

UNAPPROVED MINUTES

MINUTES OF THE BROOKLYN PARK PLANNING COMMISSION Regular Meeting – February 14, 2024



1. CALL TO ORDER

The meeting was called to order at 7:03 PM.

2. ROLL CALL/PLEDGE OF ALLEGIANCE

Those present were: Commissioners Cavin, Fraser, Kiekow, Udomah, Turner and Wako; Council Liaison McGarvey; Planning Director Mogush; Principal Planner Turnquest; Associate Planner McDermott.; and Planning Assistant Hayes-Regan

Those arrived late: None

Those absent were: Commissioners Borer and Gaye-Bai.

3. EXPLANATION BY CHAIR

4. APPROVAL OF AGENDA

MOTION KIEKOW, SECOND FRASER TO APPROVE THE FEBRUARY 14, 2024 AGENDA.

MOTION CARRIED UNANIMOUSLY.

5. CONSENT AGENDA

- A. **Minutes** – January 10, 2024
- B. **Minutes** – January 24, 2024
- C. **Adoption of Bylaws**

MOTION WAKO, SECOND TURNER TO APPROVE THE FEBRUARY 14, 2024 CONSENT AGENDA.

MOTION CARRIED UNANIMOUSLY.

6. PUBLIC HEARING

- A. **JJ's Fish and Chicken** – Planning Case #23-120, Site Plan Review for an addition to an existing restaurant on property zoned B2 - Neighborhood Retail Business located at 7749 Zane Avenue. N.

Associate Planner McDermott introduced the application for a site review for JJ's Fish and Chicken. They stated that the request would include an addition to the existing building, which was formerly Dairy Queen. They reviewed the adjacent uses and zoning, noting that restaurants are a permitted use and this use is consistent with future land use. They noted that the site improvements would also increase walkability. They stated that staff recommends approval as presented, subject to the conditions in the draft resolution.

Commission Chair Cavin opened the public hearing.

Seeing no one approach the podium, Commission Chair Cavin closed the public hearing.

Commissioner Kiekow commented that he is concerned with the activity around the site and the plan to keep the site clean. He asked for more information on the plans for trash disposal and addressing unruly patrons.

Associate Planner McDermott replied that the site would meet all requirements for waste disposal. They stated that the site plan was reviewed by both environmental health and police staff.

Commission Chair Cavin asked if this would be a second location in Brooklyn Park or whether the existing location would be closing.

Associate Planner McDermott replied that the existing JJ's in Brooklyn Park has a different owner and therefore would remain. They stated that this applicant does have another JJ's location but that is not within Brooklyn Park.

MOTION FRASER, SECOND TURNER TO RECOMMEND APPROVAL OF A SITE PLAN REVIEW FOR THE CONSTRUCTION OF AN ADDITION TO THE EXISTING RESTAURANT AT 7749 ZANE AVENUE N., SUBJECT TO CONDITIONS IN THE DRAFT RESOLUTION.

MOTION CARRIED UNANIMOUSLY.

Planning Director Mogush stated the public hearing item is scheduled to be reviewed at the City Council meeting on February 26, 2024.

B. Clean Freak Car Wash – Planning Case #24-101, Site Plan and Conditional Use Permit request for the development of a car wash on a property zoned PCDD – Planned Community Development District located at 8555 Edinburgh Center Drive.

Associate Planner McDermott introduced the application for a site plan review and conditional use permit for Clean Freak Car Wash. They reviewed the proposed location, adjacent uses, and zoning. They stated that car washes are a conditional use within the zoning district. They reviewed details of the proposed site plan and proposed building materials. They stated that staff recommends approval as presented with the conditions listed in the draft resolution.

Commission Chair Cavin opened the public hearing.

Seeing no one approach the podium, Commission Chair Cavin closed the public hearing.

Commissioner Turner asked for information on the flow of traffic for the site and whether that has been reviewed.

Associate Planner McDermott replied that staff has reviewed the proposed flow for the site and deemed it adequate as proposed.

