

CITY OF FALCON HEIGHTS
Special Meeting of the City Council
City Hall
2077 West Larpenteur Avenue
MINUTES
May 3, 2023 at 6:30 P.M.

- A. CALL TO ORDER: 6:33 PM
- B. ROLL CALL: GUSTAFSON __X__ LEEHY __X__ (arrived after roll call) MEYER __X__
WASSENBERG __X__ (arrived after roll call) WEHYEE __X__
STAFF PRESENT: LINEHAN __X__
- C. APPROVAL OF AGENDA
- D. PRESENTATION
- E. PUBLIC HEARINGS:
- F. CONSENT AGENDA:
- H: POLICY ITEMS:
 - 1. Planning Commission Findings of Fact – Amber Union PUD Amendment and City Code Amendment to Allow for Drive-Through Coffee Shop

City Administrator Linehan explains a bit about the process and says that they received the application from the applicant on March 6th. It went to the Planning Commission, which held a public hearing on the proposed development, which Hannah Lynch will walk us through next. The Planning Commission provided us with their Findings of Fact, which are available in the agenda packet. These Findings of Fact are drafted in combination with the Chair of the Planning Commission in coordination with Staff and the City Attorney, taking the feedback from the Planning Commission and developing these Findings of Fact. Tonight, what the City Council is asked to do is rule on the Findings of Fact.

Essentially, there are a few options:

- 1). Reaffirm the Findings of Fact of the Planning Commission
- 2). Motion to table the recommendation in the event of the City Council needing additional time or the applicant requesting additional time.
- 3). The City Council could modify the Findings of Fact for the Planning Commission
- 4). The City Council could adopt their own Findings of Fact

Community Development Coordinator Hannah Lynch provides a brief overview of the current PUD, stating that it encompasses a 3.78-acre parcel at the corner of Larpenteur and Snelling. Currently, the zoning of the two additional parcels is R5M, so mixed use, high-density residential. The two additional parcels, when you are looking at the PUD from Larpenteur to the right, those

have currently been serving as 214 parking stalls and 167 of those are overview parking.

We received a request to build a 630 square foot building with a drive-through facility for a coffee shop. It will comprise .43 acres of the 2.58 acres over there and it will have a 183' stacking lane for vehicles.

A rendering of the coffee shop is shown on the screen during the meeting and Lynch says that it will be a drive through mostly with a walk-up window.

As far as parking, how that will change is they will essentially be losing 58 spaces during the course of the construction. But, there will still be excess parking of 109 spaces.

So, with the request, drive-throughs are currently prohibited in Falcon Heights, except for banking and financial institutions.

To move forward, there are really three options:

- 1). We can amend City Code to allow it by right in the zoning district that we chose. So, if anybody came in and they wanted to build a drive-through in the district that was chosen for that, they would be able to.
- 2). Make it a conditional use permit in that specific zoning district. So, if someone wanted to come in and they could meet the requirements of a conditional use permit, go through a hearing, then they could get the permit that way.
- 3). Planned Unit Development - Ultimately, this is what we decided to go with, which is to amend the Planned Unit Development and only allow them in Planned Unit Developments. So, essentially, if somebody wanted to bring a drive-through in, they would have to go through the PUD process to rezone that parcel as a PUD. And, that gives a little bit more protection to the City, essentially, because there are hearings and it's a legislative process and that sort of thing.

So, we would have to amend City Code and the definition of a drive-through to allow it to be a drive-through as part of an eating establishment as part of a PUD, extend PUD to two additional parcels, amend the uses, amend supplemental regulations and show that it's consistent with the Comprehensive Plan.

Lynch mentions that Councilmembers have the amendments in their packet but briefly goes over them. The definition would have to be changed to say that a drive-through facility for an eating establishment may be permitted only as part of a PUD.

We would be changing the zoning of the two additional parcels and incorporating it as part of the PUD. We would also amend the permitted uses for the Amber Union PUD to say that they can have an eating establishment with a drive-through in this PUD specifically. And, the speaker for the drive-through facility must be located no less than 100 feet from residential use property.

An amendment to supplemental regulations would also be needed to say that they can be in a PUD and to state that the applicant requested the ability to begin operating at 6:00 a.m. rather than 7:00 a.m.

