

## WAITE PARK CITY COUNCIL MEETING

February 11, 2019

### 1. CALL TO ORDER

A meeting of the Waite Park City Council was held at Waite Park City Hall on Monday, February 11, 2019, beginning at 6:30 PM.

#### MEMBERS PRESENT

Members present were Mayor Miller, Councilmembers Linqvist, Schmitt, Schulz and Theisen.

#### CITY REPRESENTATIVES PRESENT

City Representatives present were City Administrator Johnson, Deputy Clerk-Treasurer Virnig, Chief of Police Benrud, Public Works Director Schluenz, Planning and Community Development Director Noerenberg, Attorney Storm, SEH Engineer Wotzka

#### OTHERS PRESENT

There were no signatures on an attendance sheet.

### 2. PLEDGE OF ALLEGIANCE

### 3. OPEN FORUM

Gary Morgenroth, 1125 Cherrywood Court, Waite Park, talked about the local community wanting to have a seat at the table and that employees and Council need to be transparent. He asked about where all the money is all coming from and wants City Officials to be more open with what is going on.

Peter Wilson, 1108 Celebration Drive, Sartell, talked about 5G and the effects on the community.

Jim Rakashani, Waite Park, talked about a building in a nearby city that he built and general comments about the proposed project of his that will be presented later in the meeting.

### 4. COUNCIL AGENDA

Motion by Member Schulz, second by Member Theisen, to approve the 2/11/19 Council Agenda as presented. The motion carried unanimously.

### 5. CONSENT AGENDA

Motion by Member Theisen, second by Member Schmitt, to approve the following 2/11/19 Consent Agenda items:

5.A. Approved 1-22-19 Council Minutes

5.B. Approved Temporary Gambling Permit for St. Joseph Fire Relief Association

5.C. Approved Fire Department On-Call Rates

5.D. Approved Resolution Supporting Grant Application to DNR for Glacial Lakes Trail  
(RESOLUTION NO. 012219-B)

The motion carried unanimously.

### 6.A. ORDINANCE AMENDMENTS-SECTION 52.11 A-1 AGRICULTURAL/RURAL RESIDENTIAL DISTRICT CUP AND IUP AND ESTABLISHMENT OF ORDINANCE 52.56, ZONING-SOLAR AND WIND ELECTRIC-GENERATING FACILITIES REGULATION

Due to numerous requests for large-scale solar generating facilities within the City of Waite Park, particularly within the A-1, Agricultural/Rural Residential District outlying areas of the City, a moratorium was established for a period of 12 months in February of 2018 to allow Staff time to review options for additional regulation on such facilities. In Staff's opinion, the existing ordinance does not perform adequately for review/consideration of such facilities as it was created before such facilities were being built and utilized within the region. The facilities that have been reviewed and approved thus far have been considered via previous Staff interpretation under the

**6.A. ORDINANCE AMENDMENTS-SECTION 52.11 A-1 AGRICULTURAL/RURAL RESIDENTIAL DISTRICT CUP AND IUP AND ESTABLISHMENT OF ORDINANCE 52.56, ZONING-SOLAR AND WIND ELECTRIC-GENERATING FACILITIES REGULATION (Cont'd.)**

allowance for "essential public utilities" as a Conditional Use Permit in that they are affiliated with public utility/energy provider, but given further consideration and the privately-owned and for-profit nature of the facilities, this interpretation, in hindsight, is incorrect in Staff's opinion.

After initial review by City Council at meetings in January and the directive to revise several portions of the proposed amendments as discussed at the January 24, 2019 City Council work session, the revised proposed amendments and new ordinance was presented. Revisions from previous versions included:

- Wind projects now classified as Interim Use Permit (was previously proposed as Conditional Use Permit).
- Revised setbacks for both wind and solar projects, including to adjacent residential property for solar projects.
- Reduction of landscape buffer for solar projects from 25 to 15 feet wide.
- Removal of ag land review criteria for solar projects due to redundancy.
- Increase of allowable height from 50 to 100 feet for wind projects.
- Provision for onsite energy storage for wind projects with City review/approval for designs certified safe.
- Revision of decommissioning requirement to include plan and estimated costs, factoring inflation, and bond at minimum 125% of estimated costs (and higher as may be deemed appropriate by City Council), instead of minimum \$500,000 flat starting bond amount.
- Inclusion of requirement for applicant to submit documents accepting responsibility, including their heirs or successors, for incurring any additional unforeseen costs associated with future removal of any materials deemed hazardous or toxic in future at time of removal.