Commissioner Kiekow commented that this would be similar to the car wash at Zane and 610, noting that he has not noticed any issues or traffic congestion at that site.

Commission Chair Cavin noted that there appears to be one restroom and asked if there are not plans for customers to exit their vehicles.

Associate Planner McDermott confirmed that the restroom is for employee use and would not be open to the public.

MOTION WAKO, SECOND FRASER TO RECOMMEND APPROVAL OF SITE PLAN REVIEW FOR THE CONSTRUCTION OF A CAR WASH AT 8555 EDINBURGH CENTER DRIVE, SUBJECT TO CONDITIONS IN THE DRAFT RESOLUTION.

MOTION CARRIED UNANIMOUSLY.

MOTION WAKO, SECOND FRASER TO RECOMMEND APPROVAL OF CONDITIONAL USE PERMIT FOR THE OPERATION OF A CAR WASH AT 8555 EDINBURGH CENTER DRIVE, SUBJECT TO CONDITIONS IN THE DRAFT RESOLUTION.

MOTION CARRIED UNANIMOUSLY.

C. Mississippi River Corridor Critical Area (MRCCA) – Zoning Code Text Amendment: 152:530.

Associate Planner McDermott introduced the application for a zoning code text amendment for the Mississippi River Corridor Critical Area (MRCCA) as part of the comprehensive land use update. The minimum standard that impacts the cities which previously held that zoning authority.

Richard Anderson of 10700 Zeigler Dr. N. asked the setbacks necessary from the river, explaining that he was previously told 100 feet which would make all of the lots along Ziegler nonconforming. He stated that he was pleased to see that those nonconforming uses would be allowed to continue and asked if there would be a process those properties would follow that would differ from other properties. He acknowledged that the City would have little authority to do anything different than adopt the model ordinance from the DNR. He stated that the MRCCA has some of the best homes in the city and those homes pay some of the highest taxes, therefore he hopes that they can continue to live there without loss of property rights or value.

Nick Tiedeken of 9406 West River Road disputed that this was simply an administrative change from the DNR to the City. He stated that the MRCCA standards have been in place through City ordinance since 2001 but the DNR has never administered city ordinances, permits, or land alteration considerations. He provided additional background information going back to 1997 and standards that the City set for both undeveloped lots and those with structures built before the 2001 ordinance. He noted that updates were made to the DNR rules in 2017. He provided additional information on the bluff impact zone (BIZ), which is a large change and would make many homes in Brooklyn Park nonconforming. He spoke about the restrictions those properties would have because of that change. He stated that he would like to see some flexibility for those properties to have the ability to make some changes to protect their property values and rights. He recommended that the Planning Commission direct staff to go back and work with residents, staff and the DNR in hopes that there could be additional flexibility for these properties.

Joe Klohs of 8900 West River Road reiterated the comments just made and believed that this would warrant more time and discussion with the residents. He requested that there be some neighborhood meetings with the property owners along the river.

Marlys Carls-Steiskal of 1232 Banfill Circle commented that she and her husband have lived at the property for 38 years and have noticed huge issues with erosion. She stated that her property and the Isaac Walton League property have been identified as the worst cases, but she was unsure as to how to fix it because it is too steep.

Carrie Osland of 9418 West River Road echoed the comments of the first three speakers in that there should be neighborhood meetings with more time and investigation.

Commission Chair Cavin closed the public hearing but reminded the public that comments can be submitted via email to City Staff for consideration in the City Council agenda packet.

Associate Planner McDermott confirmed that there would be nonconformities with setbacks and structures but those would be considered the same as a nonconforming use. They provided additional details on the protection that those properties would receive. They stated that new decks would not be allowed to expand towards the river, but the property owner would have the right to apply for variance. They confirmed that the DNR is not currently administering these standards, as the City is forced to do that. They stated that the DNR rules are required to be met, regardless of whether the City has adopted the updated standards. They noted that cities are allowed to be stricter than the DNR standards, but the City has chosen not to do so. They stated that nonconforming homes would not be allowed to expand towards the river, but could expand towards the street as long as the minimum setback is met. They provided additional details on the review process for building permits that can be done more expediently by staff rather than requiring DNR review.

