

MINUTES OF THE PROCEEDINGS OF THE PLANNING COMMISSION OF THE CITY OF CHAMPLIN IN THE COUNTY OF HENNEPIN AND THE STATE OF MINNESOTA PURSUANT TO DUE CALL AND NOTICE THEREOF

REGULAR SESSION
JULY 18, 2016
CITY COUNCIL CHAMBERS

CALL TO ORDER THE CHAMPLIN PLANNING COMMISSION MET IN REGULAR SESSION AND WAS CALLED TO ORDER BY CHAIRPERSON R.J. THIEL AT 7:00 P.M.

ROLL CALL PRESENT WERE: CHAIRPERSON THIEL, COMMISSIONERS MATT BOLTERMAN, DAVID BOUCHARD, DAN COSTELLO, TIM LACROIX, KATHY MANEMANN, MICHAEL PETERSON, AND NATE TRUESDELL. ABSENT: COMMISSIONER STEPHANIE BITTERMAN. ALSO PRESENT WAS CITY PLANNER SCOTT SCHULTE.

ROLE OF THE COMMISSION CHAIRPERSON THIEL BRIEFLY REVIEWED THE ROLE OF THE COMMISSION.

APPROVAL OF AGENDA (JULY 18, 2016) MOTION TO APPROVE THE AGENDA OF THE JULY 18, 2016 PLANNING COMMISSION MEETING AS PRESENTED. ALL VOTED IN FAVOR AND THE MOTION CARRIED.

APPROVAL OF MINUTES (MAY 16, 2016) MOTION COMMISSIONER PETERSON NOTED ON PAGE FOUR, LINE FOUR, THE FIRST PARAGRAPH, IT SHOULD STATE, "...BUT NOT A CLARIFICATION."

COMMISSIONER COSTELLO NOTED ON PAGE THREE, THE TWELFTH PARAGRAPH, IT SHOULD STATE, "ACTING CHAIRPERSON ~~THIEL~~ COSTELLO..."

MOTION BY COMMISSIONER COSTELLO AND SECONDED BY COMMISSIONER LACROIX TO APPROVE THE MINUTES OF THE MAY 16, 2016, PLANNING COMMISSION MEETING AS AMENDED. ALL VOTED IN FAVOR AND THE MOTION CARRIED. CHAIRPERSON THIEL ABSTAINED.

OPEN FORUM NO ONE WAS PRESENT FOR OPEN FORUM.

PUBLIC HEARINGS
PROJECT 2016-12: THE CITY PLANNER STATED THAT EL TORO RESTAURANT OPENED ITS DOORS IN 2004 AND IS OPERATING UNDER A CONDITIONAL USE PERMIT (CUP) FROM 2001 THAT WAS CONDITIONAL USE PERMIT AMENDMENT: REQUEST FROM JEOVANI GOMEZ FOR A CONDITIONAL USE PERMIT AMENDMENT AO ALLOW OUTDOOR SEATING/DINING AT EL TORO RESTAURANT, 10901 DOUGLAS DRIVE NORTH (LOT 3, BLOCK 6, BROOKLYN HEIGHTS EAST) BASED ON REBEL CAFÉ. HE EXPLAINED THAT A CUP IS RECORDED AGAINST THE PROPERTY AND THEREFORE CAN TRANSFER WITH OWNERSHIP. HE PRESENTED A REQUEST FROM THE APPLICANT FOR AN OUTDOOR DINING AREA. HE STATED THAT STAFF CONSIDERED ANY EXTERNALITIES ASSOCIATED WITH THE PROPOSED USE BECAUSE OF THE PROXIMITY TO THE RESIDENTIAL DEVELOPMENT. HE DISPLAYED AN AERIAL PHOTOGRAPH AND PROVIDED DETAILS ON THE PROPOSED LAYOUT AND DESIGN FOR THE OUTDOOR SEATING. HE STATED THAT THE CITY RECOMMENDS LIMITING THE HOURS OF OPERATION, SIMILAR TO OTHER RESTAURANTS IN THE CITY THAT HAVE A CLOSE PROXIMITY TO RESIDENTIAL PROPERTIES, WITH A 9:30 P.M. LAST CALL AND 10:00 P.M. CLOSING TIME FOR THE PATIO SEATING. HE STATED THAT THE CITY WOULD RESERVE THE RIGHT TO REVIEW THE AMENITY IN PERPETUITY TO ENSURE THAT THERE ARE NOT ISSUES WITH THE OUTDOOR SEATING. HE NOTED THAT SIMILAR TO OTHER RESTAURANTS WITH OUTDOOR DINING FACILITIES STAFF WOULD RECOMMEND NOT ALLOWING LIVE MUSIC OUTDOORS AND LEAVING THAT ELEMENT ALLOWED INSIDE ONLY. HE STATED THAT THERE ARE SUFFICIENT PARKING STALLS AT THIS FACILITY TO SUPPORT THE DESIRED OUTDOOR SEATING ADDITION BUT NOTED THAT A PARKING LOT END-CAP IS MISSING AND THEREFORE STAFF RECOMMENDS THAT BE INSTALLED IN THE SOUTHERN PORTION OF THE PARKING LOT. HE NOTED THAT THE PARKING LOT IS ALSO IN NEED OF RESTRIPIING. HE STATED THAT THERE ARE CATCH BASINS IN THE PARKING LOT USED TO CATCH RUNOFF ON THE SITE THAT ARE IN NEED OF REPAIR AND STAFF WOULD ALSO RECOMMEND THOSE REPAIRS IN SUPPORT OF STORMWATER MANAGEMENT. HE STATED THAT BECAUSE THOSE ARE UNPLANNED IMPROVEMENTS STAFF WOULD RECOMMEND ALLOWING A TIME PERIOD

