALL/PLEDGE OF ALLEGIANCE

Those present were: Commissioners Husain, Kiekow, Kisch, Klonowski, Lee, Vosberg, Udomah, and Zeon; Council Liaison Jacobson; Director of Community Development Berggren; Senior Planner Larson.

Those arrived late: None.

Those not present were: None.

#### 3. EXPLANATION BY CHAIR

#### 4. APPROVAL OF AGENDA

MOTION VOSBERG, SECOND LEE, TO APPROVE THE JUNE 9, 2021, AGENDA.

*MOTION CARRIED UNANIMOUSLY.*

#### 5. CONSENT AGENDA

##### A. Minutes – May 21, 2021

##### B. Continue the public hearing to July 14, 2021 for: 610 Commerce Center Building 3 (Mark Kronbeck, Alliant Engineering, Inc.) Site Plan Review #21-113 for an office/warehouse/manufacturing building at 9360 West Broadway Avenue North

MOTION HUSAIN, SECOND VOSBERG, TO APPROVE THE JUNE 9, 2021, CONSENT AGENDA.

*MOTION CARRIED UNANIMOUSLY.*

#### 6. PUBLIC HEARING

##### A. Walser Hyundai (Phillips Architects) – Plat and Conditional Use Permit #21-112 for reconstructing the Walser Hyundai dealership at 8100 Lakeland Avenue North.

Senior Planner Larson introduced the application for Plat and Conditional Use Permit for Walser Hyundai at 8100 Lakeland Avenue North. He explained that Walser owns two buildings just north of Walmart on the east side of Lakeland Avenue. The dealership is at the 8100 building and at the 8018 building is currently vacant but has been recently used for back of the house type of things and has been used, off and on, for some used car concepts. The proposal from Walser is to remove the buildings, re-platting the property and building a new dealership which would involve taking to two lots and combining them into one property and a new Conditional Use Permit for the dealership. The site is just over 5 acres and the proposed building is about 30,000 square feet and noted that the new building will be a phased project. The existing building would still be in place so they could remain in business while the new building is under construction and then once that is completed, the old building would be removed. He reviewed the landscape plan and noted that staff has a few conditions regarding things that need to be changed. He reviewed renderings of the proposed new building. Staff is recommending approval subject to the conditions included in the report.

David Phillips, 405 N 3<sup>rd</sup> Street, Minneapolis (architect for the applicant), introduced himself and explained that their hope for this site is to combine the two parcels into a larger site and bring in a new, code compliant building.

Commission Chair Kisch opened the public hearing.

Seeing no one approach the podium, nor did anyone sign up via Zoom, Commission Chair Kisch closed the public hearing. He noted that if anyone from the public would like to submit comments on this prior to it going before the City Council, they are welcome to submit those comments via e-mail to the Planning Department.

Commissioner Vosberg asked if the rendering/photo that was shown was what is actually planned for this location.

Mr. Phillips stated that the new building will look virtually identical to the photo presented to the Commission but noted that he may have the glass slightly taller than what is pictured.

Commission Chair Kisch asked about the phasing with relation to the Conditional Use aspect to the request and asked if there was a sunset clause or a timeframe for when the second building would be demolished and removed following the Certificate of Occupancy.

Mr. Phillips stated that it is their inventory lot, so as soon as they can get occupancy, subject to the weather, they would want to demolish the existing building. He stated that they will also get a significant number of SAC credits towards the SAC charges for the new building, when that building is demolished. He clarified that their intent is to have it opened by July of 2022 but the difficulty may be with getting some of the supplies such as precast walls and steel. He stated that the estimate is that it will be about 6 months before steel is available which would be January or February of 2022.

Commissioner Kiekow asked about the stormwater collection system that is designed for the site. He stated that it appears as though all the water from the lot will drain into two collection basins and asked if the basins are connected to the storm sewers.

Mr. Phillips introduced Matt Pavek, their Civil Engineer and asked him to address that question.

