

1 current Gold Mine and Mail Center properties at 326 and 332 Broadway Avenue S. The
2 development application includes plans for the demolition of the two (2) existing buildings and
3 construction of a three story mixed use building, which would consist of retail uses on the
4 ground level and office uses on the upper two levels. The Planning Commission reviewed the
5 development application and held a public hearing at its July 18, 2016 regular meeting. After
6 discussing the application, the Commission asked the applicant to provide additional information
7 regarding the roof top mechanical equipment, sidewalk widths on Broadway and Mill Street, and
8 height comparison to the 701 Lake Street building. The Commission also asked the applicant to
9 respond to the design critique, outline the reasons for the deviations from the design standards,
10 and provide written justification for the height variance. After discussing the application at the
11 July 18, 2016 meeting, the Planning Commission directed staff to prepare a Planning
12 Commission Report and Recommendation recommending approval of the development
13 application. Since that meeting, the applicant has submitted revised plans for the project that
14 include increased sidewalk widths along both Broadway and Mill Street. Mr. Thomson reviewed
15 the current design standard deviations requested including the building recessions, the exterior
16 building materials, the sidewalk widths, and the rooftop mechanical equipment. He outlined the
17 conditions of approval in the draft Report and Recommendation prepared by staff.

18
19 Commissioner Young asked if the previous sidewalk plan of the current proposal included green
20 space along Mill Street in lieu of the 13-foot sidewalk.

21
22 Mr. Thomson stated the previous plan reviewed by the Commission at its last meeting included a
23 4-foot buffer then a 5-foot sidewalk and an additional landscape buffer between the sidewalk and
24 the building.

25
26 Commissioner Gruber stated the sidewalk along Broadway was proposed to be narrower to
27 preserve the existing bench, landscaping, and decorative brick. She asked what the current
28 condition was of these features, and if the applicant planned to make any improvements to these
29 features.

30
31 Applicant's Representative, Mr. David Link, 2399 Wayzata Blvd West, stated the features
32 Commissioner Gruber is referring to are located in the City right-of-way, and the applicant does
33 not have the right to make improvements to these features. The applicant would be willing to
34 work with the City and discuss what could be done to improve this area. He clarified the
35 sidewalk is narrower along Broadway in order to preserve a large tree.

36
37 Chair Iverson stated there were open issues with the parking at this time. She asked if the
38 applicant does work out an agreement with City whether they would be leasing parking from the
39 City for the project.

40
41 Mr. Thomson explained through the Mill Street parking structure, the City would be providing
42 additional parking to what currently exists on Mill Street. The plan is to have a mechanism in
43 place to allow property owners to contribute an annual fee to the City for the number of parking
44 stalls that would be needed for their development but are not able to be provided onsite.

45

1 Chair Iverson asked if the adjacent building located at 701 Lake Street had been granted a height
2 variance.

3
4 Commissioner Gruber stated the height requirement did not pertain to the 701 building because
5 the building had been constructed prior to the enactment of the current height requirement.

6
7 Chair Iverson asked if the sidewalks would be heated.

8
9 Mr. Link stated they would not be including heated sidewalks as part of the project. The heated
10 sidewalks at Presbyterian Homes were installed because the facility does not have anywhere to
11 put snow, and thus this was made part of the overall storm water management system for that
12 project.

13
14 Chair Iverson asked if the project would include a bike rack.

15
16 Mr. Link stated there is bike parking in the alley and also an opportunity for a bike rack on the
17 corner. They would work with the City on where this could be located.

18
19 Chair Iverson asked if any part of the existing buildings would be preserved and included in the
20 new project.

21
22 Commissioner Gruber suggested the Applicant contact the Historical Society so they could take
23 pictures of the buildings before they are removed.

24
25 Mr. Link stated the Beltz Family could help to facilitate that project.

26
27 Chair Iverson stated she would not support a variance for a 25% increase in the building height
28 limit.

29
30 Commissioner Young stated he does not believe the Commission has accomplished what they
31 wanted by asking for wider sidewalks along Mill Street. He preferred the landscape buffers in
32 the previous proposal versus sidewalks up to the building.

33
34 Mr. Thomson stated the final sidewalk design would be worked out with the City and this was
35 outlined in the draft recommendation.

36
37 Chair Iverson asked why the Storm Water Management Plan was not included in the proposal.

38
39 Mr. Thomson explained Condition D for approval refers to the actual maintenance agreement for
40 maintenance of the stormwater management facilities, and this does not get recorded until final
41 design.

