



1 from the subdivision ordinance to allow use of a private roadway for access to the lots. The  
2 Planning Commission adopted a Report and Recommendation of approval of that previous  
3 development application but the City Council vote fell short (three to two) of the required 4/5ths  
4 vote to approve a subdivision variance. The applicant has now applied for the same subdivision  
5 application as a Planned Unit Development, rather than an R-1 zone subdivision, as PUDs do not  
6 require variances for the lot widths and private roadway. Mr. Thomson reviewed the application  
7 requests including rezoning from R-1/Low Density Single-Family Residential District to  
8 PUD/Planned Unit Development, PUD Concept and General Plan of Development, and  
9 Concurrent Preliminary and Final Plat Subdivision.

10  
11 Commissioner Gonzalez clarified the PUD would not require 4/5 vote from the City Council for  
12 approval. Mr. Thomson indicated that was correct, and only a simple majority would be needed.

13  
14 Commissioner Young asked what objections the City Council had on the application.

15  
16 Mr. Thomson stated the Council had hesitation about granting variances for new development  
17 that does not meet the City's zoning and subdivision regulations. Mr. Thomson stated that the  
18 Council was also concerned about preservation of natural resources, and the PUD ordinance is a  
19 tool the City can use for site preservation.

20  
21 Vice Chair Gruber opened the public hearing at 7:11 p.m.

22  
23 There being no one wishing to address the Planning Commission on this application, Vice Chair  
24 Gruber closed the public hearing at 7:12 p.m.

25  
26 Commissioner Young stated he had supported the project as a subdivision but not as a PUD.

27  
28 Commissioner Gonzalez stated the application does meet the general standards of a PUD. One  
29 of the reasons the Commission had supported the application had been to preserve the trees and  
30 this is for the health, safety, and welfare of the community and residents. The Comp Plan guides  
31 this property for single-family homes and this is what is proposed.

32  
33 Commissioner Flannigan asked if the PUD required common space.

34  
35 Mr. Thomson stated a Park Dedication fee could be paid in lieu of providing park land.

36  
37 Commissioner Young stated based on Commissioner Gonzalez's comments he would support  
38 the PUD application.

39  
40 Commissioner Flannigan asked how the City monitors projects to ensure only those trees that  
41 were approved to be removed are removed.

42  
43 Mr. Thomson stated the tree preservation plan is reviewed with the building permit application.  
44 The Commission could review this now but there are no house plans for two (2) of the lots and  
45 this would make it difficult to know what trees would be removed. The City's new Tree  
46 Preservation Ordinance is in effect for construction on a vacant parcel. If a building permit

1 application meets all of the Zoning Ordinances, setbacks, and the requirements of the Tree  
2 Preservation Ordinance then it would be reviewed administratively. Given this is a PUD  
3 application, the City could choose to tie the application to specific plans as a condition of  
4 approval.

5  
6 Commissioner Gonzalez stated previous residential PUDs were required to present house plans,  
7 a Tree Preservation Plan, and a Landscape Plan to the City for review and approval, and she  
8 would recommend adding this as a condition of PUD approval.

9  
10 Mr. Thomson clarified the Commission could recommend a condition of approval that the future  
11 owners of the two (2) vacant lots that would be created must present house plans, Tree  
12 Preservation plan, and Mitigation Plans to the Commission and City Council for review and  
13 approval. He clarified that the Commission's and Council's purview would be restricted to a  
14 permit review, which would include apply the Zoning Ordinance requirements such as setbacks,  
15 height, lot coverage, and impervious surface.

16  
17 Commissioner Murray stated the Tree Ordinance does not have a look back provision, and the  
18 property owners could remove trees prior to making an application.

19  
20 City Attorney Schelzel stated the Tree Preservation Ordinance applies now to the current  
21 homeowners and properties because of the application being considered at this time. Future  
22 homeowners would be required to submit a Tree Preservation Plan based on the trees that are on  
23 the property today.