Matt Pavek, Civil Site Group, explained that there are two underground stormwater infiltration basins that have chamber systems. One is on the north side and connects to an existing storm sewer to the west and the other is on the south side and connects to an existing storm sewer that heads to the southeast. He noted that the existing drainage pattern will be maintained, but create some ponding on the site so it will be a vast improvement over what is currently in place today.

Commissioner Kiekow asked if they would be connected directly to the stormwater system or if they would reach a certain level and then overflow into it.

Mr. Pavek stated that there is a level where all of the water is infiltrated into the sandy soils below, which is 1.1 inch over the impervious surfaces, and anything beyond that volume will flow to the storm sewer pipes.

Commissioner Kiekow stated that because this is an auto dealership, he expects there to be oil and asked if there was a trap to catch that before it goes into the collection basin.

Mr. Pavek stated that it is not anticipated that there would be any more oil here than in a typical parking lot or street surface. He stated that they do have pre-treatment catch basins with sump manholes to catch other kinds of debris and things that come from hard surfaces, but they do not anticipate anything like an interior drain in the mechanical area that would go to a grease trap and then to the sanitary sewer.

**MOTION VOSBERG, SECOND HUSAIN, TO RECOMMEND APPROVAL OF PLAT #21-112 OF THE “ANDREW WALSER ADDITION” AT 8100 LAKELAND AVENUE NORTH, SUBJECT TO CONDITIONS IN THE DRAFT RESOLUTION.**

*MOTION CARRIED UNANIMOUSLY.*

**MOTION VOSBERG, SECOND HUSAIN, TO RECOMMEND APPROVAL OF CONDITIONAL USE PERMIT #21-112 FOR AN AUTOMOBILE SALES AND SHOWROOM BUSINESS WITH REPAIR AND CAR WASH SERVICES AT 8100 LAKELAND AVENUE NORTH, SUBJECT TO CONDITIONS IN THE DRAFT RESOLUTION.**

*MOTION CARRIED UNANIMOUSLY.*

Senior Planner Larson stated the public hearing item is scheduled to be reviewed at the City Council meeting on June 28, 2021.

**B. Tran Auto (Peter Quynh Tran) – Amendment to Conditional Use Permit for vehicle parking and storage related to auto repair at 8516 Xylon Avenue North**

Senior Planner Larson gave an overview of the request by Tran Auto for an amendment to the Conditional Use Permit. He noted that this building was originally approved as a car wash in 1985 and was amended in 1993 to change three of the car wash bays to stalls for auto repair. He stated that since that time, there have been a few unintended expansions of the use and noted that the car wash has not been in operation for many years. The applicant would like to add more parking on site to help manage the cars that are there. They would like to have additional striping on the north a row of parking in the middle and a row up against the building. Staff is not

recommending approval of the site plan as submitted, because it does not meet the driveway requirements. He explained that City Code requires a minimum two-way drive of being 25 feet. He stated that the request was also to be able to store cars up to 6 months and staff is also not recommending approval of that request because they feel that detracts from the auto repair use and will turn into more of an impound lot or salvage yard which are not allowed in this zoning district. He stated that staff is recommending up to 7 days storage within the fenced in area in the back. He stated that anything parked in the unfenced area would have to be gone by the time the business closes each evening. He shared some drawing he did on their proposed plans that would rearrange and eliminate some things so it would meet City Code and explained that these revisions are what staff would recommend.

Peter Tran, 16590 Lake Ridge Drive, Maple Grove, owner, stated that they have been here since 1993.