Lynch says that the final aspect to amending this is to see if the use is consistent with the Comprehensive Plan and a few considerations to that would be walkability, a traffic study was completed and the Comprehensive Plan does not explicitly mention drive-throughs. It is something to look at the goals of the plan and making sure it's consistent. As mentioned, a traffic study was done and there are recommendations from the City Engineer as well as comments from the Fire Marshal in the packet.

Lynch summarizes that the Planning Commission held a public hearing on March 28, 2023. Many citizens came out and the issues of traffic safety and carbon emissions were brought up.

The Planning Commission ultimately determined that the proposal was not consistent with the Comprehensive Plan for issues around carbon emissions from the idling vehicles, safety, density and walkability. The Planning Commission voted 4-0 to recommend denial of the proposal to City Council.

Mayor Gustafson confirms those were the Findings of Fact of the Planning Commission and asks if there are any other Findings of Fact that anyone else is proposing that are different.

Administrator Linehan says that the Planning Commission did approve those as the Findings of Fact. The City Council could adopt their own Findings of Fact. If the City Council does want to do that, Staff does have some potential options for how that could be done. If you are leaning towards that you do want to approve this, we could provide avenues and other recommendations looking through the Comprehensive Plan. But, it does have to come from Council's direction, that the Council is leaning towards approval, IF they had alternative Findings of Fact.

Mayor Gustafson asks for comments from Council.

Councilmember Meyer mentions there were a couple of mentions of carbon dioxide emissions and wonders if perhaps the people commenting meant to say "carbon monoxide emissions," because the localized air pollution is one of the issues he's heard.

Councilmember Wassenberg responds that the Comprehensive Plans speaks to carbon emissions in the sense of carbon dioxide emissions and he thinks that was one of the concerns. But, he agrees that localized air pollution is an issue with increased vehicle traffic. He continues that the traffic study shows a relatively small increase in the number of trips. He thinks that it stated that 89% of the trips would be ones already occurring on Larpenteur and Snelling anyway. So, not necessarily a lot of new trips. Wassenberg has a question in regards to the traffic study. The traffic study was done in regards to 1B, which is similar but not quite the same layout as what was presented. Plan 1B does not have the exit out towards Amber Union / towards the south. He says that the traffic study also said that on weekdays, that about 760 trips occur each day. He wonders if that is accurate.

Administrator Linehan says that is correct. When the traffic study did occur as part of this process, we did hire them in early March to give them enough time to conduct it. Originally, they started the initial traffic collection the week of February 20th, actually, a little earlier. For the daily count, those are correct. They looked at a couple of other sites, including the Caribou in Burnsville to use as an example for daily average traffic counts.

Wassenberg recalls this adding 80 to 85 additional trips per day.

Mayor Gustafson adds that it was something like 6 additional trips during each peak hour.

Linehan says that it is 84 additional trips per day.

Mayor Gustafson says that we have a significant amount of traffic on the avenue currently, which is one of the selling points for a service that wants to tap into that traffic flow; it's a saleable asset that way.

Wassenberg adds that he was at the Planning Commission meeting and heard the residents' voices and issues brought up with regards to the PUD and the use of a PUD to allow a drive-through. The more he thought about it, the more he felt that was a relevant point. We have this parcel of land that is requesting to put a particular shop onto it, but he's not seeing the "planned" in Planned Unit Development, really. Perhaps the developer has larger plans to propose for that entire additional site, but otherwise, it seems pretty onesie-twosie.

Linehan says that the developer has a larger picture plan for the site. We feel, along with the attorneys, that there was a proposal that could include that. At this point, because it's already gone past the public hearing process, it would be inappropriate for the Council to adopt a larger PUD or apartment complex and other things without having it go through the Planning Commission process. What the Staff and attorneys would recommend is that, if you do want to see that route, and if that would change your opinion on this proposal if you saw the whole site laid out, to direct the applicant as such and they could resubmit the application as a full PUD modification.

Wassenberg asks what they'd be voting for in that case, if they are voting to say that they aren't allowing it at this time. Do we table it or how does that work?

Linehan says that if they table it, it stays at the Council level. There would be no public hearing process or Planning Commission review. That's part of the process built into our code to allow that safeguard. If you want it to go back to the Planning Commission and start the process again, you would have to reject the application.