42
43 Chair Iverson stated the Planning Commission has received Stormwater Management Plans to
44 review with feedback from the City Engineer for other applications.

45

1 Mr. Link stated the original submission included the Stormwater Management Plan, and Mr.
2 Kelley did sign off on it and documented that it was a best in practice management plan.

3
4 Commissioner Young made a motion, Seconded by Commissioner Gruber to approve the draft
5 Planning Commission Report and Recommendation, as presented, recommending approval of
6 the Rezoning, Concurrent PUD concept and General Plan of Development, Design Review,
7 Variances, Shoreland Impact Plan/Conditional Use Permit, and Preliminary and Final Plat
8 Subdivision for Broadway Place located at 326 and 332 Broadway Avenue S with the
9 conditioned outlined in the report. The motion carried 4-ayes, 1-abstain (Iverson).

10
11 Chair Iverson explained she abstained because she was not at the last meeting, and she did not
12 feel she had enough information to make a final decision.

13
14
15 **AGENDA ITEM 5. Public Hearing Items:**

16
17 a.) None.

18
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20 **AGENDA ITEM 6. Other Items:**

21
22 a.) **Review Newly Adopted Tree Ordinance**

23
24 Director of Planning and Building Thomson introduced the recently adopted updates to the
25 existing Tree Ordinance, Chapter 710 – Maintenance and Removal of Trees and the newly
26 adopted Chapter 801 Section 801.36 – Zoning Ordinance, approved by the City Council.
27 Chapter 801 Section 36 is a new Section in the Zoning Ordinance, and is focused on
28 development. Chapter 710 is existing City Code that is separate from the Zoning Ordinance, and
29 includes provisions on tree pathogen control program, nuisance abatement, transporting diseased
30 wood, and licensing requirements. He stated Chapter 801 would apply to subdivisions, public
31 infrastructure projects, construction of single-family homes on vacant lots, grading permits,
32 design review and expansions to existing single-family homes. He clarified the lower threshold
33 for significant tree removal for existing single-family homes takes into consideration the number
34 of significant trees that may have been removed during initial construction. The replacement
35 calculations are based on the number of inches for the trees on the site, not the number of trees
36 on the site. The new Ordinance does include language that would allow the City Council to
37 waive the replacement of trees for public infrastructure projects if the replacement would create
38 undue financial burden on the project and the public benefits of the public infrastructure project
39 outweigh the benefits of the tree replacement. He reviewed the tree replacement ratios, the size
40 requirements, and the fee-in-lieu of replacement project.

41
42 Commissioner Gruber asked if the Ordinance would apply to redevelopment or development
43 projects.

44
45 Mr. Thomson stated development and redevelopment projects require a design review, and the
46 Tree Ordinance applies to the design review of the project. The two projects that the Planning

1 Commission would see that involve the Tree Ordinance are for subdivisions and design reviews.
2 All subdivisions and design reviews going forward will require a Tree Preservation Plan to be
3 submitted with the application, and reviewed by the Planning Commission and City Council.
4 The Planning Commission will review this during the review of the development application.

5
6 Chair Iverson asked if a homeowner could remove all the trees on their property.

7
8 Mr. Thomson clarified the only way a home owner could remove any trees on their property is if
9 they are not doing any development, grading or construction. The City Council removed the
10 language from the draft Ordinance that required a homeowner to apply for a permit to remove
11 trees on their property.

12
13 Commissioner Murray stated the previous Code limited tree removal on residential property to
14 32 caliper inches per year per acre. He clarified this limit had been removed from the new
15 Ordinance.

16
17 Mr. Thomson stated this was correct and had been removed by the Council after considerable
18 discussion.

19
20 Chair Iverson suggested asking the City Council to reconsider removing this language.

21
22 Mr. Thomson stated as the City begins to administer the Ordinance, they are likely to find things
23 that should be looked at further, such as tree removal within a time period from purchase to
24 development.

25
26 City Attorney Schelzel stated that as issues present themselves when administering the new
27 Ordinance, changes or amendments to the Ordinance can be made as these items are identified.
28 He stated the City Council had discussions on the implications of having the Ordinance apply to
29 all homeowners and that they may not be aware of it, and would not think to apply for a permit.
30 He asked the Commission what they would consider to be an appropriate time period for the City
31 to consider previous tree removal in cases when trees have been removed on a property prior to
32 the application for a building permit or development application.

33
34 Commissioner Gruber stated the Ordinance is not covering a number of scenarios that would
35 result in a large loss of trees.