Jason LeTourneau, 8001 5<sup>th</sup> Street, Spring Lake Park, architect for the applicant, stated that there are a few things within the staff recommendations that he would like to address. He stated that Tran Auto has been located in the City for 30 years and during COVID-19 they brought in a few other mechanics and rented out tenant spaces which led to an issue that was unseen in the City where this had sat around for 30 years and no one paid attention to it. He stated that the tenant that was there made it clear that something was going on and was wrong. The Tran's do not support that kind of work which is how he got involved in this project. He explained that the storage of vehicles of 7 days rather than 6 months is not meant for all cars, but just for insurance adjustment cars. He stated that when he spoke with Mr. Tran, he explained that in their 30 years of doing business, there have been 5 cars on the site that were actually held more than 2 weeks for an insurance adjuster to come out and look at the vehicle. He stated that staff had recommended 7 days after a vehicle repair which is where he thinks the confusion lays. He stated that he is afraid that the recommendation by staff means that the car can just sit there if it is broken, which, to him, sort of leaves the door wide open. He stated that if it is an insurance vehicle, Tran Auto will have paperwork from the insurance companies. He stated that Tran Auto is not looking to be able to have all 60 cars be there for 6 months and is just for the insurance vehicles, which would be a maximum of 5 cars.

Mr. Tran stated that from his experience, most of the insurance vehicles will be on site between 1 and 2 weeks but, occasionally has been a bit longer. He explained that he has never had more than 5 cars from accidents in his lot.

Mr. LeTourneau stated that he has another site plan for parking based on the recommendations from staff which accommodates 29 vehicles to the north for parking in tandem and reviewed the plans. He stated that they are planning to keep the original flow from when the business was a car wash and have vehicles enter the building from the north and exit along the south.

Commission Chair Kisch asked if Mr. LeTourneau had enough copies to distribute the updated site plan for parking to the Commission.

Mr. LeTourneau stated that he had 4 or 5 copies that he can distribute to the Commission.

Commissioner Vosberg suggested that the updated site plan be projected on the screen so everyone could see it.

Mr. LeTourneau showed the updated site plan and explained the changes and noted that it is very similar to what was recommended by staff. He stated that Mr. Tran is also concerned about not allowing vehicles to be parked overnight which he thinks may be a misunderstanding. He stated that if a tow truck comes in at 2:00 a.m., Mr. Tran will not know the vehicle is there until they arrive the next day and were concerned that the perception may be that the vehicle was left over night.

Commission Chair Kisch opened the public hearing.

Seeing no one approach the podium, nor did anyone sign up via Zoom, Commission Chair Kisch closed the public hearing.

Commissioner Vosberg stated that she would like to have the conversation around the insurance adjustment revisited because she was not able to track what Mr. LeTourneau had explained.

Mr. LeTourneau gave an overview of what happened in a case where an insurance adjuster is needed. He stated that they had recommended up to 6 months to have a vehicle stored for an insurance purpose. He stated that in case of a car accident, the vehicle needs to be adjusted by an insurance adjuster. He stated that in this case the car is towed to a local shop where it waits until an adjuster from the insurance company will physically show up on site to look at it, which can take up to 2 weeks. He stated that Mr. Tran is asking that they be allowed to have 5 stalls in the rear storage area to keep those vehicles for up to 3 weeks in order to give time for the adjusters to come in and decide if the vehicle is worth keeping or something else.

Commissioner Vosberg confirmed that rather than 6 months, the applicant is now asking for 3 weeks.

Mr. LeTourneau stated that they would actually like to ask for a maximum of 30 days.

Commissioner Vosberg clarified that the applicant was asking that the wording in the application be changed to "...up to 5 vehicles, for a maximum of 30 days". She asked who would control that and how do the City would know that is what will occur.

Mr. LeTourneau stated that they will know based on the insurance paperwork and noted that the police department could even check on the vehicle because the paperwork will note the day of the accident. He stated that there will always be a way to check on the vehicles.

Commissioner Vosberg asked about the request for a change regarding the overnight parking of vehicles and if they wanted a language change for that portion as well.

Mr. LeTourneau stated that they would like to add language that tow trucks are allowed to bring vehicles in after hours and that the no overnight parking would not pertain to that situation where a vehicle was just dropped off.

Commissioner Vosberg stated that there are "squishy" rules about how much, how long, and where, which makes it a bit difficult to monitor. She stated that she doesn't think the City needs to be super stringent on every rule, but it allows for a lot of vehicles to be parked in one location.

