

**Meeting Minutes**  
**New Prague Planning Commission**  
**Wednesday, June 15, 2022**

**1. Call Meeting to Order**

The meeting was called to order at 6:31 p.m. by Chair Dan Meyer with the following members present: Ann Gengel and Shawn Ryan.

City Staff Present: Ken Ondich – Planning / Community Development Director, Josh Tetzlaff – City Administrator, and Kyra Chapman – City Planner

**2. Old Business**

- A. Continuation of Request to amend an existing Conditional Use Permit (and to assign it New File #C2-2022) to allow the expansion of a religious institution with the addition of four athletic fields, pavilion, and playground area, located at 500 10<sup>th</sup> Ave. NE  
Community Baptist Church - Applicant**

Planning Director Ondich presented the summary of the application. He explained that the Community Baptist Church located at 500 10<sup>th</sup> Ave. NE was approved for a conditional use permit in 1988 with conditions related to drainage, assessments and paying park dedication and that the applicant is requesting to amend the original conditional use permit to add four turf fields, a pavilion, and a playground. He noted that the parking lot would be repaved and restriped and would comprise of 196 parking stalls including ADA stalls. He stated that the Planning Commission reviewed and held a public hearing on April 27, 2022 and tabled the request to follow up with the city Attorney regarding whether additional conditions might be reasonable including frequency of field use, fencing the property, and moving the playground and pavilion. He noted that City Attorney Scott Riggs was in attendance to answer further questions but that he advised not adding any additional conditions unless they were considered reasonable and noted that fencing in the entire area is likely not reasonable as it isn't required at City Parks, noted that city parks are not limited for use other than to 11pm and noted that the playground and picnic shelter meet setbacks and should not be required to be moved elsewhere. He stated that staff recommends the Planning Commission approve the amendment to the conditional use permit with the findings and conditions listed in the staff report.

Commissioner Ryan asked how the church athletic fields compare to a city park.

Attorney Scott Riggs clarified that the proposed athletic fields would be on church property, which is considered private property. He stated that placing additional conditions on this request which would not be applied to a city park would not be considered reasonable.

Planning Director Ondich stated that the question of liability had been raised earlier if balls were kicked into the street and he stated that Attorney Riggs could address that question as well.

Attorney Riggs stated that if there is an injury or conflict at on the property, the church would be liable, and the city would not be liable.

Commissioner Ryan understands both perspectives. He understands the need for more fields in the community as well as the residents' concerns. He asked Riggs if there could be restrictions on how late people can play games at the athletic fields. He stated that he realizes that it can't be enforced but wonders whether we could ask the church to limit the hours in which the park is open. For instance, could the park be open from 8am to 8pm.

Attorney Riggs noted that they could have that discussion with the church, but it can't be legally enforced or regulated.

Commissioner Ryan asked Mr. Stephens how the property will be used.

Pastor John Stephens, applicant with Community Baptist Church, explained that the church would use it for their own church ministry. The addition of the athletic fields would help address the need for fields in the area and would satisfy the need from the soccer association. There aren't set hours like city parks because there will be games and ministry events at different times.

Attorney Riggs mentioned that since the church is private property, there is less of an ability to put restrictions on the church compared to public property. It's not reasonable to impose more restrictions. In 1988, when the church was built, RLUIPA did not exist.

Commissioner Ryan asked if any compromises could be made such as changing the noise ordinance or statute.

Attorney Riggs stated that a noise ordinance could be put in place, but the regulation would have to be uniformly applied. However, it can be difficult for private properties to avoid noise ordinances. From a zoning perspective, there isn't much that can be done because of RLUIPIA. When a conditional use permit is in place, things are imposed in what is considered reasonable.

Commissioner Ryan explained that he lives next to the lighted baseball field and often hears bats hitting baseballs and sees the glare of the lights. Sometimes he hears noise

into the night close to midnight. However, Ryan explains that he understands the need for ballfields in the community and the residents' concerns with being so close.

Commissioner Ryan asked if anything can be done if issues arise after the potential approval of the conditional use permit.

Attorney Riggs explained sometimes athletic fields put up fences behind a goal to prevent balls from going into the street. Riggs stated that staff could go to the church and suggest the addition of fences to prevent potential accidents as an example of an amendment that could be required later after proper notification and review.

Commissioner Meyer asked if there could be an officer posted at the location during tournaments to prevent trespassing.