Most notably, the proposed ordinance sets a significant distance requirement between facilities, including existing facilities, which will create a limit as to how many facilities can be located throughout the City. Additional requirements guide development of such facilities to lowland/wetland areas that are not prime agricultural or potential development land, as may be allowed per Wetland Conservation Act standards and overseen by Stearns County, and incorporate more significant analysis was presented for review and consideration.

Staff is supportive and recommended approval of the proposed ordinance updates and establishment of new solar/wind facility ordinance as has been guided by City Council after review/discussion.

The proposed text amendments to Section 52.11 A-1, Agricultural/Rural Residential District related to Interim Uses, as well as proposed Section 52.56, Solar and Wind Electric-Generating Facilities Regulation were presented for review. For A-1 district modifications, new text was noted. No special notations were included in proposed Section 52.56 text as it is new in its entirety.

Discussion was held on the proposed ordinance amendments, especially regarding the proposed minimum setback of 1,320 feet to any residential home not located on the same property for all wind projects. Discussion was held on reducing the minimum setback to 500 feet.

Motion by Member Schulz, second by Member Linquist, to approve amendments to Section 52.11, A-1, Agricultural/Rural Residential District and establishment of Section 52.56, Solar and Wind Electric-Generating Facilities Regulation including changing the setback of all wind projects to a minimum of 500 feet to any residential home not located on the same property and also approving the Summary Publications as presented. The motion carried unanimously. **(ORDINANCE NO. 2019-01)**

**6.B. PLANNED UNIT DEVELOPMENT – CROSSROADS LOFTS MIXED-USE BUILDING, 20 3<sup>RD</sup> ST NE**

The request has been submitted by Jim Rakhshani, who recently purchased the property at 205 3<sup>rd</sup> St NE with intent of redevelopment. The applicant has been coordinating with Staff for the last several months on concepts for the property and has submitted an application for Planned Unit Development for the property, to obtain flexibility from applicable B-2 Commercial/General

## **6.B. PLANNED UNIT DEVELOPMENT – CROSSROADS LOFTS MIXED-USE BUILDING, 20 3<sup>RD</sup> ST NE (Cont'd.)**

Business District standards that apply to the property, namely regarding provision of residential component within the mixed-use building, and to reduce setbacks in order to mirror the adjacent property to the east.

The concept would have approximately the same footprint on the property as the building to the east does on its respective parcel, which maintains a uniform appearance for the block and maximizes available parking. Alternative configurations were explored with the architect and with input from Staff over the course of several meetings. The proposed layout as submitted was deemed most preferable. The proposed building and request would reduce the side and rear setbacks to five feet and essentially mirror the layout of the Concrete Image/Kodak building next door. The building is 48'x122' and has an overall footprint of 5,856 square feet.

Access to the property would be from the western side of the parcel via a new curbcut, which would be placed as far back from 3rd Street North as possible to allow room for ingress/egress of vehicles. The site plan depicts parking stalls in the area of the curb cut and driveway but these stalls could not be placed in such a location nor counted for parking requirements. Not counting these two stalls, the property has a total of 25 parking stalls planned. Staff recommended that the applicant explore a cross-easement with the adjacent property owner to the east to maximize traffic movement and parking efficiency via shared use, but the applicant has not submitted information or indication of discussion with that owner as of yet.

The applicant has submitted a narrative outlining details of the proposed building exterior and features of the planned four retail spaces and six single-bedroom loft apartments above. The applicant has noted that he has taken inspiration from the general design from a similar newer development in downtown St. Joseph. The front of the building features a covered storefront walkway. The apartments are accessed via an interior hallway on the back (north) side of the building. The apartments feature balcony areas facing 3rd Street as well. While single-bedroom, the apartments also feature a den area, although this would not be habitable as a bedroom due to lack of window. The applicant has been advised of this information and it would be reiterated as a condition of approval. The lower level notes two vacant portions of "flex" space.

The applicant has stated a preference to include these area components of the retail space but would like to reserve the approval and ability to utilize them as two additional apartment units should the market dictate. While within the commercial district ordinance it does not typically allow for first-floor apartments, given the retail component facing 3rd Street and the inherent flexibility allowed via the Planned Unit Development Process, Staff does not have an issue with these two depicted sections being allowed as apartments, provided that they are no more than single-bedroom. Assuming that the two lower-level apartments are undertaken, the parking demand of the retail portion would be 12 stalls. If the entirety of the lower level was utilized as retail, the parking demand for the retail portion would be 22 stalls, which is actually higher than if the two lower-level apartments are utilized. For the upper-level apartment units, the ordinance requirement is two stalls per unit, which would be a total of 16 stalls required. As proposed, with the two lower level apartments, the combined total requirement would be 28 stalls, which is in excess of the 25 provided.