Commission Chair Cavin commented that he agrees that more time is needed to hold neighborhood meetings. He referenced proposed language which states that the City Manager would be enforcing these measures and asked if that is correct.

Associate Planner McDermott replied that any reference in the zoning ordinance to enforcement would be of the City Manager as the City Manager provides that ability to staff for enforcement.

Commission Chair Cavin asked if the valuation of the impact would be reviewed when a permit is requested by a resident.

Associate Planner McDermott confirmed that is correct. They stated that the Water Resources Engineer will review the best management practices and impact of the permit. They explained that full shoreline restoration would not be required for a deck permit.

Commission Chair Cavin commented that he understands the need to protect the river but would want to ensure that a simple project would not require an undue burden for a resident to restore other areas of their property.

Planning Director Mogush stated that there were some similar questions at the end of the packet received by Mr. Klohs, who spoke tonight. He stated that the City has been making efforts to gain outside funding for its own efforts as well as for the use by residents. He noted that the City has

had some success, but not to the desired level in obtaining those outside funds, but the City would continue to seek that type of funding for restoration efforts along the river.

Commission Chair Cavin commented that this is a lot of information, and he feels that there should be more time and consideration before adoption is considered as this would impact many residents.

Commissioner Wako asked if there are historical records of what the City has done in terms of river restoration. He asked the level of involvement that residents have been able to have on this topic before tonight.

Associate Planner McDermott replied that the City would have those records which they could obtain from parks and engineering staff. They stated that the DNR updated its rules and required cities to update their ordinances in 2018. They stated that the City was delayed with changes to staff and other elements, therefore this is a high priority.

Planning Director Mogush commented that the MRCCA has been in place for decades and there have been multiple iterations of plans that each city has been required to prepare. He noted that residents have had the ability to be involved in those plans over the years and this is a final regulatory piece. He recognized that this could seem out of place because of the time lapse between the last rule revision of the DNR and adoption of the City's 2040 Comprehensive Plan.

Commissioner Udomah asked how other cities have handled this.

Planning Director Mogush replied that all the river cities within the jurisdiction of the Metropolitan Council have been required to adopt the same rule revisions. He stated that cities may have followed different processes for engagement. He stated that staff focused on informing residents about the ordinance and answering individual questions from residents. He recognized that questions would continue, and staff would continue to speak with residents.

Associate Planner McDermott stated that many of the cities that have already adopted the updated rules, adopted the model ordinance while some cities have adopted stricter regulations by choice.

Commission Chair Cavin noted that the Planning Commission is a recommending body and ultimately the decision will be of the City Council.

Planning Director Mogush commented that following the recommendation tonight, the first reading of the ordinance would go before the City Council on Monday, March 25th and the final vote would most likely not take place until late June.

Commissioner Kiekow asked what would happen if the City were not to adopt the regulations.

Planning Director Mogush stated that the City likes to follow the laws and would not want to focus on potential consequences of not following the law.

Commissioner Wako stated that his concern is with the level of engagement, or lack thereof, of the impacted residents. He stated that he would like to see more public engagement before this proceeds further.

Commissioner Udomah asked if they would need to approve this or whether there would be more time available. He understood that the City is obligated to approve this.

Planning Director Mogush commented that the City is already late in adopting this and there is risk in delay, but acknowledged that it is important to ensure that those impacted are informed and understand the regulations. He stated that he stands by the process to continue to speak with residents one on one and noted that staff would continue to do that. He stated that while most of the time the Commission provides a recommendation of approval or denial, it could also provide a recommendation on what it believes that the process should be.

MOTION CAVIN, SECOND TURNER TO RECOMMEND APPROVAL OF AN ORDINANCE AMENDING CHAPTER 152 OF THE BROOKLYN PARK CODE OF ORDINANCES PERTAINING TO THE MISSISSIPPI RIVER CORRIDOR CRITICAL AREA.