OF ONE YEAR FOR THE REPAIRS TO THE PARKING LOT. HE STATED THAT STAFF RECOMMENDS APPROVAL OF THE REQUEST SUBJECT TO THE CONDITIONS NOTED IN THE STAFF REPORT.

PUBLIC HEARING

CHAIRPERSON THIEL OPENED THE PUBLIC HEARING AT 7:11 P.M.

DAVID VANDEKIEFT, 10932 EDGEWOOD AVENUE, HE STATED THAT THERE HAS BEEN HISTORY IN THE PAST WITH THIS LOCATION AND APPRECIATED THE EFFORTS THE OWNER HAS MADE TOWARDS ODOR. HE NOTED THAT THERE ARE STILL ISSUES WITH NOISE AND THEREFORE HE WOULD BE CONCERNED ABOUT ADDITIONAL NOISE. HE ASKED THE SETBACK FOR A STRUCTURE NEXT TO THIS ROADWAY.

THE CITY PLANNER WAS UNSURE OF A SIDE YARD SETBACK FROM THIS ROAD.

MR. VANDEKIEFT STATED THAT THE SETBACK IS 50 FEET AND NOTED THAT THIS USE IS FAR LESS THAN 50 FEET.

CHAIRPERSON THIEL BELIEVED THE SETBACK WAS FROM THE CENTER LINE OF THE ROADWAY.

THE CITY PLANNER NOTED THAT THE SETBACK WOULD APPLY TO THE PRINCIPAL STRUCTURE.

MR. VANDEKIEFT STATED THAT THE DRAGGING OF TRASH CANS WAKES THEM UP AT 9:30 AND 10:00 P.M. AND ASSUMED THAT NOISE WOULD BE A BIGGER ISSUE WITH OUTDOOR SEATING. HE STATED THAT IN THIS CASE THE RESTAURANT IS TOO CLOSE TO RESIDENTIAL TO ALLOW OUTDOOR SEATING. HE STATED THAT IF HAVING OUTDOOR SEATING 25 FEET FROM THEIR OWN PROPERTY LINE WOULD BE A CONFLICT THAN THE COMMISSION SHOULD VOTE IN OPPOSITION OF THIS REQUEST.

THE APPLICANT, JEOVANI GOMEZ, 5304 143RD AVE NW, RAMSEY, PROVIDED ADDITIONAL EXPLANATION ON THE PROPOSED LAYOUT, NOTING THAT FENCING WOULD BE INSTALLED AROUND THE PATIO WITH THE EXCEPTION OF THE ONE BRICK WALL. HE NOTED THAT ADDITIONAL TREES ARE ALSO PROPOSED IN THAT AREA TO PROVIDE ADDITIONAL SCREENING FROM THE RESIDENTIAL DEVELOPMENT. HE STATED THAT HE WOULD BE MORE THAN HAPPY TO WORK WITH MR. VANDEKIEFT ON ANY ISSUES THAT HE WOULD HAVE. HE NOTED THAT HE HAS BEEN WORKING WITH CITY STAFF AND CREATED A TRASH ENCLOSURE IN THE BACK, NOTING THAT IF NOISE IS A PROBLEM THE TRASH CANS CAN BE BROUGHT ANOTHER ROUTE. HE STATED THAT THIS IS A FAMILY OWNED BUSINESS TRYING TO ALLOW OUTDOOR SEATING FOR A FEW CUSTOMERS AND THEY WOULD BE WILLING TO COMPLY WITH ANY CONDITIONS THE COMMISSION FEELS NECESSARY.