Mayor Gustafson asks that, if they were to adopt this plan, any amendments to that PUD, adding housing or another retail space, for example, would require an application to amend the PUD. At that point, would there be a public hearing on that amendment similar to this one?

Linehan says yes, because it would require a code change. In theory, the Council could adopt, without going through the Planning Commission or public hearing process, you could consider the construction of a 100-unit apartment building as part of this. If you want to do that, you could, but that was Staff's recommendation, that minor modifications to the plan such as changing site layout, adding EV charging stations and adding permeable pavers aren't major modifications. But, including additional buildings would be major modification where you might want to consider the Planning Commission review.

Mayor Gustafson feels that adding things to the existing PUD doesn't seem transparent.

Wassenberg adds that the Council values the input of community during public hearings and the expertise of the Planning Commission.

Mayor Gustafson asks if there are any other questions of the applicant.

Linehan mentions that the applicant has a presentation.

Petitioner Pete Deanovic of Buhl Investors and owner of the 1667 Snelling Avenue site says that today, Amber Union Apartments, was awarded Top Project from Finance and Commerce (an industry group).

Deanovic shares they were also a finalist for the redevelopment category for Minnesota Real Estate Journal.

Mayor Gustafson says the project came together nicely.

Deanovic admits there are a few kinks to work out. Some of the things that came up from the Planning Commission were about trash. In speaking to his property manager this morning, what they've learned is that they needed to increase trash service to five days. And, they may have to modify some of the loading docks because it's not aligning to the trash truck. For that reason, it needs to be a more extensive capital improvement.

Deanovic walks Council through his presentation and wants to highlight a few things behind their rationale. He says that he agrees with the sentiment of Council to not say, "Let's introduce anything that might be a material modification to this." I would be onboard with saying, "Reject the

application if this is not the right concept. We continue to want to do right by community. That should be a baseline assumption for how we interact with communities that we're in."

He provides context for why they landed here and says it's largely based on having a line in the water and seeing what sorts of uses could activate that street front. It was partly informed by who came forward and seeing that certain groups were absolute non-starters, whether it was Christian Brothers Auto or three different car washes. Those are the types of groups that came forward and did not feel consistent with any of the expressed community interest. Those that started to feel in line with what we've historically talked about were a daycare, who didn't come forward with a proposal, and the coffee shop (Caribou).

Part of what informed that direction was what they're working with within the site. The site plan that you saw does not show the various easements that bisect the land area. There's a stormwater system that services that area that was built in 2016 by TIES. Our preference would be to not disrupt that. There's also a fiberoptic line and parking easements. So, this was how we thought about this. Where is there some overlap? How do we comply and have business services that service the surrounding community? We want to have something that can be built and be financed today. And, furthermore, how do we manage for that shared parking and some of the arrangements we all made when Amber Union first went through? Deanovic says that a parking area exists to the west of the Annex building (shown as a blue rectangle in his presentation) and was negotiated by and agreed upon by the City and Buhl. The City Manager at the time expressed a desire for that to be secured based on some of the context for State Fair and some apartments further south that don't have appropriate parking. We can't do anything with that blue, and the orange represents where the stormwater system goes through. Fiberoptic can be moved more easily than either one of those items.

That informed a smaller retail footprint that could make use of it. And, recognizing that if we put it in the context of a PUD, we had to come back to you in partnership. If anything wanted to happen to the south, we have to come and say, "How does this sit with the community?" There was no option to do anything else and we recognize today that not a lot can be done in this financing market further to the south. Nor did we think there was a desire from the surrounding neighbors to see that sort of development at an R5 density.

Deanovic says that they looked at the alternatives in collaboration with the City and the community to determine how this all aligns. One option is to retain the existing parking lot. It's fine as a parking lot, but we don't think that's a particularly green use. And, he feels the Caribou Cabin concept can be modified to introduce additional green space and move down the path detailed in the Comp Plan. We also think there's a challenge to how they manage traffic, whether it's a gate or a stop sign. What we're hearing is concerns about safety. If we have a fobbed entrance / an arm swing to exit parking, that might help to manage pedestrian traffic. I don't know if that's desirable. We've historically felt that the Hollywood Court neighborhood wants that access and we've tried to maintain that.

