

1 **WAYZATA PLANNING COMMISSION**
2 **MEETING MINUTES**
3 **January 6, 2020**

4
5
6 **AGENDA ITEM 1. Call to Order**

7
8 Chair Flannigan called the meeting to order at 6:30 p.m.
9

10
11 **AGENDA ITEM 2. Roll Call**

12
13 Present at roll call were Commissioners: Flannigan, Plantan, Douglas, Merriam, Parkhill, and
14 Iverson. Absent: Bashioum. Community Development Director Emily Goellner, Assistant
15 Planner Nick Kieser, Planning Consultant PeggySue Imihy, and City Attorney David Schelzel
16 were also present.
17

18
19 **AGENDA ITEM 3. Approval of Agenda**

20
21 Chair Flannigan asked for a motion to approve the agenda for the meeting.
22

23 Commissioner Plantan made a motion, seconded by Commissioner Douglas, to approve the
24 January 6, 2020 agenda as presented. The motion carried unanimously.
25

26
27 **AGENDA ITEM 4. Consent Agenda**

- 28
29 **a.) Approval of the December 16, 2019 Meeting Minutes**
30 **b.) Report and Recommendation of Approval for a Heritage Preservation Site**
31 **Designation for the Section Foreman House at 738 Lake Street East**
32

33 Chair Flannigan read the items on the consent agenda and asked if any Commissioner wished to
34 pull an item for discussion.
35

36 Hearing no such request, he asked for a motion to approve the Consent Agenda as presented.
37

38 Commissioner Iverson made a motion, seconded by Commissioner Plantan, to approve the
39 Consent Agenda as presented. The motion carried unanimously.
40

41
42 **AGENDA ITEM 5. Public Hearing Items:**

- 43
44 **a.) Consider Development Application for Variances, Design Review, and Shoreland**
45 **Impact Plan/Conditional Use Permit for Lothenbach Family Offices at 401 Lake**
46 **St E**

1
2 Planning Consultant, PeggySue Imihy, stated that the applicant, Peterssen/Keller Architecture, and
3 the property owner, Lothenbach Props VI, LLC, have submitted a development application to
4 redevelop the property at 401 Lake Street E. The applicant is proposing to demolish the existing
5 building on the site and construct a three-story, 19,910 square-foot office-retail building. The
6 building would have 2,250 square feet of retail on the ground floor and 11,815 square feet of office
7 space on the second and third floors. The building would also have 4,150 square feet of green roof
8 area, with a 450 square-foot rooftop patio space, accessible from staircase or elevator to the roof.
9 The remaining square footage of the building would be used for parking.

10
11 The application requests variances for the maximum allowable floor area ratio (FAR) of 2.0 and
12 the required first floor retail percentage of at least 50% in the C-4 Central Business Zoning District.
13 The application also requests review and approval of the project design under the applicable
14 Design Standards for the Lake Street District, and approval of a Shoreland Impact
15 Plan/Conditional Use Permit (CUP) for impervious surface coverage greater than the allowed 25%
16 in the Shoreland Overlay District.

17
18 The applicant previously appeared with another application for the property at the October 7, 2019
19 Planning Commission meeting, requesting approval of a Concept Plan for a Planned Unit
20 Development and a variance from the maximum allowable building height. The Planning
21 Commission recommended denial of that application due to concerns regarding building height,
22 the lack of sufficient parking, and the scale and massing of the proposed building. Following that
23 meeting with the Planning Commission, the applicant withdrew their application to consider ways
24 to address the Planning Commission's concerns. The new application no longer requests approval
25 of a Planned Unit Development and is in compliance with the height requirements and
26 accommodates all required parking on-site. The applicant was also able to reduce the FAR from
27 2.44 to 2.33.

28
29 The property lies within the C-4 Central Business District, Shoreland Overlay District, and Lake
30 Street Design District. The 2030 and 2040 Comprehensive Plan Designation for the property is
31 Central Business District.

32
33 As part of the current application, the applicant is requesting a variance for the proposed FAR from
34 the maximum of 2.0 to 2.33. The applicant identified the parking requirement, the size of the
35 parcel, and the high-water table as reasons for the increased FAR. The proposed building meets
36 the requirement of City Code §978.06.C that at least 50% of the building frontage on the ground
37 floor along Lake Street be used for retail or service commercial use, but does not comprise at least
38 50% of the ground floor building footprint. The applicant has asked for a variance to reduce the
39 required minimum amount of retail on the ground floor building footprint from 50% to 22% and
40 has identified the need to accommodate parking, the size of the site, and the high-water table as
41 practical difficulties faced in meeting this standard.

42 The applicant is also requesting three deviations from the Design Standards. The first is consistent
43 with the requested variance regarding retail percentage on the ground floor. The second and third
44 design deviation were requested by City Staff and pertain to outdoor landscaping, sidewalk, and
45 lighting requirements that will be impacted by the Lake Effect plans that will be incorporated along
46 Lake St E.