Mr. LeTourneau clarified that they are asking for the longer-term parking in the south parking area. The north lot would only have vehicles that were towed in during off hours and would not be stored in that lot.

Commissioner Lee asked if there was precedent for situations where vehicles are dropped off overnight and what the usual practice has been. He asked if the City has tagged vehicles in the past for being parked overnight at other businesses. He asked if that would be a considered a problem within the City.

Senior Planner Larson stated that the no overnight vehicles parked outside rule has been applied for the last 5 or 6 years for any auto repair businesses that have come forward. He stated that this was included at the request of the Police Department. He stated that there have been instances of vehicles in auto repair lots being broken into or the vehicles being stolen, so from a consumer protection standpoint, it helps the customers know that their vehicle will be safe. He stated that it is also to ensure that the cars are not being stacked up or turned into an impound lot or salvage yard because the vehicles have not moved in years. He stated that if one tow truck showed up in the middle of the night, the City would not catch that, but if it turns into 4 tow trucks in the middle of the night, then something would need to happen with inventory management such as providing the tow truck company some sort of gate access in order to put those vehicles in the back, fenced area.

Commissioner Kiekow asked for clarification on the location of the cars that will be held longer than overnight as well as the vehicles awaiting the insurance adjuster.

Senior Planner Larson explained that the request is for those vehicles to be located within the fenced area on the south side of the building.

Commissioner Kiekow stated that there are 20 spots in that area and the applicant is asking for 62 and questioned whether the 20 was enough.

Mr. LeTourneau explained that the plan is being shown for the number of spaces that could be put on the site, should the building convert to something like an auto tint shop for one of the bays and then next one is a tire place, and the next an oil change place, it would allow for them to have 62 stalls in the entire lot which is based on the square footage of the building. He explained that was the only reason why it was shown with 62 stalls.

Commissioner Kiekow asked how many spots were being requested.

Mr. LeTourneau stated that they are requesting 20 in the south for storage, 29 prep spaces on the north side for daily use, and 5 spaces for the longer-term storage for insurance related.

Commissioner Kiekow confirmed that there would be no cars on the north side overnight, other than the occasional situation where a tow truck drops off a vehicle after hours. He asked about the fencing around the south lot.

Mr. LeTourneau stated that it is a 6-foot-tall opaque strip chain link fence with a 14-foot gate.

Commissioner Klonowski noted that she believes there is a typographical error on bullet 7 of the resolution and noted that she believes the word 'parking' was supposed to be included.

Senior Planner Larson confirmed that the word ‘parking’ should be included in that bullet point.

Commissioner Klonowski noted that Mr. LeTourneau had briefly mentioned a situation with a tenant and asked if he would shed some light on what he was referring to.

Mr. LeTourneau explained that the Conditional Use Permit was given in 1993 to the Tran’s to run an automotive shop from the former car wash. They were given the CUP and in doing so, over the years, they were given access to do three more hoists in the car wash bays. He stated that those were added but it was never clarified as to where they were or what kind of work was being done. He stated that what they are trying to do is try to help the City understand what has been going on for 30 years. He stated that they ended up with a tenant, Tire World, that went overboard and ended up with too many cars that sat there for too long which caused an eye sore. He stated that the result was the Tran’s deciding that they no longer wanted that tenant there anymore and decided that they wanted to do something different which is why they came before the City.

Commissioner Klonowski asked who is responsible for the upkeep of the site, the owner or the tenant.

Mr. LeTourneau stated that the owner, the Tran’s, are responsible for all the site work because they are ultimately responsible for any tenant that rents space in their building.

Commissioner Klonowski noted that Commissioner Vosberg had referenced the “squishy rules” and when she visited the site today she found the site was in pretty bad shape, is very overgrown, and the parking lot is in a bad state of repair. She stated that she has concerns about allowing for some extra wiggle room on the rules when the place has not been kept up.