24  
25 Mr. Thomson stated the Subdivision Ordinance states the character of the home in a new  
26 subdivision must be consistent with the neighborhood. If the Council included a condition  
27 requiring the future owners to submit final house plans for review and approval by the Planning  
28 Commission and City Council, the review would not require a public hearing. He expressed  
29 concerns about regulating the designs of homes under this provisions, as this is not something  
30 that the Zoning Ordinance regulates and requires for single-family homes. The property has  
31 requested a subdivision, so the standards of the Subdivision Ordinance apply.

32  
33 Commissioner Young stated the application would come to the Commission for review if it did  
34 not meet the standards and required additional approvals, and he does not believe the  
35 Commission should have to review it if the application meets all the standards.

36  
37 Commissioner Gruber stated the City has made this request with other PUDs.

38  
39 Mr. Thomson explained the review of final house plans is typically done by City staff as part of  
40 the building permit application, and not by the Planning Commission and City Council.

41  
42 Commissioner Gonzalez stated the PUD allows the City to attach reasonable conditions and this  
43 has historically been a condition of all residential PUDs. This condition would allow people to  
44 see what is going on with the property.

45

1 Commissioner Young stated he agreed that the City would want to be sure that the tree  
2 preservation and landscape guidelines are adhered to, but it seems staff has the ability to ensure  
3 that the plans would conform with the PUD standards and guidelines. If the plans do not meet  
4 the ordinance standards, then the Commission and Council should review and approve the plans.

5  
6 Commissioner Murray stated the Commission would only be able to determine if the ordinance  
7 standards are met or not met, and they would not be able to make changes. He would prefer to  
8 utilize staff, Commission, and Council time differently.

9  
10 Commissioner Gonzalez made a motion, Seconded by Commissioner Gruber to adopt the Report  
11 and Recommendation of Approval of Planned Unit Development, PUD Rezoning, and  
12 Preliminary and Final Plat at 250 and 270 Bushaway Road with the addition of condition G: The  
13 future homeowners for the two (2) vacant lots are required to bring back to the Commission and  
14 City Council for review and approval of a Tree Preservation Plan, Landscape Plan, and house  
15 design. The motion carried 4-ayes and 2 nays (Young and Murray).

16  
17 Commissioner Flannigan suggested the Commission continue discussion at a work shop  
18 regarding the impacts on the City when requiring applications to be reviewed by the Commission  
19 and City Council when they can be approved at the staff level.

20  
21 **Beacon Five – 529 Indian Mound E**  
22 **PUD General Plan, Design Review**

23  
24 Mr. Thomson stated the Applicant, Beacon Five, LLC and R.E.C. Inc., is proposing to construct  
25 a 3-story building which includes five (5) residential condominium units and 600 square-feet of  
26 office space on the first floor. The project is proposed as a Planned Unit Development (PUD)  
27 and zoning designation, given the building design calls for only partial use of the ground floor  
28 for office/retail. He reviewed the application requests including a PUD General Plan of  
29 Development and Design Review. The City Council approved a PUD Concept Plan earlier this  
30 year for the project, and the applicant is now requesting review of the PUD General Plan of  
31 Development. The City Council's approval of the PUD Concept Plans included a variance from  
32 the height limit of 35-feet to 38.9-feet, with the condition the applicant make an effort to reduce  
33 the height of the building. The revised building reflected in the PUD General Plan would have a  
34 height of 38-feet, which is less than the building height previously approved. He explained the  
35 applicant was requesting 4 deviations from the Design Standards, including lack of an outdoor  
36 seating area, lack of a step back of the third floor as required in Section 801.09.5.1.A, a lighter,  
37 tan color roof, and the use of fiber cement board in excess of 10% on all facades and precast  
38 stone in excess of 10% on the south facade. He stated there are currently 13 significant trees and  
39 1 heritage tree on the site. The Landscape Plan provided by the Applicant shows that all of the  
40 existing trees would be removed and be replaced by 6 trees (18 caliper inches). This would be a  
41 deficit of 164" replacement inches required by the Tree Preservation Ordinance. Mr. Thomson  
42 asked the Commission to provide guidance on whether a Landscape Plan revision should be  
43 required, or if the Applicant could provide a fee-in-lieu of tree replacement as specified in the  
44 Tree Preservation Ordinance.