Another option is a housing version. Zoning of R5 is a higher density; it's 100 units on 2.58 acres. That's a lot of units. We've tried to be measured about how we react and how we respond to the community and the neighborhood. The building is now occupied and we're working through some of the kinks of trash and things. We don't feel like that's where we want to go today, both because we're trying to be good neighbors and because the market doesn't quite work. And, it just feels like it's a pretty significant lift. Those are some of the reasons, but I'll show you the overall plan if we were to go down that path.

Another alternative would be to continue to exhaust alternative uses, but that would likely be in the context of mixed use, where you have a parcel along the street front and then you think about how the balance of the site might be activated. In our mind, that feels like the least invasive version of

something and provides the most amount of time to continue to navigate through how we get this right.

Deanovic then shows a concept for what that looks like in response to pedestrian connectivity. You can start to see how the parking that's required under the easement is retained. You can start to see the concept of a drive-through is shown there, with a pedestrian way that navigates through. Then, to the south, and I want to be clear, this is NOT something we're pursuing today and we'd not like to go down that path until we have done a lot of community work to see what that looks like. It would not be appropriate to push anything forward along those lines.

That gives some framework for why we were thinking of this as a phased approach and why we were viewing it as a PUD expansion. It would have required us to come back to you multiple times and engage the community multiple times. The alternative could be to let the Amber Union PUD as it sits, exist on its own, and then come forward with something different on this site as a standalone. What we find difficult as the developer and owner, is some of the Findings of Fact that are listed in that Planning Commission package don't provide a very clear path toward how we achieve what's being asked. We sit on a trunk highway and a county service road and the measures for what threshold we ought to be aiming for is entirely subjective and requires a report that we've not heard of in all of our dealings across the metro. And, that's not to say it's not accurate or right to ask. But, I think it's helpful, from our standpoint, if we're able to have that level of engagement and interaction and understand what success on these items looks like. So, I would just encourage a review of some of those Findings of Fact. We can agree that maybe a drive-through may not be the right option. But, a drive-through for a Caribou is probably the only version of Caribou that would come here. And, if we were to say that it should be a Dunn Brothers, that today is not a financeable deal.

Councilmember Wassenberg says that he greatly appreciates the concept that Deanovic needs to build what's financially feasible. It's not good business sense to build things that you can't receive a return on. Wassenberg asks if the building to the south, granted it's only a concept, is it a concept of a residential building?

Deanovic says that is correct and they were just trying to envision what R5 zoning achieves in both the desires of a MET Council or the 20/40 Comp Plan, coupled with how retail might relate to that. How can that be achieved on a single parcel? Deanovic says presenting that concept makes his skin crawl.

Councilmember Wassenberg asks Administrator Linehan if the parking lot easement that was agreed upon is flexible. He believes that maybe that easement agreement may have been put in place only to ensure there was a certain amount of parking available and not necessarily in that spot.

Administrator Linehan says that the parking easement could be modified if it's found that it's not needed. As it stands right now, anyone could testify that there's far more parking than is necessary. If it were to remain as it is, there's a lot of parking and the easement isn't needed, as it stands. But, if you look at the entire site and if they did develop, that may need to remain; there needs to be some overflow parking.

Councilmember Wassenberg says that there needs to be some parking, but his only thought was that it could provide more flexibility to the developer. You wouldn't necessarily have to stay away from that piece of land if it worked out best to be able to build on that particular part of the parcel.

Administrator Linehan understands what Wassenberg is saying, that you could say that instead of looking at changing the easement, you move the parking down to where the storm sewer easement was over; so, the southern part. So, moving the parking down over there and changing the development to be up in the more northern portion.

Councilmember Wassenberg says yes, that it allows more frontage to be developed and that is probably the higher value portion of the property.

Linehan says they haven't looked into that but we could discuss that with the attorneys to see what the options are.

Mayor Gustafson says that he does remember from the original PUD that ended at Lot 1, that the Amber Union building had a projected need for more parking than what was available on the site and to follow Code for how many spaces per units, that is one reason why the easement was granted rather than having the land change. It was an agreement to provide adequate parking for the PUD to begin with for Amber Union. You still have the need for X spaces in order to have adequate parking for residents of the apartment building and that need doesn't go away. Parking needs to be accommodated within the parcel.

Councilmember Leehy says that was her understanding as well. It was more about the amount of parking and not so much about the location of parking.