Mr. Letourneau stated that because it is a Conditional Use Permit, the City can make the conditions. He explained that the asphalt in the southern area, behind the fencing has been redone. He noted that the owner has held off from striping the lot, at his request, because he wanted to wait until the parking situation was clarified before money was spent on striping. He stated that the asphalt is in fairly decent shape and when they do stripe, the pot holes and cracks will be filled in.

Commissioner Klonowski asked if there were City requirements for how the landscaping should be kept up.

Mr. LeTourneau stated that in 1993, there were very little requirements and explained that the trees do need to be trimmed which are noted in the suggested conditions. He stated that those types of things are simple and can be easily completed.

Commissioner Klonowski noted that the Tran family and their businesses have a really good reputation and it would be nice to see the property reflect that.

Mr. LeTourneau stated that is exactly why they are here today.

Commissioner Kiekow asked who owned this facility.

Mr. LeTourneau explained that Mr. Tran, his wife, and his brother own the property and the building for 31 years.

Commission Chair Kisch stated that what he has heard is that there is a need for 5 dedicated stalls for insurance adjusted vehicles. He stated that he thinks there is an opportunity within the fenced in area and would like to see a revised plan that would go to City Council that marks and identifies which 5 stalls would be dedicated to that purpose. He stated that he would also like for any overnight vehicles to be stored in the fenced area and would like to see there be a drop off zone for the vehicles that are dropped off after hours so they are in a specific area of the site and not just randomly dropped. He stated that without the Planning Commission seeing revised plans he suspects that the Commission will make a motion on potential things that can be referred to the City Council for further review. He stated that if the entire 62 stalls are not needed and this is just a proof of concept for parking, he would ask what the minimum that the applicant actually needs and make a plan that works there. He stated that his fear is that is 62 stalls are squeezed onto the site and are part of the Conditional Use Permit, then it will open up issues in the future. He stated that if all stalls are not needed, he is a proponent of not having more parking stalls. He stated that he would personally be okay with a variance to the parking regulations in order to just get what the applicant needs and not what City Code needs.

Mr. LeTourneau stated that the parking is based on the occupancy and noted that if it were a retail establishment the requirement would be for 150 stalls. He stated that they can further clarify the parking requirements, for example, there are 8 bays, which means that there would be a minimum of 8 employees that would require parking.

Commission Chair Kisch stated that there are probably more questions than answers right now and the City Council can deliberate on those when they are considering final action. He noted that any additional information that can be provided to help guide their decision is probably a good idea. He stated that he agrees with the recommendations from staff with regard to the fire lane access and the clauses about landscaping, upkeep and maintenance. He stated that his big question is what language needs to be adjusted relative to the conversations that have happened this evening.

Commissioner Husain asked for clarification of a situation when someone has a car dropped off at 2:00 a.m. and the 5 dedicated stalls for parking cars for up to 7 days.

Senior Planner Larson explained that those are two different matters. He stated that the overnight for 7 days is within the fenced area on the south side and the vehicles dropped off overnight would be done on the north side of the building.

Commissioner Husain asked what the current rule is and whether people were supposed to drop off cars during overnight hours.

Senior Planner Larson stated that this is one of those situations where in the zoning code re-write, they wanted to have those conditional uses that had some sort of consistent performance standards. He stated that they have been applying these in the same manner in CUPs for quite a few years, so it would actually make it a rule in the zoning code rather than just the same conditional time and time again.

Commissioner Vosberg stated that she is concerned about the overnight drop-off of vehicles because it seems like it is just one more reason why the applicant cannot follow the rule. She asked if there was any way for the overnight drop offs to be designated to one specific spot so they are not just randomly located all over the parking lot so it is clear that this is exactly why the vehicle is in that location. She stated that there are a bunch of other conditions that have not been discussed, such as installing a stop sign and the driveway exit, and asked if the assumption would be that those conditions will all be adhered to.

Mr. LeTourneau stated that they do not disagree with the other conditions.