1 Applicant's representative, Mr. Tim Whitten, Whitten Associates, Inc., 4159 Heatherton Place,  
2 Minnetonka, stated they were presenting the same plan that had been supported by most of the  
3 Planning Commission and City Council earlier this year. He explained they were requesting a  
4 deviation for the tan roof because they have found that a tan flat roof lasts longer. He explained  
5 the lot is narrow and there would not be room to locate a public bench along Indian Mound due  
6 to the location of the driveway and the incline of the property. He explained the exterior  
7 materials are the same as what had been previously approved. He stated they would work with  
8 staff to plant additional trees on the property and if there is not room on the property, they would  
9 pay cash-in-lieu.

10  
11 Commissioner Gonzalez asked why the Applicant was requesting a deviation from the third floor  
12 setback requirement.

13  
14 Mr. Whitten stated the building is stepping back 12-feet in portions and 3-4-feet in other  
15 locations. The way the regulation is written they can take an average, but there cannot be a  
16 setback less than 6-feet. The design is balanced with the proposed setbacks. The building is 22-  
17 feet from the property line and if the building were on the property line, he could see stepping  
18 back the third floor.

19  
20 Vice Chair Gruber opened the public hearing at 8:02 p.m.

21  
22 Mr. Roger Johnson, 560 Indian Mound St. Wayzata, expressed concerns about parking and  
23 traffic. He asked if there would be any street parking estimates because there would be visitors  
24 to the property.

25  
26 Mr. Whitten stated there were only 5-units in the building and they will each be provided with  
27 two (2) enclosed parking spaces. Guests would temporarily park in the street along with other  
28 people in the area.

29  
30 Mr. Charlie Krogness, 540 Indian Mound Street, Wayzata, stated he had concerns about parking  
31 for the offices that will be located in the building.

32  
33 Vice Chair Gruber closed the public hearing at 8:05 p.m.

34  
35 Mr. Thomson stated the City has a minimum parking requirement for developments, and the  
36 ordinance requirement is based on the type of development. The proposed project meets the  
37 City's requirement of 10 parking stalls for both the residential and office use. This calculation  
38 may not reflect the maximum parking that the project may have, and there could be times when  
39 there will be parking on the street.

40  
41 Vice Chair Gruber asked where the office parking would be located.

42  
43 Mr. Krogness stated if all of the parking is inside there would be a security risk.  
44

1 Mr. Whitten stated the underground parking is for both the residential and office components of  
2 the project. There is a similar building in Wayzata, and Ron Clark Construction has been able to  
3 work out the security concerns.

4  
5 Commissioner Flannigan stated he would abstain from voting on this project due to a conflict of  
6 interest.

7  
8 Commissioner Gonzalez asked why the fiber cement board would be a better choice of material  
9 than those outlined in the Design Standards.

10  
11 Mr. Whitten stated the fiber cement board was being used for the cantilever windows, and this is  
12 a nice material to detail these spaces.

13  
14 Commissioner Young stated he supports the project but is concerned that tree preservation is so  
15 important that the Commission is requiring the previous PUD applicants to bring back plans for a  
16 site review to ensure there are no trees removed, and this applicant will only be required to  
17 provide cash-in-lieu of replacement trees for a substantial amount of the trees that are being  
18 removed rather than tree preservation. He felt these were contradicting points.

19  
20 Commissioner Gonzalez stated she did not support the project previously because of the number  
21 of trees that would be removed. The City has already approved this Concept PUD plan and as a  
22 Commissioner, her position is to follow what the Council has already decided. She still has  
23 concerns about the height of the building and the clear cutting of the property, but because the  
24 Council has already approved the project in concept, she will support this application.

25  
26 Commissioner Gruber stated the previous project is located in an area that has large groves of  
27 trees and this project does not have large amounts of trees. The Comp Plan established the  
28 Bushaway Road area as a place the City is working to protect the trees.