Mayor Gustafson says that it may have been drawn out as that parking to say that we'd hold this out for that in order to note that it needed to be there. But, the need for parking will exist for the entire parcel and same for any other type of housing units placed within. Placing spots for people to park doesn't seem like a very economical land use plan. Look at our big surface parking lots that don't get used. They only generate money for our local business when the State Fair occurs.

Linehan asks if there's feedback for the applicant and recommends the Council to give direction as to what the best way to move forward is and be thinking long-term on that. The applicant did spend a considerable sum on these plans, these drawings. And, if the Council were to direct them to continue to modify, keep in mind what the end result is. So, if a drive-through in any setting, in any form isn't going to work, I think it's helpful to provide that feedback to that applicant. Or, if you feel a drive-through with certain modifications would potentially be palatable, then that is helpful to the applicant as well, to give them direction on how to move forward from here.

Councilmember Wehyee says that is great point and that he hasn't had a chance to review hearings from the past. He wonders, for those that were in attendance, if there was a sense from the community that a drive-through of any sort would be acceptable. Where did it seem like the community landed on that?

Wassenberg says he was there and that 10 to 15 people came forward. He feels that, in general, they didn't want a high traffic drive-through. It wasn't necessarily the drive-through itself but the high traffic generation. It's a little bit in between. There was general opposition to the type of drive-through that would generate this level of traffic. The Caribou drive-through concept would be included in that. Although, people very much like the idea of coffee shops. Wassenberg says he's had several people express interest in a coffee shop there to gather in. There's economic viability that has to be taken into place when you're developing something new, but that's clearly not the model (indoor gathering place) that Caribou is going forward with. They've built very few coffee shops in the last few years that aren't this cabin drive-through concept. Wassenberg doesn't know about other coffee shops.

Councilmember Leehy asks for confirmation that this cabin drive-through concept doesn't allow for indoor seating.

Wassenberg says that's true. It's only some seasonal, outdoor seating. But, it does have a walk-up window.

Councilmember Leehy wonders why another type of coffee shop is not be feasible for that location.

Deanovic responds that, from their standpoint, if we go to a bank, we're looking at trying to have a portion of the construction costs be financed. So, that lender is going to look to the credibility of that operation and the duration of the term and how much they themselves are investing. In the case of a Caribou Cabin, Caribou would be investing quite a bit of their own money within the space and signing a long-term lease. That allows a lender to come in and say that they can support or be a portion of the cost associated with constructing that. When we look at the other operators out there, I mentioned that Scooter Coffee and Starbucks had passed on it. Starbucks is the only other concept that I've seen that is doing both drive-through and indoor seating. 95% of the stores Caribou has opened since 2019 have been this (cabin) concept. Maybe we chalk it up to "we can't make a go of it." Deanovic says that what's helpful to him is to figure out how we reconcile these parking requirements for cars and we have a drive-through that's rejected on the basis of cars. He says he thinks they are fine with whatever they are given but some of that coaching can be useful as they start thinking about what goes there.

Councilmember Wehyee says that as a small community, what we're trying to think about and capitalize on is revenue. Do we have any idea what the tax potential of this establishment might be for the City? Wehyee says that he makes this point because it might be an opportunity to see the mutual benefit of the establishment.

Linehan says that the original proposal and application did include some projections on revenue. He clarifies that the Planning Commission cannot take revenue into consideration. Aside from that, Linehan says the estimated cost to build was about \$2,000,000 and the average tax looked to be about \$10,000-\$15,000 per year. Linehan asks Deanovic if that sounds accurate and is directed to a page in the presentation. The amount projected is \$33,000 but that is the total property tax, with the City getting some portion of that amount.

Mayor Gustafson estimates they'd get 25 to 30% of that, dependent upon the year.

Linehan reminds Council that it does now generate taxes, too. When it was a non-profit status, it did not. Now that it's back on the tax rolls, it is.

Leehy clarifies that that portion of the land is not part of the TIF agreement.

Linehan says that it's not part of the TIF.

Mayor Gustafson says including the TIF district would not change as the result of the PUD expanding beyond because the TIF district is defined by its own latitudes, longitudes and property boundaries.