36
37 Commissioner Murray stated the new Ordinance also creates an opportunity for someone to clear
38 cut anything before applying for a permit or development application. The old Ordinance had
39 some protections by limiting the number of trees a homeowner could remove to 32 caliper
40 inches per year per acre.

41
42 Mr. Thomson stated there is a concern but there an ability to build in a “look back” period for
43 tree removal with a development application. He stated the Ordinance will apply if there is any
44 type of construction or grading on the property. The intent of removing the language on tree
45 removal permits is for the homeowner who wants to remove an existing tree(s) outside of

1 construction or property improvement. In such cases, they will not be required to apply for a
2 permit.

3
4 Chair Iverson stated the City should act quickly to put language in place that would trigger the
5 Tree Ordinance for all property owners, to limit the ability in all circumstances to remove large
6 amounts of trees without City review.

7
8 City Attorney Schelzel stated the direction from the City Council during the review and adoption
9 of the Ordinance was that the Tree Ordinance should not apply to homeowners who are not
10 doing any construction or grading of their property. He recommended that if the Planning
11 Commission wanted the City Council to reconsider this, and add back the original or similar
12 language, then a motion should be made to that effect.

13
14 Commissioner Young stated he would like to see a requirement that if a homeowner removes “x
15 percent” of the trees on their property they would need a permit. This allows the City to be
16 aware of the removal.

17
18 Chair Iverson asked if there was a process for a homeowner who wanted to remove more than
19 25% of their trees to request approval from the City.

20
21 City Attorney Schelzel stated requiring a tree removal permit was distinct from requiring a tree
22 preservation plan. Under the new Tree Preservation Ordinance, when the applicant reaches the
23 thresholds, they are required to submit a tree preservation plan for how the applicant is going to
24 deal with all the trees on the property, and replace trees that are being removed or pay money in
25 lieu of the trees. He asked if the Commission was proposing that the City should require a
26 homeowner get a permit to remove any trees on their property, or just make the Tree
27 Preservation Ordinance applicable to all homeowners.

28
29 Commissioner Young suggested a threshold be set and once that was met, then a homeowner
30 would need obtain a permit and submit a Tree Preservation Plan.

31
32 City Attorney Schelzel stated this would essentially be placing the same requirements for a
33 developer on homeowners, and the Council discussion had been around making the Ordinance
34 applicable just to those making changes to a property, such as developers. He stated to preserve
35 that distinction, he would recommend a look back provision.

36
37 Chair Iverson stated she would like to see the Ordinance go back to the City Council for
38 discussions on how to apply the ordinance to homeowners, either through a threshold or a look
39 back clause.

40
41 Commissioner Young made a motion, Seconded by Commissioner Murray to ask the City
42 Council to revisit the permit requirements for removal of trees for homeowners in the absence of
43 development, and consider alternatives for triggering such requirement, including setting
44 thresholds (e.g., removal of more than 25% of the trees on a property requires a permit),
45 establishing a “look back” clause, or applying the Ordinance to everyone, not just developers.
46 The motion carried unanimously.

1
2 Commissioner Murray asked if invasive species were included as nuisances.

3
4 Mr. Thomson stated buckthorn is not considered a tree.

5
6 Chair Iverson asked if there was a timeframe for the replacement of trees.

7
8 Mr. Thomson stated this is included in Section 9 Financial Guarantee.

9
10 Chair Iverson asked if there was someone on Staff that would verify tree protection steps have
11 been taken with projects.

12
13 Mr. Thomson stated the City was working on the administration of the Ordinance at this time.

14
15 Commissioner Gruber asked if the City had a Forester as defined in Chapter 710, and why
16 Chapter 710 and Chapter 801 were separated.

17
18 The language in Chapter 710 pertaining to the City Forester qualifications was changed by
19 Council to allow the flexibility for the City Manager in hiring a forester based on available
20 resources.

21
22 **b.) Review Development Activities**

23
24 Mr. Thomson stated the next City Council meeting is scheduled to include the subdivision
25 application on Bushaway Road, Frenchwood project, and the next steps for implementation of
26 the Lake Effect project. The August 15 Planning Commission meeting will be cancelled. The
27 next Planning Commission meeting is scheduled for September 7.

28
29
30 **AGENDA ITEM 6. Adjournment.**

31
32 Commissioner Young made a motion, seconded by Commissioner Gruber to adjourn the
33 Planning Commission. The motion carried unanimously.

34
35 The Planning Commission meeting was adjourned at 8:25 p.m.

36
37 Respectfully submitted,

38
39 Tina Borg
40 *TimeSaver Off Site Secretarial, Inc.*