Attorney Riggs explained that it's difficult for the city to enforce trespassing on private property. Riggs stated the fences aren't necessarily a good solution. For example, if there was a problem within a continuous fence, it would be difficult to get out of, therefore, a fully enclosed fence would not be considered a safety feature. If the city consulted with the Loss Control staff at the League of Minnesota Cities, they would not allow fully enclosed fences in public parks. Although, Riggs explained that residents can put up their own fences, install cameras or call the police to prevent trespassing.

The Planning Commission asked the audience for any additional comment and noted a two-minute limit per speaker.

Cherry Jordan, 712 Highland Drive, stated that she and her husband had submitted many letters for review and stated her concern for trespassing. She explained that 6 months of the year, she likes to spend her time outside on her porch. If the athletic fields were to be added, she believed that it would be very noisy. She understands that there is a need for athletic fields in the city but believes the proposed placement is inappropriate.

Ann Johnson, 1004 3<sup>rd</sup> Street NE, stated that the area is zoned as a residential area, which shouldn't have athletic fields. She believed that the city should be building their own fields. Johnson is concerned that the athletic fields will be used as public sports fields all summer long. She doesn't mind if there is a game once a week but doesn't want games being held multiple days of the week. She asked if the days of use can be restricted.

Attorney Riggs doesn't recommend putting in days of use restrictions. The church is considered private property; therefore, they can't be limited by the number of hours or days of use. If this was taken to court, the city would lose.

Mike Marzinske, 901 3<sup>rd</sup> Street NE, believed that the city should do a better job of addressing the needs of the residents and the church. He believes that parking will become a significant problem and that there should be more setbacks, especially the west side. There was mention of a gym being constructed on the northside of the church in the future. Marzinske recommended that if they build the gym, they should setback the gym far from the residential property line. Additionally, there was a concern for traffic. He believed that there would be substantial traffic along 3<sup>rd</sup> Street NE and 10<sup>th</sup> Ave. NE. He also recommended that there should be a better plan for parking. The site will likely attract a lot of families especially during games and services.

Roman Dorzinski 805 3<sup>rd</sup> Street NE explained that 3<sup>rd</sup> Street NE is the way in and out of town, receiving lots of traffic. He believed that issues with parking and traffic would worsen if the fields were added to the site. He's also concerned about his visitors finding parking and therefore does not want areas on his street marked as no parking.

Shirley Studnicka, 710 Highland Drive, believed that her privacy would be invaded with the addition of the new ballfields. She likes sitting on her deck and believes that it will be too noisy. Earlier last month, she sent a video of children playing on the field to Planning Director Ondich. She complained that the children were playing very loudly and if the field was built, the area would be continually noisy. Studnicka believed that the field and the playground are too close to the property line.

Katie Yearby, 1008 3<sup>rd</sup> Street NE, stated that she has three children under that age of 6. The kids could play in the front yard but now she is not comfortable having the children play in the front yard due to concern for increased traffic flow. Furthermore, she explained that she had moved into the community before this conditional use permit was proposed.

Dick Jordan, 712 Highland Drive, mentioned that his granddaughters both play soccer and appreciates the need to be addressed but is concerned the field will impact the residents. He believes that hundreds of people will visit the area. Jordan suggested that the city should consider establishing a public athletic field somewhere else. He also noted that he has concerns that people will park on the side streets or walk through their lawn. He stated that he respectfully requests that the city denies the request.

Ben Bartusek, 305 Sunrise Ave N., was concerned that trespassing couldn't be enforced and that if people did trespass and became injured on his property, he would be considered liable. The athletic fields would attract more people to the area; therefore, people may likely trespass on his lawn. Concerns about finances were also raised. The church could build some things but then run out of funding, therefore, leaving the project unfinished and become more of a problem than it was. Bartusek also mentioned retaining walls being built on the church property to accommodate the grading.

Planning Director Ondich explained that no retaining walls will be added to the site with the grading plan as currently proposed.

Ms. Studnicka stated that she is not against soccer but believes it should be provided for in a larger open field.

Mr. Stephens explained that the athletic fields won't be used from sunrise to sunset, however, he can't guarantee when they will be used and can't fully answer the question. He is unable to provide set times when the fields will be used because it will vary depending on church events and when games are scheduled.

Chair Meyer stopped side discussions occurring in the audience to get the meeting back on track.

Commissioner Ryan asked if staff could investigate a possible condition to limit on-street parking at certain times or at certain days around the perimeter of the church property to address some of the residents' concerns.

