

Planning Commission

May 11, 2020 – 7 pm

REGULAR MEETING MINUTES

This meeting was held via Webex in accordance with the local emergency declaration made by the City under Minn. Stat. § 12.37. In accordance with that declaration, beginning on March 16, 2020, all Planning Commission meetings held during the emergency were conducted electronically. The City used Webex to conduct this meeting and members of the public were able to monitor the meetings by watching it on Comcast cable channel 16, by streaming it on CCXmedia.org, or by dialing in to the public call-in line. The public was able to participate in this meeting during public comment sections, by dialing the public call-in line.

1. Call to Order

The meeting was called to order at 7:05 by **Chair Blum**.

Roll Call

Commissioners present: Rich Baker, Ron Blum, Adam Brookins, Andy Johnson, Lauren Pockl, Ryan Sadeghi, Chuck Segelbaum,

Commissioners absent: Ari Prohovsky

Staff present: Jason Zimmerman – Planning Manager

Council Liaison present: Gillian Rosenquist

2. Approval of Agenda

Chair Blum, asked for a motion to approve the agenda.

MOTION made by **Commissioner Brookins**, seconded by **Commissioner Segelbaum** to approve the agenda of May 11, 2020, as submitted. Staff called a roll call vote and the motion carried unanimously.

3. Approval of Minutes

Chair Blum made a correction to the minutes from the April 27, 2020 meeting and assuming those corrections were made, asked for a motion to approve the minutes from April 27, 2020.

MOTION made by **Commissioner Brookins**, seconded by **Commissioner Johnson** to approve the meeting minutes, after the correction was made, from April 27, 2020. Staff called a roll call vote and the motion carried unanimously.

4. Informal Public Hearing – Amendment to Future Land Use Map

Applicant: Paul Jacob

Address: 7345 Country Club Drive

Purpose: To modify the guided land use from Low Density Residential to Retail/Service

[ITEM 4 & 5 ARE PRESENTED TOGETHER]



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5. Informal Public Hearing – Amendment to Zoning Map

Applicant: Paul Jacob
Address: 7345 Country Club Drive
Purpose: To modify the zoning designation from Single-Family Residential (R-1) to Commercial

Jason Zimmerman, Planning Manager, started by explaining the proposal by the applicant to amend the Future Land Use Map which would be a modification of the 2040 Comprehensive Plan. This amendment changes the land-use designation from Low Density Residential to Retail/Service. The applicant's second proposal was to amend the Zoning Map in order to rezone Schuller's. This amendment would change the zoning from Single-Family Residential to Commercial. The elements of the proposal have an end goal of creating an outdoor patio for customers. Adding the patio qualifies as an expansion and in order to do so, zoning and land use designations must be changed as the current non-conforming statute allows use to continue but not expansion.

By way of background, **Zimmerman** explained Schuller's is a bar/restaurant, operating at its current location for decades and is considered non-conforming. The guided land use has been designated as a Single-Family or Low Density Residential since at least 1977. A zoning map from the first part of 1956 shows the property zoned as commercial, but later that year it was rezoned to a Single-Family Residential (R-1).

Zimmerman reminded the Commissioners that Schuller's made a similar request in 2012, the Planning Commission recommended denial and City Council tabled the item and did not vote. In 2013 the City Council discussed the change and did not support it. In 2014 the Council supported moving forward but there was not an application submitted.

Moving on to the steps in the process, **Zimmerman** stated that if the land use change was approved by the City, it must follow these next steps:

1. Be approved by the Metropolitan Council as a Comprehensive Plan amendment.
2. Once Met. Council grants approval, the zoning change may occur.
3. Then a CUP is needed which may then set additional regulations on setbacks, hours, noise, etc
4. Variances would be needed for existing setbacks as well as for the new patio.

Zimmerman informed the group on the neighbor notification process for this proposal and typically that includes a neighborhood meeting. Current Covid-19 restrictions discouraged this and a neighborhood mailing was sent instead with an extended comment period. Planning staff received three emails and two phone calls.