However, Staff would note that there are two factors which would likely be involved in a realistic reduction of parking demand. The first would be that the single-bedroom apartments may likely have single tenants, with a realistic requirement of one stall each. The second is that given the mixed-use nature of the development, the retail parking demand is likely to be higher during the daytime, when tenants would likely be elsewhere. An additional element is the future possibility of cross-easement and additional parking allowance provided via agreement with adjacent property owner. On-street parking, which cannot be counted for parking purposes, is also an element which may realistically reduce parking demand.

Staff would note that the City ordinance makes specific allowance for mixed-use projects, intended to encourage their development, in which the City Council may consider a reduction in the amount of parking space required for joint or mixed use, (other than purely residential) where it is sufficiently demonstrated and documented that a specific timing element (e.g. differing hours of operation is perpetually maintained; mixed storefront and multiple family residential uses in a

**6.B. PLANNED UNIT DEVELOPMENT – CROSSROADS LOFTS MIXED-USE BUILDING, 20 3<sup>RD</sup> ST NE (Cont'd.)**

single structure) or the nature of the use (e.g. senior housing; proximity to transit terminals/stations, etc.), will demonstrably affect the demand for parking.

Staff believes that this proposal should be considered an instance of such allowance as described above, and that the parking proposed is sufficient to meet the demand of the development and that the parking requirement reduction should be approved as part of the request. The applicant has also noted that he is in conversations with at least two adjacent properties for future options as well.

The request was initially reviewed by the Planning Commission at their December 11, 2018 meeting, and was tabled due to questions regarding a potential sidewalk project on 3rd Street North and with request for Staff to further review parking, with direction to review the Short Stop business nearby in St. Cloud which has a similar mixed-use layout. Minutes from the meeting were presented. After the initial Planning Commission meeting, Staff contacted Stearns County Highway Department, who noted that they have no plans to widen or otherwise impact the right turn lane on 3rd Street North in front of the property. They also noted that they would not put in sidewalk on that location and view any desired sidewalk installation as a City project, and the City has no plans for sidewalk in that location.

Further review of the parking and comparable projects noted that while the planned drive lane in-between stalls is indeed narrow, it still meets the minimum 26' width as required by City Ordinance. The building next door has a wider drive lane due to the fact that it is not impacted by a turn lane off of 3rd Street North. Staff measured the drive lane at the Short Stop building with apartments above in St. Cloud, which was discussed during the meeting as a comparable project, and found that the drive lane in front of that building was approximately 24' wide, which would be considered substandard under Waite Park ordinance but may be permissible by St. Cloud code, or could be an earlier legal non-conforming project. Staff does acknowledge that both the Kodak/Concrete Image property and Short Stop property (both under same ownership) also own surrounding properties by which they utilize shared parking.

Concerns raised regarding the potential of the noted "den" areas of the apartment units being utilized as a non-legal bedroom which may impact the tenant parking demand were discussed with the applicant, including the potential to remove one wall from the den to make it secluded but not closed-off and thus reduce interest in utilizing it as a de-facto bedroom. However, after consideration, Staff agreed that a preferred option would be for the applicant to provide a copy of their proposed lease agreement which specifically notes that the den may not be used as a bedroom and that any indication of use as a bedroom would be grounds for eviction. This is already a standard under the building code/rental ordinance but providing it within the lease agreement would be an additional safeguard.

The Planning Commission reviewed the request again at their January 2019 meeting, with the additional information provided by Staff. The Planning Commission recommended approval of the request with the direction that the preliminary plans should be reviewed by City inspections and fire dept. staff to ensure the project is likely to meet fire protection requirements before the City Council review. Staff noted for the Planning Commission that any new building project goes through a State review process for fire code purposes as well at time of building permit application. Staff provided the preliminary project information to the Waite Park Fire Chief and the Building Inspections staff, who reviewed it together. They noted that access is sufficient for fire-fighting purposes and that with the preliminary plans there are no major concerns, particularly due to building proposed to be sprinkled and the retail/commercial nature of the lower level tenant spaces not likely to have any hazardous materials storage.

Staff is supportive of the Planned Unit Development with design and layout as proposed, provided that the updated recommended conditions are met. Staff believes that in order to promote redevelopment in some areas of the community, such as this area, they need to be willing to take some risks on items such as limited parking and that a smaller-level project such as this will help evaluate the viability of similar, hopefully larger-scale projects in the area in the future.