29  
30 City Attorney Schelzel explained the difference between a variance and a deviation from a  
31 Design Standard.

32  
33 Commissioner Young suggested the Commission review the Design Standards to see if there are  
34 changes and updates that could take place to reduce the amount of deviation requests the  
35 Planning Commission is reviewing.

36  
37 Commissioner Gonzalez asked where the building's mechanical equipment would be located.

38  
39 Mr. Whitten stated the mechanical equipment would be housed on site and not located on the  
40 roof.

41  
42 Commissioner Gruber expressed concerns about the parking for the office space and visitors to  
43 the site. She suggested bringing these concerns back to the City Council. She stated she would  
44 support the project.

45

1 Commissioner Gnos stated he would recommend additional landscaping where appropriate and  
2 cash-in-lieu to comply with the Tree Preservation Ordinance.

3  
4 Commissioner Gonzalez stated she supports the requested deviations from the Design Standards,  
5 and she would support the City’s review of these standards to update them. The building is  
6 setback from the street, and this will soften the effect of the height of the building for pedestrian  
7 traffic. The proposed building setbacks do meet the intent of the Ordinance.

8  
9 Commissioner Young made a motion, Seconded by Commissioner Murray to direct staff to  
10 prepare a Planning Commission Report and Recommendation, with appropriate findings,  
11 reflecting a recommendation of approval on the Application for review and adoption at the next  
12 Planning Commission meeting. The motion carried 5-ayes and 1-abstain (Flannigan).

13  
14 **Temporary Family Health Care Housing Opt-Out Ordinance**

15  
16 Mr. Thomson stated the 2016 Legislature established a new system for issuing special land use  
17 permits for “temporary family health care dwellings” that applies to all cities and counties unless  
18 action is taken to opt out. This law reflects recent developments in short-term housing  
19 alternatives for mentally or physically impaired persons. Beginning on September 1, 2016, cities  
20 and counties must issue temporary dwelling permits for temporary family health care dwellings  
21 that meet the requirements outlined in the Statute. The Statute includes specific application  
22 procedures, as well as the placement, structural, inspection, notice, duration, and fee  
23 requirements. Among other requirements, the temporary family health care dwelling must be no  
24 more than 300 gross square feet, must be located on the property where the caregiver or relative  
25 resides, and must comply with all setback requirements. Cities may opt out of this new law by  
26 passing an Ordinance. By opting out of the Statute, the City may either enact its own unique  
27 regulations for temporary family health care dwellings, or the City would enforce its existing  
28 zoning ordinances to regulate the placement of these housing units. He clarified this type of  
29 temporary use is regulated through the City’s current Ordinances.

30  
31 City Attorney Schelzel stated most Minnesota cities are opting out of this special land use law.  
32 The Commission is holding a public hearing on the matter because adopting an Ordinance to opt  
33 out would be an amendment to the City’s Zoning Ordinance.

34  
35 Vice Chair Gruber opened the public hearing at 8:29 p.m.

36  
37 There being no one wishing to discuss this item Vice Chair Gruber closed the public hearing at  
38 8:30 p.m.

39  
40 Commissioner Gonzalez made a motion, Seconded by Commissioner Murray to approve the  
41 findings and adopt the Report and Recommendation of Approval of an Ordinance Opting-Out of  
42 the Requirements of Minnesota Statutes, Section 462.3593 and approve Ordinance #\_\_, as  
43 presented. The motion carried unanimously.

44  
45 **Institutional Zoning District Amendment**

1 Mr. Thomson stated over the past several years, the City has been working on the development  
2 and design of a public parking ramp along Mill Street in downtown Wayzata. Most recently, the  
3 City has hired an architect and engineer to design the parking ramp. City Staff and the City's  
4 consultants have been working with the City Council and a Steering Committee that consists of  
5 two (2) Council members, a representative from the HRA, and two (2) community members.  
6 During the development of the ramp project, the City Council directed City staff to initiate the  
7 Zoning Ordinance amendments that are needed for construction of the parking ramp. Based on a  
8 review of the project and the existing zoning ordinance, City staff determined that the most  
9 appropriate alternative was to initiate an amendment to the Institutional Zoning District to  
10 expressly include public parking ramps as a permitted use in the Institutional District. He  
11 reviewed the proposed zoning standards for public parking structures including minimum lot  
12 size, height, and lot coverage. He outlined the specific changes recommended to Section 70 of  
13 the Zoning Code.