Wassenberg reminds Council that they have a hard stop in about ten minutes, so he brings them back to providing the applicant with guidance. He feels it's difficult to speak for the community in terms of what they'd be in favor of, but feels one approach that might be taken, because the community did not see this as a benefit to Falcon Heights ("it's a commuter benefit, not a community benefit"), is a more comprehensive plan and shown more benefits to the community and City. He expects that could be weighed alongside the potential downsides of a drive-through...something that's a good revenue-generator. Wassenberg adds that he personally wouldn't take a Caribou Cabin off the table, provided we are part of a larger site plan, that actually, in the whole, provide a net positive of benefits to the community.

Mayor Gustafson says that one takeaway he took from the Planning Commission was that historically, drive-throughs in Falcon Heights are not well-received by the residents simply due to the nature of how close. The widest divide that we have between our commercial districts and our residential districts is an alley. It's either a property line or it's an alley. As a result, it makes it very difficult to put a drive-through in that doesn't disturb neighbors. Historically, that's been the case, at least a couple years ago, when we held the informal discussions with Dino's. Had they placed

their building differently back when they did, they may have been able to work out those issues. That's water over the dam. With this one, out of the comments from the Planning Commission, where, if there was to be a drive-through in Falcon Heights, this one fits it and makes it the least disruptive of any that have been proposed. It maintains some barriers to make it palatable. You do have the issue of traffic going across the right of way. I thought most of the concerns that I heard from the residents was that they didn't want this to then create another avenue for more drive-throughs. That was the main thing, which is why, if you can contain your drive-through in a Planned Unit Development (PUD), then you can place on it more restrictions that are necessary, rather than doing it through regular Code. If you meet requirements through regular Code, as long as you meet code, then you'd be able to put up the drive-through. So, I think most people wanted a better review of drive-throughs. The comments were that, if you were going to have a drive-through, this plan really was the best that could be seen.

Wassenberg agrees with that and says another large element was resistance from those on Hollywood Court. If their concerns for traffic cut-throughs, etc. were addressed effectively, there would be a better chance for a more comprehensive plan of that entire site that could potentially include a drive-through.

Mayor Gustafson adds that if you look at those concerns, the Amber Union property exits onto Snelling Drive, as does Hollywood Court. Hollywood Court has two alleys and a street that exit onto Snelling Ave. Drive. Their concern has always been whether they can utilize the Amber Union property to access Larpenteur Ave. The people coming from Amber Union can't enter Hollywood Court at the west side, it's blocked. And, there's no access to the alley on the north or south side of Hollywood Court to the Amber Union property or to the State Fair property. That all goes through Snelling Avenue Drive. So, people aren't going to be coming out of the Caribou there and going down Hollywood Court to access West Snelling Drive.

Leehy asks if they're sure they won't be going down West Snelling Drive.

Mayor Gustafson says they might be going down Snelling Drive but that's a function of that street. And, as you're exiting Hollywood Court, you have that concern for traffic that comes out of one to the other, just as you would as you come out of Hollywood Court and head south. You might have to worry about someone coming out of the south alley on Hollywood Court at the same time. It's not like all of these people are going to exit Caribou and go down Hollywood Court to access West Snelling. If they do, they'll cross through the driveway that exists behind Amber Union to access to and from that spot.

Leehy asks if Caribou is completely opposed to doing a sit-down space as there's been a longtime desire of residents to have a gathering place.

Wassenberg says that our Buhl representative states that 95% of Caribous that have been done in the last 3-4 years have not. But, that means some are done with a different setup. I think there would be much less opposition from the community if there was a seating place within such an establishment because then it provides some sort benefit. Starbucks prides itself on being a third place. Whereas home and work are one and two, Starbucks is third. Something that provides a third place would be viewed favorably by residents. They aren't necessarily opposed to the drive-through itself, but in absence of any other benefits from making that compromise in allowing that drive-through, then the drive-through looks very unattractive.

Mayor Gustafson says to Deanovic, that if he would like to give the Council more time to study the packet and build more community input into it, he would suggest that. And, if time is of the essence and they can't build that community conversation, then he doesn't have enough to overturn the Planning Commission on their decision. If Deanovic would like more time with the Planning Commission and with the community and Council to keep this one somewhat alive with an extension period, we'd be open to accepting that.

Leehy asks whether Dunn Brothers would be interested, as they seemingly have a vibrant location in Arden Hills with indoor seating as well as a drive-through. And, with the housing options, has the idea of townhomes been on the table?