Commissioner Vosberg reiterated the concern shared by Commissioner Klonowski that the landscaping is in tough shape right now and asked how she can have assurance that it will not just be perpetuated. She stated that it makes her nervous that they have had the location for 30 years and she is not seeing it taken care of and questions the expectation is that they will suddenly be maintaining it and taking care of the property. She stated that it needs to be clear that it is not okay for the property to be rough and rugged and needs to be maintained, especially if there is going to be discussion about being more lenient with some of the rules. She stated that she wants to make it clear that it needs to be kept up and, for example, if it needs new lighting, that the lighting is replaced and also kept up.

Mr. LeTourneau stated that the lighting has already been replaced and thinks the issue was with the foot candles at the edge of the property line. He stated that he believes the landscaping requirement is 15% of the site.

Senior Planner Larson stated that the City is not looking to bring the landscaping up to code with regard to the quantity of trees and number of shrubs. He stated that the City is just looking for them to be pruned and look a bit nicer. He stated that there are not really City Codes that say the tree needs to be a certain shape, but it needs to be alive, and if it is dead it must be removed. He stated that these trees have not been trimmed for quite a while and that is all the City is asking for. He stated that now would not be the best time to trim the trees because of the temperature, but the weeds could be removed and the landscape rock would be freshened up. He stated that the old-style wall packs for lighting do not meet City Code and will either need to be replaced or have a shield put on them so no light is shining outward and is all focused downward.

Commissioner Vosberg reiterated her suggestion that there be a designated drop off location for the tow trucks.

Mr. LeTourneau stated that he thinks that is a good idea.

Commission Chair Kisch suggested the following language for #8 under the conditions, to add the language, “.... with the exclusion of vehicles dropped off by tow trucks outside of regular business hours within the dedicated area, as denoted on the site plan.” He suggested also amending the language for the following sentence to include, “.... with the exception of 5 dedicated spots that have been designated for insurance adjustment vehicles, that may hold vehicles for up to 30 days.”

Commissioner Lee asked if something could be added that those 5 spots need to be clearly designated or marked.

Commission Chair Kisch amended his suggestion to include, “....and designated by clear demarcation and signage on the site.”

Mr. LeTourneau noted that these are the reasons that he suggested that Mr. Tran hold off on striping the lot.

Commission Chair Kisch stated that he would also like there to be the addition of signage added to #8, to add dedicated signage for the drop off area for tow truck deliveries outside of business hours. He reiterated his suggestion that there be an updated site plan that is clearly marked in time for submission to the City Council that outlines all of the conditions as discussed.

Commissioner Kiekow asked about item #7 and specifically what the first sentence means.

Commissioner Chair Kisch noted that was brought up earlier and is missing the word ‘parking’.

MOTION KISCH, SECOND LEE, TO RECOMMEND APPROVAL OF CONDITIONAL USE PERMIT #21-114 FOR AUTO REPAIR AT 8516 XYLON AVENUE NORTH, SUBJECT TO CONDITIONS IN THE DRAFT RESOLUTION, WITH THE AMENDED LANGUAGE FOR ITEM #7 WITH THE INSERTION OF THE WORD ‘PARKING’, AND ADJUSTED LANGUAGE FOR #8, AS DISCUSSED.

*MOTION CARRIED UNANIMOUSLY.*

Commission Chair Kisch noted that this public hearing item is scheduled to be reviewed at the City Council meeting on June 28, 2021.

**7. OTHER BUSINESS - NONE**

**8. DISCUSSION ITEMS - NONE**

**9. INFORMATION ITEMS**

**A. Council Comments**

Council Liaison Jacobson gave an overview on recent actions approved by the Council: Oro Lounge CUP; Twin Cities Tennis Camp CUP; Enclave Apartments CUP; Variance for screen porch at 2409 87<sup>th</sup> Trail.

**B. Commission comments**

**C. Staff Comments**

Community Development Director Berggren stated that staff is suggesting that the upcoming work session be cancelled while the staff regroups and will plan to resume work sessions in July.

**10. ADJOURNMENT**

Commission Chair Kisch adjourned the meeting at 8:11 PM.

Respectfully submitted,

Todd A. Larson  
Senior Planner