A motion was made by Ryan and seconded by Meyer to recommend approval of the amendment to Conditional Use Permit, now assigned as #C2-2022 to allow the expansion of a Religious Institution with athletic fields, pavilion, and playground at 500 10<sup>th</sup> Ave. NE as proposed by Community Baptist Church, with the following findings:

- A. The proposed soccer fields, pavilion, and playground in association with the church will not create an excessive burden on existing parks, schools, streets, and other public facilities which serve or are proposed to serve the area, as the amenities are similar to what would be found at a public park and the traffic demand will not have a significant demand on roadway operations in the area.
- B. The proposed soccer fields, pavilion, and playground in association with the church will be sufficiently compatible and will not depreciate the value of adjacent homes as it was noted by the Scott County Assessor that under similar circumstances elsewhere in the county there has not been a negative impact on values.
- C. The proposed soccer fields, pavilion, and playground in association with the church will have an appearance similar to a city park which will not have an adverse effect upon the adjacent residential properties as parks are commonly found in residential neighborhoods.
- D. The proposed soccer fields, pavilion, and playground in association with the church is reasonably related to the overall needs of the City and existing land use as similar park land type uses typically are permitted uses in residential zoning districts.
- E. The proposed soccer fields, pavilion, and playground in association with the church is specifically listed as a Conditional Use in association with a religious institution and therefore is consistent with the purposes of the zoning ordinance.
- F. The proposed soccer fields, pavilion, and playground in association with the church is not in conflict with the Comprehensive Plan of the City because

religious institutions are listed as a Conditional Use while similar public parks are a permitted use.

- G. The proposed soccer fields, pavilion, and playground in association with the church will not cause traffic hazards or congestion as determined by the City's traffic engineer as long as the soccer fields are not used at the same time as services and events within the church building.
- H. Adequate utilities, access roads, drainage and necessary facilities have been provided to the site to accommodate the soccer fields, pavilion, and playground in association with the church.

And with the following conditions:

1. All original conditions of the Conditional Use Permit approval from 1988 to remain.
2. Approval is subject to the site plan/preliminary grading plan by KJ Walk, Inc. dated 4/13/22 on file with the New Prague Planning Department as amended by additional conditions listed below.
3. Use of the athletic/soccer fields is not allowed concurrent with activities within the church building as the traffic and parking demand will exceed the site capacity.
4. If City Staff deems on-street parking by field users to be excessive, the applicant may be required to pay for the city to install informational signs to be installed on area roads directing vehicles to park in the church's parking lot.
5. The proposed chain link fence as shown on the site plan / preliminary grading plan is limited to 5' in height, must be black coated to limit its visual impact and must be located outside of the required sight triangle at the corner of 3<sup>rd</sup> Street NE and 10<sup>th</sup> Ave. NE.
6. At least one overlapping opening in the southern fenced area must be provided for pedestrian access.
7. Trash that collects along the fenced areas must be collected at least monthly on a year-round basis.
8. Outdoor garbage receptacles must be made available for users of the fields, playground and pavilion and emptied as necessary.
9. Indoor restroom facilities must be made available for users of the playground, pavilion, and fields when the facilities have been scheduled for public use.
10. Lights are not allowed to be installed for the fields to be used outside of normal daylight hours.
11. Field use is limited to 30 minutes prior to sun rise and 30 minutes following sunset.
12. Soccer nets and field related equipment must be stored within a building or removed from the site between November 1st and April 30th each year when not being used.
13. The applicant shall reimburse the city for all fees and costs it incurs for processing, reviewing, and acting on the application approved herein, including

but not necessarily limited to any fees charged by the city's professional consultants in accordance with established rates.

14. The property shall be subject to all requirements of the New Prague City Code and shall otherwise comply with all other applicable federal, state, and local laws, rules, and regulations.

With staff further researching language for a condition to restrict on-street parking hours on weekends or weeknights to lessen potential traffic as well as people from parking on the resident's streets because the city can't control the use of the church, but the city can regulate the streets.

Motion carried (3-0)

### **3. NEW BUSINESS**

**A. None**

### **4. Miscellaneous**

**A. None**

### **5. Adjournment**

A motion was made by Ryan, seconded by Meyer, to adjourn the meeting at 8:01 pm. Motion carried (3-0).

Respectfully submitted,



Kyra J. Chapman  
City Planner