MOTION

MOTION BY COMMISSIONER BOUCHARD AND SECONDED BY COMMISSIONER PETERSON, TO CLOSE THE PUBLIC HEARING. ALL VOTED IN FAVOR AND THE MOTION CARRIED.

THE PUBLIC HEARING WAS CLOSED AT 7:18 P.M.

COMMISSIONER BOUCHARD REFERENCED A GRAMMATICAL SUGGESTION FOR CONDITION EIGHT. HE REFERENCED CONDITION FOUR AND ASKED IF THE TREES WOULD BE PLANTED NEAREST TO THE RESIDENTIAL DEVELOPMENT.

THE CITY PLANNER IDENTIFIED A GREEN SPACE TO THE WEST OF THE PROPOSED PATIO THAT COULD SUPPORT ADDITIONAL TREES FOR SCREENING.

COMMISSIONER TRUESDELL ASKED IF THERE ARE PLANS FOR AN OUTDOOR BAR.

MR. GOMEZ REPLIED THAT THERE ARE NO PLANS FOR AN OUTDOOR BAR.

COMMISSIONER LACROIX STATED THAT CURRENTLY THE TRASH AREA IS ON THE SOUTH SIDE OF THE BUILDING AND ASKED WHERE THAT WOULD BE RELOCATED TO.

THE CITY PLANNER NOTED THAT THE TRASH AREA USED TO BE ON THE SOUTH SIDE OF THE BUILDING AND IDENTIFIED THE TRASH LOCATION ON THE WEST SIDE OF THE BUILDING.

COMMISSIONER COSTELLO REFERENCED THE PARKING LOT IMPROVEMENTS AND ASKED IF THOSE ARE DUE TO THE PROPOSED ADDITION OR WHETHER THOSE WOULD BE REQUIRED REGARDLESS OF THIS PROJECT.

THE CITY PLANNER EXPLAINED THAT WHEN A PROPOSAL IS BROUGHT FORWARD FROM A PROPERTY OWNER, STAFF REVIEWS THE PROPERTY FOR ANY NON-CONFORMITIES THAT WOULD NEED TO BE ADDRESSED WITH THE REQUEST.

COMMISSIONER COSTELLO ASKED IF THAT BURDEN WOULD FALL ONTO THE APPLICANT OR BE SPLIT BETWEEN THE TENANTS.

THE CITY PLANNER STATED THAT THE APPLICANT OWNS THE BUILDING AND THEREFORE IT WOULD BE THEIR RESPONSIBILITY.

COMMISSIONER BOUCHARD REFERENCED THE THIRD CONDITION REGARDING NOISE AND ASKED FOR ADDITIONAL INFORMATION ON HOW THAT WOULD BE DONE.

THE CITY PLANNER STATED THAT STAFF SIMPLY WANTS TO RESERVE THAT RIGHT AND REVIEWS COULD BE COMPLAINT DRIVEN OR COULD BE EVALUATED BY STAFF RANDOMLY. HE STATED THAT STAFF HAS BEEN WORKING WITH THE APPLICANT FOR THE PAST FEW YEARS TO MONITOR NOISE AND NOTED THAT THE MAJORITY OF NOISE IN THIS LOCATION IS GENERATED FROM 109TH AVENUE.

CHAIRPERSON THIEL NOTED THAT WILLY MCCOY'S RECENTLY OPENED OUTDOOR SEATING AND ASKED IF THERE HAVE BEEN ANY COMPLAINTS.

THE CITY PLANNER REPLIED THAT WILLY MCCOY'S HAS NOT RECEIVED ANY COMPLAINTS. HE ADVISED THAT ANOTHER LOCATION IN THE CITY HAS COMPLAINTS BECAUSE THEIR OUTDOOR ACTIVITIES EXCEEDED 10:00 P.M. BUT EXPLAINED THAT IN THAT CASE THE NEIGHBORING HOME WAS 15 FEET FROM THE OUTDOOR AREA.

COMMISSIONER BOLTERMAN ASKED IF THE SETBACK IS AN ISSUE.

THE CITY PLANNER REPLIED THAT THE SETBACK WOULD NOT BE AN ISSUE BECAUSE THE MASONRY WALL IS NOT A PRINCIPAL STRUCTURE AND IS INTENDED TO BUFFER NOISE.