Zimmerman expanded on the zoning and land use definitions as well as the idea of "spot-zoning". Regarding Land Use changes, there aren't specific standards outlined in the City Code but the City

Attorney urges the Planning Commission to consider land-use descriptions that are contained in the comprehensive plan. When looking at the zoning changes, the City Attorney urges the Commissioners to consider the purpose of the Zoning Chapter *to regulate land use ... for the purpose of promoting the health, safety, order, convenience, and general welfare of all citizens of the City.*

Staff has two primary concerns regarding this proposal:

1. The construction of an outdoor patio in a primarily single-family neighborhood increases the likelihood of complaints related to noise, lights, traffic, etc.
2. Potential changes would not be limited to Schuller's, but would include any other future Permitted or Conditional Use in the Commercial Zoning District

Aside from that, changing the land use does not appear to be consistent with the following Comp. Plan goals and objectives:

- Minimizing Conflicts and Impacts of Change (Land Use Chapter, Goal 2)
- Protecting Existing Residential Neighborhoods (Objective 1)
- Supporting Non-residential Growth Opportunities while Respecting Adjacent Properties (Objective 2)

Being that the request to change the land use designation of the property from Low Density Residential to Retail/Service would be inconsistent with the goals and objectives of the 2040 Comprehensive Plan, staff **recommends denial.**

Being that the request to rezone the property from Single-Family Residential (R-1) to Commercial would likely introduce significant impacts to surrounding properties, staff **recommends denial.**

Commissioner Baker asked staff how often Land Use and Zoning Changes were approved and what the conditions were. **Zimmerman** responded that there have been about six or so approved and it was generally to accommodate a use for the area that wasn't considered before. Those that were denied, were generally because an applicant wanted to create something new and change a use all together. Commissioner Johnson asked what the maximum height is for a structure in the rezoning proposal. **Zimmerman** responded that it's about 2-3 stories, not much taller than the single-family zoning allows.

Paul Jacob, Applicant, is the son of the previous owner of 30 years. **Jacob** stated that Schuller's loses about 30% of their business in the summer and it seems to be due to lack of outside patio seating. Recently renovations have taken place to help upgrade the building and the owners would like to continue business at the current location. **Jacob** said they're willing to make accommodations to reduce noise in order to obtain a patio. Given the current social distancing requirements, the owners feel that once customers are allowed to go to restaurants again, folks will feel the most comfortable with outdoor seating. Being that they can't offer that at all, the owners are concerned for the future of Schuller's.

Commissioner Segelbaum asked the applicants if they had comments regarding staff concern over rezoning and opening the door for another restaurant to open in the future. The applicants responded

that their goal was not to rezone but it was part of the process they needed to follow in order to expand and build a patio. They also restated their desire to keep Schuller's.

Chair Blum opened the informal public hearing at 7:32pm.

Caller 1: Peter Pluvak, 510 Kelley Drive

Would like the Commission to recommend denial of the proposal and is concerned about the increased traffic to the restaurant and the danger that will lead to residents.

Caller 2: John Ebber 7421 Glenwood Ave

Stated that the neighborhood is low density residential and is in the 2040 Comprehensive Plan as such. Caller is concerned this is spot zoning and is inconsistent with the land use and zoning maps. Economic considerations are enough to constitute a rezoning, as he said was stated by the BZA. Resident encouraged the Commission to recommend denial to the City Council.

Caller 3: Ben Harkins 7028 Schuller Circle

Caller doesn't feel the plan serves the neighborhood and appears to have negative impact. He also stated that he doesn't understand how a blocked off or sheltered patio will be desirable to patrons. Caller is also concerned with the increased traffic, noise and is very concerned about the business being sold and another, larger establishment takes root.

Chair Blum closed the public hearing at 7:42pm.

Chair Blum asked staff about the applicants offer to create conditions tied to their patio proposal. **Zimmerman** responded that conditions can't be tied to a land use or a rezoning request but rather to a CUP once the former is approved.

Commissioner Pockl asked the applicants if there have been changes since the 2012 denial that promotes the request a second time. The applicant responded that it's part of their improvement process. By doing other work and investing in to the building, they were hoping to show the City that they're committed to staying in the building and to keep Schuller's running. **Pockl** asked if there were more upgrades planned. Applicant responded that they already made a few upgrades: new ceiling, new booths, new windows, made the entrance handicap accessible. **Pockl** asked if they've experienced people parking outside of the parking lot when busy. The applicant responded that it has happened but it's really rare and the few added seats that the patio will provide, wouldn't make a noticeable traffic impact. **Commissioner Brookins** asked if there was another zoning type that would be a better fit. **Zimmerman** stated Commercial was the best for a bar restaurant, mixed-use is possible but it opens the door to even more possible future uses.