Deanovic says that they haven't looked at that but we can look at a lot of those options moving forward. From their standpoint, some of the housing market has pretty much shutdown. And, regarding Dunn Brothers, a sticking point has been that those are largely franchise-based. So, it's dependent on someone willing to buy the franchise, take the risk on and installing all of that equipment that might otherwise be a corporate entity. Deanovic says that his preference is also to have some indoor space for gathering and he says that they are a long-term owner and it's part of being a good community member. It's fine to say "no." I do think it would be helpful to review some of those conditions in the Findings of Facts because he feels it sets up a difficult hill to climb from their standpoint. My preference would be for some of those to be modified so that they are actually actionable from their view.

Wehyee thanks Deanovic and says that they don't appear to be as far apart in conversation than it might seem. He agrees with the Mayor, that if time allows for them to better review some of these results, maybe engage the community a bit more, and if you could go back to your team and take some of the feedback to make modifications, he feels they could come to an agreement where both Buhl and the community could be satisfied. It's not the end all. We have a real possibility here. We do value the partnership and I think the community does too. There's work to be done but I don't think it's impossible work.

Councilmember Meyer adds that he doesn't feel like the community or the Council are that happy with the status quo of just having 167 extra parking spots there. Meyer believes that's wasted space when there are a lot of people living nearby that could benefit from some type of amenity there. He appreciates Buhl's patience with the community as they determine what will work best there. Meyer has heard a couple of ideas tonight that could be more palatable and says he doesn't think Buhl should give up yet.

Wassenberg says that he is sitting in two different areas. One, he doesn't think he could support the limited plan with a Caribou Cabin as it is. He also wouldn't say that he's in agreement with all of the Findings of Fact of the Planning Commission. Reading, "We can't amend code before we do a Larpenteur corridor study." Wassenberg says he isn't sure that is true. He wonders if there is any way they can say "no" to the plan as it is put forward, but yet give time to put out revised Findings of Fact so that they do not become a barrier to later development of site. He does think that site needs to be developed; people don't want it as a parking lot.

Administrator Linehan says that Staff agree that some are barriers to development. Of these items, the items they believe could be removed / that Council could strike include: "The Planning Commission finds no health impact assessment to be completed." Linehan says they do not have a process for completing the health impact assessment so that's part of our Comprehensive Plan. Staff that has the Comprehensive Plan now doesn't fully know the path forward for the applicant. So, we have a couple of these picked out, but I do recommend, in the interest of time, we could run this by the Council in the future. And, if we wanted to adopt an additional Findings of Fact, we could do so. But, if we are to take that method, we would need to table this item. There're two options to table the item under state law. One comes from the applicant; if they request an extension, they can do so. Item number two, is if City Council has significant findings or reasons that they cannot complete the Findings within the sixty-day time window. For us, a lot of this too is we've wanted to work with the applicant and we've wanted to allow time for these modifications to occur. It's been a very fast process for us. So, the City Council could adopt, by tonight, to make a motion to direct the City Administrator to execute a letter to Buhl under Minnesota statute 15.99, extending the time period for the review of application for a period of up to sixty days. Now, the understanding is

we'd be here well before that, just creating an additional revised Findings of Fact that we could hear at a future meeting, whether that's the 10th or the 24th (of May).

Wehyee asks if that works for the developer.

Deanovic says that it does.

Mayor Gustafson asks if they have a motion to direct the City Administrator to draft a letter to the applicant, Buhl Investors, to extend the time period so that they can work on the Findings of Fact.

Councilmember Wehyee motions to approve directing the City Administrator to draft a letter to Buhl to seek more time; approved 5-0

I. INFORMATION/ANNOUNCEMENTS:

Mayor Gustafson says there are none other than to remind them that the Spring Together event is on May 20th at Curtiss Field and that the registrations for park programming end on May 25.

J. COMMUNITY FORUM:

Please limit comments to 3 minutes per person. Items brought before the Council will be referred for consideration. Council may ask questions for clarification, but no council action or discussion will be held on these items.

K. ADJOURNMENT: 7:41 PM

Councilmember Leehy motions to adjourn; approved 5-0



Randall C. Gustafson, Mayor

Dated this 3rd day of May, 2023



Jack Linehan, City Administrator