COMMISSIONER BOLTERMAN REFERENCED CONDITION TWO AND ASKED FOR THE DEFINITION OF AMPLIFIED MUSIC.

THE CITY PLANNER CLARIFIED THAT SPEAKERS WOULD NOT BE ALLOWED OUTDOORS.

COMMISSIONER BOLTERMAN ASKED FOR INFORMATION ON LIGHTING.

THE CITY PLANNER STATED THAT A LIGHTING PLAN WAS NOT SUBMITTED AND ASSUMED THERE WOULD SIMPLY BE TABLE LIGHTING. HE NOTED THAT IF BUILDING LIGHTING IS DESIRED THAT LIGHTING WOULD NEED TO MEET THE REQUIREMENTS OF THE CITY CODE AND BE DOWNCAST.

MR. VANDEKIEFT ASKED THE PURPOSE OF SETBACKS.

CHAIRPERSON THIEL STATED THAT THE PURPOSE IS TO LIMIT THE ENCROACHMENT ON ANOTHER PROPERTY. HE EXPLAINED THAT SETBACKS FOR DIFFERENT ROADWAYS HAVE DIFFERENT INTENTS.

THE CITY PLANNER NOTED THAT THIS WALL WOULD ACT IN A SIMILAR MANNER TO A RETAINING WALL, NOTING THE PROXIMITY TO THE LANDSCAPING BERM.

MR. VANDEKIEFT STATED THAT HE WAS CONCERNED WITH PEDESTRIAN SAFETY AS THE WALL COULD BE MORE DISTRACTING.

COMMISSIONER COSTELLO REFERENCED THE EXISTING FENCE AND STATED THAT THE EXISTING STRUCTURE APPEARS TO BE WITHIN THE BOUNDARIES OF THAT FENCE AND THEREFORE WOULD BE FURTHER FROM THE ROAD THAN THE EXISTING FENCE.

COMMISSIONER MANEMANN NOTED AN INCONSISTENCY IN THE PACKET REGARDING THE FENCE HEIGHT.

THE CITY PLANNER STATED THAT THE APPLICANT SUBMITTED PLANS FOR A FOUR FOOT WALL BUT STAFF RECOMMENDED RAISING THAT HEIGHT TO SIX FEET IN ORDER TO PROVIDE BETTER SCREENING.

COMMISSIONER MANEMANN ASKED AND RECEIVED CONFIRMATION THAT THE WALL WOULD HELP TO ALLEVIATE NOISE. SHE ASKED IF ANY OF THE OUTDOOR SEATING AREAS HAVE AMPLIFIED MUSIC.

THE CITY PLANNER STATED THAT SOME CUP'S ALLOW FOR THAT WHILE OTHERS DO NOT DEPENDENT ON THEIR PROXIMITY TO RESIDENTIAL DEVELOPMENT.

CHAIRPERSON THIEL RECEIVED CONFIRMATION THAT THE DISALLOWANCE OF ACOUSTIC MUSIC WOULD BE COVERED UNDER THE THIRD CONDITION.

COMMISSIONER BOUCHARD ASKED AND RECEIVED CONFIRMATION THAT THIS PLAN WOULD ACTUALLY PLACE TWO OR MORE SCREENING MECHANISMS BETWEEN THE OUTDOOR PATIO AREA AND THE NEIGHBORING HOMES.

COMMISSIONER TRUESDELL ASKED IF THERE WOULD BE A GATE ENTRANCE FROM THE PARKING LOT INTO THE OUTDOOR SEATING AREA.

MR. GOMEZ CONFIRMED THAT IS AN EMERGENCY GATE IN CASE OF FIRE.

COMMISSIONER LACROIX STATED THAT HE IS PLEASED TO HEAR THAT RESIDENT COMPLAINTS ARE CONSIDERED IF AN ISSUE WERE TO ARISE IN THE FUTURE. HE STATED THAT IT APPEARS THE PROPERTY OWNER HAS BEEN AMENABLE TO WORKING WITH THE NEIGHBORS AND THEIR COMPLAINTS IN THE PAST.

CHAIRPERSON THIEL NOTED THAT HE RESEARCHED AND THE FENCE APPEARS TO BE SETBACK ON THE PROPERTY LINE SIMILAR TO OTHER FENCES ALONG THE ROADWAY.

COMMISSIONER PETERSON STATED THAT THE THIRD CONDITION WOULD SATISFY HIS CONCERN FOR THE RESIDENT TO BE HEARD SHOULD ISSUES ARISE AND THEREFORE WOULD RECOMMEND APPROVAL.