FURTHER DISCUSSION: COMMISSION CHAIR CAVIN COMMENTED THAT THE COMMISSION WOULD ALSO RECOMMEND THAT THE CITY COUNCIL ALLOW ADDITIONAL DISCUSSION WITH IMPACTED RESIDENTS BEFORE FINAL APPROVAL OCCURS.

MOTION CARRIED 4 – 2 (CAVIN, FRASER, TURNER, AND UDOMAH IN FAVOR AND KIEKOW AND WAKO OPPOSED).

Planning Director Mogush stated the public hearing item is scheduled to be reviewed at the City Council meeting on March 25, 2024.

D. Crystal Airport Joint Airport Zoning Board (JAZB) Proposed Text Amendment

Associate Planner McDermott introduced the application for the Crystal Airport overlay district text amendment. They stated that the City has enforced this overlay even though it was not codified. They provided details on the JAZB and those that participated. They stated that the zoning text would ensure compliance with the City's Comprehensive Plan as well as with FAA regulations. They provided details on the notification that was provided for this meeting and for the public hearing held by JAZB. They stated that staff recommends adoption as presented.

Commission Chair Cavin opened the public hearing.

Verlyn Hugman of 6281 Edgewood Avenue N commented that he has lived at his property since 1976 and would be in zone two as proposed. He asked for clarification on tree replacement, noting that it would appear that if an existing tree were removed it could not be replaced. He asked for clarification on height regulations as well. He understood the uplighting is not allowed as that could interfere with the vision of pilots.

Commission Chair Cavin closed the public hearing but reminded the public that comments can be submitted via email to City Staff for consideration in the City Council agenda packet.

Planning Director Mogush acknowledged that this is a technical and dense ordinance which does make it difficult to understand. He explained how height regulations are considered for properties adjacent to an airport. He stated that a map of each property was provided showing the maximum height, as it differs for each property based on the elevation of the property and the distance from

the runway. He stated that the City's residential height maximums are lower than these regulations. He noted that the airport regulations would come into play for something such as a communications tower. He stated that the height would also be higher than the trees on a property, although there could be an instance where a very tall, old tree could interfere with the allowed height but that would not be a common occurrence.

MOTION UDOMAH, SECOND FRASER TO RECOMMEND APPROVAL OF AN ORDINANCE AMENDING CHAPTER 152 OF THE BROOKLYN PARK CODE OF ORDINANCES PERTAINING TO THE AIRPORT OVERLAY DISTRICT.

MOTION CARRIED UNANIMOUSLY.

7. OTHER BUSINESS

A. 2024 Work Plan

Planning Director Mogush stated that each year the Commission provides a work plan for the coming year, along with an annual report, to the City Council. He stated that staff is still working on the annual report, which will be presented at the March 25th Council meeting. He stated that the draft work plan was included in the packet and provided an overview.

B. DISCUSSION ITEMS

Planning Director Mogush provided details on the BP 2030 Goals Steering Committee and the opportunity for a member of the Planning Commission to serve on the Committee.

Commissioner Udomah volunteered.

C. INFORMATION ITEMS

A. Council Comments

Council Liaison McGarvey provided an update on a recent training he attended for elected officials which was hosted by the League of Minnesota Cities.

B. Commission comments

Commissioner Udomah commented on the amount of trash that he has noticed throughout the community when driving along the roads. He asked if something could be done to improve that aesthetic.

Planning Director Mogush commented that this is something staff has been discussing as they have been receiving a lot of complaints as well.

Commissioner Fraser asked if there are plans for a permanent sign for the Small Business Center.

Planning Director Mogush commented that is in process and he would follow up to receive information on that timeline.

C. Staff Comments

Planning Director Mogush stated that the Commission will be holding regular worksessions for the foreseeable future. He also noted the upcoming Commission orientation which is required for new members and existing members are also invited to attend.

D. ADJOURNMENT

Commission Chair Cavin adjourned the meeting at 8:28 PM.

Respectfully submitted,

Paul Mogush
Planning Director