**6.B. PLANNED UNIT DEVELOPMENT – CROSSROADS LOFTS MIXED-USE BUILDING, 20 3<sup>RD</sup> ST NE (Cont'd.)**

Staff recommends approval of the Planned Unit Development with the following conditions:

1. Design and configuration shall follow documents as reviewed/approved by the Planning Commission and City Council. Minor amendments may be approved by Planning & Community Development Director. Changes or amendments deemed as major shall require additional review/approval by Planning Commission and City Council.
2. Property will need to be platted and associated payment-in-lieu of parkland dedication, as determined by Park Board and confirmed by City Council, shall be required prior to commencement of project.
3. No den area as depicted in floor plans for apartments shall be utilized as bedroom.
4. Owner/operator shall provide City with copy of current lease agreement which shall specifically note that den areas shall not be utilized as a bedroom and that indication of use as bedroom shall be grounds for eviction.
5. Property shall obtain and maintain rental license for rental of apartment units. Occupancy is subject to all City ordinances.
6. Applicant agrees to coordinate with adjacent property owner(s) to secure additional parking stalls per City ordinance standards related to parking should excessive parking demand become a concern, as determined by City Staff.
7. Applicant shall submit a landscaping plan for landscaping along 3rd Street North frontage which is subject to review and approval by City Staff.
8. Applicant shall be sole responsibility for any and all costs incurred with any relocation of utilities, including but not limited to signs, fire hydrant(s), water/sewer lines, etc.
9. Applicant shall be responsible for coordinating with and acquiring permits from Stearns County for any relocation of items or work within Stearns County right-of-way.
10. Signage, including any signage within or on windows, shall adhere to City standards and sign permits must be obtained prior to fabrication/installation.
11. Exterior lighting, if any, shall follow City standards.

Member Linquist was concerned with having adequate parking and discussion was held on this issue.

Motion by Member Theisen, second by Member Schmitt to approve the Planned Unit Development with the following conditions:

1. Design and configuration shall follow documents as reviewed/approved by the Planning Commission and City Council. Minor amendments may be approved by Planning & Community Development Director. Changes or amendments deemed as major shall require additional review/approval by Planning Commission and City Council.
2. Property will need to be platted and associated payment-in-lieu of parkland dedication, as determined by Park Board and confirmed by City Council, shall be required prior to commencement of project.
3. No den area as depicted in floor plans for apartments shall be utilized as bedroom.
4. Owner/operator shall provide City with copy of current lease agreement which shall specifically note that den areas shall not be utilized as a bedroom and that indication of use as bedroom shall be grounds for eviction.
5. Property shall obtain and maintain rental license for rental of apartment units. Occupancy is subject to all City ordinances.
6. Applicant agrees to coordinate with adjacent property owner(s) to secure additional parking stalls per City ordinance standards related to parking should excessive parking demand become a concern, as determined by City Staff.
7. Applicant shall submit a landscaping plan for landscaping along 3rd Street North frontage which is subject to review and approval by City Staff.
8. Applicant shall be sole responsibility for any and all costs incurred with any relocation of utilities, including but not limited to signs, fire hydrant(s), water/sewer lines, etc.
9. Applicant shall be responsible for coordinating with and acquiring permits from Stearns County for any relocation of items or work within Stearns County right-of-way.

**6.B. PLANNED UNIT DEVELOPMENT – CROSSROADS LOFTS MIXED-USE BUILDING, 20 3<sup>RD</sup> ST NE (Cont'd.)**

10. Signage, including any signage within or on windows, shall adhere to City standards and sign permits must be obtained prior to fabrication/installation.

11. Exterior lighting, if any, shall follow City standards.

Ayes: Mayor Miller, Members Schmitt, Schulz, Theisen

Nays: Member Linnquist

Abstained: None

The motion carried.

**7. COUNCIL/MAYOR**

**7.A. REVIEW AND APPROVE BILLS**

Motion by Member Theisen, second by Member Schulz to approve the 1-29-19 bills as presented. The motion carried unanimously.

**8. ADMINISTRATOR UPDATE**

City Administrator Johnson reviewed the following:

- The State of the City Address will be on February 20, 2019 at the Waite Park American Legion. Lunch starts at 11:30 a.m. with the address starting around 12:15 p.m.
- The League of MN Cities Legislative Conference is next Wednesday and Thursday.

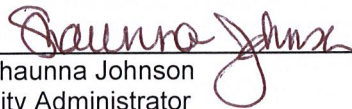
Director of Public Works Schluez thanked City Staff for all the snow plowing that has been done.

**ADJOURNMENT**

Mayor Miller declared the meeting adjourned at 7:03 p.m.



Richard E. Miller  
Mayor



Shaunna Johnson  
City Administrator