14

15 Commissioner Gnos asked how the 40-foot height had been established since most of the City's  
16 height restrictions are 35 to 38-feet.

17

18 Mr. Thomson stated the maximum height of 40-feet was already in the code for the Industrial  
19 District.

20

21 City Attorney Schelzel stated staff had reviewed the City's Comprehensive Plan in light of the  
22 proposed parking ramp, and determined that no amendment was needed.

23

24 Commissioner Flannigan asked if there were any architectural requirements associated with the  
25 parking ramp.

26

27 Mr. Thomson stated the Design Standards would apply to the parking structure. Once the design  
28 is complete it would come to the Planning Commission for design review, and it would be  
29 subject to all the same standards as other projects in the City.

30

31 Commissioner Young stated he would not support anything related to the parking ramp because  
32 he does not believe it is needed.

33

34 Vice Chair Gruber opened the public hearing at 8:44 p.m.

35

36 There being no one wishing to address the Commission on this item, Vice Chair Gruber closed  
37 the public hearing at 8:45 p.m.

38

39 Vice Chair Gruber stated she is not sure that the City needs a parking ramp. She is abstaining  
40 from this vote.

41

42 Commissioner Gonzalez stated the City Council makes policy, and they have determined that the  
43 City would be constructing a public parking ramp so she would support the Council's decision.

44

45 Commissioner Gnos stated he believes that the construction of a ramp may not be needed but the  
46 City Council has voted to move forward.

1  
2 Commissioner Gonzalez made a motion, Seconded by Commissioner Flannigan to adopt the  
3 Planning Commission Report and Recommendation recommending amendments to Section 70 of  
4 the Industrial District of the Zoning Ordinance for public parking structures. The motion failed.  
5 2 ayes, 1 nay (Young), and 3 abstain (Murray, Gnos, and Gruber).  
6

7 City Attorney Schelzel stated the Commission could entertain another vote or leave the matter  
8 for City Council to act on.  
9

10 Commissioner Flannigan stated the Commission should support the Council and taking action on  
11 this item was part of the Commission's job.  
12

13

14 **AGENDA ITEM 6. Other Items:**

15

16 Review of Development Activities  
17

18

19 Mr. Thomson stated the next Planning Commission meeting is scheduled to include several  
20 development applications. Mr. Thomson reviewed the items considered at the last City Council  
21 meeting. The City Council held a workshop on the General Fund and Levy and the Tree  
22 Ordinance. The City had discussion on the Commission's concerns with the Tree Ordinance and  
23 how it applies to existing homeowners. Staff would be adding a look back clause and bring the  
24 amendment to the Commission for consideration at a future meeting. The City Council approved  
25 the Broadway Place project.

26

27 Commissioner Gonzalez suggested adding discussions on the PUD Ordinance to a future  
28 Planning Commission workshop, and look at modifications including restrictions on height.

29

30 Commissioner Young asked what the procedure would be to make a change in the Design  
31 Standards related to roof color.

32

33 Mr. Thomson suggested putting together a 2017 Work Plan for the Planning Commission to  
34 address issues with the City's Codes.

35

36 Next Meeting is scheduled for September 19, 2016.  
37

38

39

40 **AGENDA ITEM 7. Adjournment.**

41

42 Commissioner Young made a motion, seconded by Commissioner Murray to adjourn the  
43 Planning Commission. The motion carried unanimously.

44

45 The Planning Commission meeting was adjourned at 9:57 p.m.

46

47 Respectfully submitted,

48

- 1 Tina Borg
- 2 TimeSaver Off Site Secretarial, Inc.