Chair Blum stated that after reviewing the items and regulations, he's in favor of recommending denial as the location is in a clearly defined residential area. **Commissioner Segelbaum** stated that while he's sensitive to the applicant as a business owner, the area is clearly residential and not an appropriate location for a commercial/retail district. **Commissioner Johnson** sited staff's presentation and stated that he feels rezoning this location is inconsistent with the surrounding area. **Commissioner Baker** echoed these comments. **Pockl** stated that this will be spot zoning and doing so is not reasonably

related to public health, safety, morals, and welfare, therefore she is in support of recommending denial.

MOTION made by **Commissioner Segelbaum** to recommend denial to both items:

1. Amendment to Future Land Use Map - To modify the guided land use from Low Density Residential to Retail/Service
2. Amendment to Zoning Map - To modify the zoning designation from Single-Family Residential (R-1) to Commercial

Commissioner Baker made a second on the motion

Staff called a roll call vote for each motion and the both passed unanimously.

6. Narrow Lots – Discussion

Jason Zimmerman, Planning Manager, reviewed the narrow lot discussion thus far and informed the Commissioners on the City's strategic plan moving forward. Considering the possibility of the formal public hearing being via Webex, the Communications team will be creating online resources for residents to gather information, pose questions to staff, and make public comment. This added resource will help alleviate public comment congestion on the call in line when the meeting takes place. **Zimmerman** started his presentation by giving a review of past meetings, recommendations, and the nine proposed changes made at the March 9th meeting.

"Menu" of Proposed Changes

1. Minimum side yard setback of 5 feet
2. Allow one-car garages for lots 50 feet in width or less; limit garage width to 65% of façade
3. Set vertical:horizontal slope of "tent" portion of building envelope to 2:1
4. Lower wall height at side setback line to 13 feet
5. Allow second story dormers to extend outside building envelope
6. Prohibit side wall articulation from extending into side yard setback; no principal structures within 5 feet of property line
7. Reduce secondary front yard setback to 15 feet for lots 65 feet in width or less; maintain 22 feet of building envelope width
8. Reduce lot coverage allowance to 30% for lots under 6,000 square feet
9. Impervious Surfaces – No Changes

Commissioners and staff had a discussion on each item listed. After each item held its conversation, the Chair confirmed consensus on each one until the list concluded. **Zimmerman** reiterated that a webpage with this information will soon be up for public review and comment.

Televised portion of the meeting concluded at 9:32 pm

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Televised portion of the meeting concluded at 9:32 pm

7. Council Liaison Report

Council Member Rosenquist updated the Commission on the bonding bill at the Legislature, which include money for the DeCola Ponds E & F project as well as the Douglas Drive and Hwy 55 intersection improvement. She shared the emergency allocations that were approved by the Human Services Commission and indicated that many non-profits received funds. **Rosenquist** reported that the Rhode Island Ave subdivision was approved by the Council and that the Council also ratified a number of Emergency Actions that the City had been taking in response to the COVID-19 pandemic.

8. Reports on Meetings of the Housing and Redevelopment Authority, City Council, Board of Zoning Appeals, and other meetings

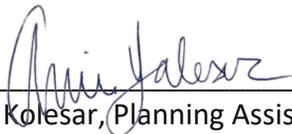
Planning Manager Zimmerman stated that a May Board of Zoning Appeals meeting would be held. He said he would investigate which Planning Commissioner was scheduled to attend the meeting.

9. Other Business

Planning Manager Zimmerman open nominations for Chair, Vice Chair, and Secretary for 2020. **Commissioner Johnson** nominated Chair Blum for a second term. **Commissioner Baker** seconded and the motion was approved unanimously. **Commissioner Segelbaum** nominated Commissioner Brookins for Vice Chair. **Commissioner Brookins** declined the nomination. **Segelbaum** nominated Commission Pockl for Vice Chair. **Chair Blum** seconded and the motion was approved unanimously. **Brookins** nominated himself for a second term as Secretary. **Baker** seconded and the motion was approved unanimously.

10. Adjournment

MOTION made by **Commissioner Segelbaum**, seconded by **Commissioner Sadeghi** and the motion carried unanimously to adjourn the meeting at 9:55 PM.



Amie Kolesar, Planning Assistant



Adam Brookins, Secretary