COMMISSIONER COSTELLO ASKED IF THERE ARE METHODS TO MEASURE NOISE SHOULD THAT BE AN ISSUE.

THE CITY PLANNER EXPLAINED THAT THE LANGUAGE IS VAGUER AS IT WILL NEED TO BE DETERMINED AS TO WHAT IS TOO NOISY, AS THAT WOULD DEPEND UPON THE SITUATION. HE NOTED THAT SHOULD AN ISSUE ARISE STAFF COULD WORK WITH THE PROPERTY OWNER TO FIND A RESOLUTION. HE NOTED THAT OTHER ASPECTS WOULD NEED TO BE CONSIDERED, SUCH AS A COMPARISON TO THE OTHER NOISE IN THE AREA AND THE DURATION AND FREQUENCY OF THE NOISE.

CHAIRPERSON THIEL STATED THAT HE WOULD POSSIBLY LIKE BEFORE CONSTRUCTION NOISE LEVELS DOCUMENTED FOR COMPARISON PURPOSES.

MOTION

MOTION BY COMMISSIONER COSTELLO AND SECONDED BY COMMISSIONER TRUESDELL TO RECOMMEND THAT THE CITY COUNCIL APPROVE THE CONDITIONAL USE PERMIT AMENDMENT ALLOWING OUTDOOR DINING AT EL TORO, SUBJECT TO THE

FOLLOWING CONDITIONS:

1. THE OUTDOOR PATIO SHALL BE LIMITED TO 24 SEATS.
2. LIVE ENTERTAINMENT AND AMPLIFIED MUSIC SHALL ONLY BE ALLOWED INSIDE THE BUILDING.
3. THE OUTDOOR PATIO SHALL CLOSE AT 10:00 P.M. THE PATIO SHALL BE MONITORED FOR NOISE AT ALL TIMES AND IF THE CITY DETERMINES THE NOISE LEVELS TOO DISRUPTIVE TO THE NEIGHBORHOOD, ALCOHOL MAY BE LIMITED TO INSIDE THE BUILDING OR THE PATIO MAY BE CLOSED ALL TOGETHER.
4. THREE SIX-FOOT-TALL CONIFEROUS TREES SHALL BE PLANTED IN THE AREA WEST OF THE PATIO.
5. A LANDSCAPED CONCRETE PARKING LOT ISLAND SHALL BE INSTALLED AS A SOUTHERLY END-CAP TO INTERNAL ROW OF PARKING STALLS.
6. THE PARKING LOT SHALL BE RE-STRIPED.
7. TWO STORM SEWER CATCH BASINS CONVEY STORMWATER FROM THE PARKING LOT INTO STORM SEWER. THE CATCH BASINS ARE DETERIORATING UNDER THE MANHOLES AND SHALL BE REPAIRED.
8. THE APPLICANT SHALL HAVE UP TO ONE YEAR FROM THE DATE OF CITY COUNCIL APPROVAL OF THIS CONDITIONAL USE PERMIT TO MAKE REQUIRED SITE IMPROVEMENTS.
9. THE CONDITIONAL USE PERMIT SHALL BE FILED AND RECORDED WITH THE HENNEPIN COUNTY RECORDER'S OFFICE.
10. THE BRICK WALL SHALL BE CONSTRUCTED OF THE SAME MATERIALS AS THE EXISTING BUILDING.
11. THE PATIO SHALL BE CONSTRUCTED AS PER THE SKETCH INCLUDED IN THE PLANS WITH THE EXCEPTION OF THE WALL HEIGHT OF SIX FEET.
12. NOISE MEASUREMENTS SHALL BE TAKEN BEFORE AND AFTER CONSTRUCTION FOR COMPARISON PURPOSES.

ALL VOTED IN FAVOR AND THE MOTION CARRIED.

CHAIRPERSON THIEL NOTED THAT THIS WILL MOVE FORWARD TO THE CITY COUNCIL ON JULY 25, 2016.

OTHER BUSINESS

THERE WAS NONE.

ADJOURN
MOTION

MOTION BY COMMISSIONER TRUESDELL AND SECONDED BY COMMISSIONER MANEMANN TO ADJOURN THE MEETING. ALL VOTED IN FAVOR AND THE MOTION CARRIED. THE CHAMPLIN PLANNING COMMISSION MEETING ADJOURNED AT 7:52 P.M.

ROBERT J. THIEL, CHAIRPERSON

ATTEST:

SCOTT SCHULTE, CITY PLANNER