1
2 A Shoreland Impact Plan/Conditional Use Permit is required under City Code §991.19.A. The
3 proposed project would cover the entire site, creating 100% impervious coverage. Stormwater
4 treatment measures include the installation of a green roof system.
5

6 The proposed plan for parking would locate 13 parking spaces on the ground floor, 22 spaces on
7 the underground floor of an enclosed ramp, and an additional 5 spaces located on the northern part
8 of the site. In total, the site would have 40 spaces for parking. The City Engineer/Public Works
9 Director has reviewed the parking structure and his recommendation of approval includes
10 conditions. These conditions include the installation of safety mechanisms at the entrances of the
11 ramps, installation of a mechanism that limits the lowest level parking to office users, and signage
12 for parking for public/retail users.
13

14 The applicant has provided a landscape plan, which includes replacing 35 inches of the 40 inches
15 of tree caliper inches required to be replaced. The five inches which cannot be accommodated in
16 the right-of-way will need to be paid for with the Tree Ordinance's Fee in Lieu of planting, at a
17 cost of \$160 per caliper inch, for a total of \$800.
18

19 The site currently has 83% impervious surface between the parking lot and the existing building.
20 The proposed plan would increase the impervious coverage to 100%, which is allowed within the
21 Shoreland Overlay District so long as the applicant receives approval of a CUP/Shoreland Impact
22 Plan. The applicant has proposed a green roof system, where vegetation and soil act as a sponge,
23 absorbing and filtering water that would normally run off the site. The proposed roof would
24 decrease runoff from the site, and the existing runoff patterns would remain unchanged. The City
25 Engineer/Public Works Director has found the mitigation of stormwater runoff to be a suitable
26 best management practice. A building permit cannot be issued until approval from the Minnehaha
27 Creek Watershed District is received.
28

29 The construction of the proposed building will create a landlocking of 407 Lake St E on the east
30 side since there is not an alley behind the building. The Applicant has reached an agreement with
31 407 Lake St. E to continue to allow their trash to be picked up at 401 Lake St. E. The Fire Marshal
32 was contacted, and it was determined that the landlocking of 407 Lake St. E would not impede
33 their ability to adequately address a fire on the property.
34

35 Chair Flannigan asked if the current property was retail. He also asked for clarification of other
36 retail uses in the vicinity of the property.
37

38 Planner Imihy stated that the properties next to the parcel are not currently retail.
39

40 Chair Flannigan asked for information regarding rooftop systems, their longevity, and potential
41 maintenance issues.
42

43 Planner Imihy replied that the applicant can likely speak to the longevity and maintenance of such
44 technologies. She added that many cities award bonuses for green rooftop systems being
45 incorporated into buildings.
46

1 Commissioner Merriam stated that there is a retail business directly across from the subject
2 property, as well as an increase of retail properties as one moves along Lake St. She also asked
3 if the FAR would be affected if all of the parking were located at the north side of the building and
4 in a three-story parking ramp.

5
6 Planner Imihy responded that FAR includes everything that is seen above grade. The sub terrain
7 parking on this property is not included in the FAR calculation. She explained that FAR is intended
8 to offer a correlation of density or of appearance, in essence a measure of scale.

9
10 Commissioner Douglas asked if there was a difference between the 2030 and 2040 Comprehensive
11 Plan Designation for the property, what was the required retail percentage for two identified
12 properties, and how is the water table impact determined.

13
14 Planner Imihy stated that the 2030 and 2040 Comp Plan have the same designation for the property.
15 She did not know the retail percentage required for the two identified business but stated that they
16 could look up the answer. She stated that most properties in close proximity to Lake Minnetonka
17 are going to have a high-water table. She does not believe that the discussed property was required
18 to produce soil borings.

19
20 Commissioner Parkhill asked for clarification regarding required parking being determined by the
21 size of offices and their square footage. He further asked if the Code allowed rooftop seating.

22
23 Planner Imihy stated that square footage drives the determination of required parking. She also
24 stated that the City doesn't have a Code section that expressly prohibits rooftop patios.

25
26 There being no further question from the Commission for Staff, Chair Flannigan invited the
27 Applicants to address the Commission regarding the application.

28
29 Applicant's representative, Greg Keup, 420 Kimberly Ln N Plymouth, stated that the Lothenbach
30 Family offices are currently located in Wayzata and they look forward to that becoming permanent.
31 He stated that the team joining him to speak included their Architect and General Contractor. He
32 added that their team has worked hard to listen to the feedback given from the previous Planning
33 Commission meeting as well as the numerous meetings held with neighbors to the property.

34
35 Applicant's Attorney, Carol Lansing, Faegre Baker Daniels, Minneapolis, stated that she wanted
36 to provide a little more framework around the standards for the FAR variance as the Commission
37 considers the presentation the team will provide. She provided a clarification regarding the term
38 "reasonable" as it applies to the practical difficulties aspect of the variance standard.

39
40 Applicant's Architect, Gabriel Keller, 1526 West 25th St. Minneapolis, stated that the Planned Unit
41 Development that the Planning Commission considered in the previous application was the path
42 recommended to the team. They have changed their direction to requesting a variance request due
43 to the feedback received. He stated that they are making three requests in their application. He
44 added that the other requests in the application were accommodations to Staff's requests due to
45 the anticipated Lake Effect plans. He stated that because of the unique size of the property, it is
46 impossible to meet the parking requirements and the retail percentage requirements. He discussed

1 other similar properties with similar practical difficulties that were granted variances. He added
2 that soil borings were completed to determine the height of the water table. He provided visuals
3 of different configurations of the property and stated that there wasn't a way to meet both the
4 parking and the retail percentage requirements of the Code. He shared information regarding green
5 roofs. He stated that they require minimal maintenance, are more visually appealing, and help
6 extend the longevity of the roof by 3-5 times longer than a typical roof.

7
8 Applicant's Architect, Ryan Fish, 4329 29th Ave S Minneapolis, stated that the FAR would be
9 below 2.0 if the partially underground parking was removed from the equation.

10
11 Chair Flannigan asked the Commission for questions for the applicant.

12
13 Commissioner Parkhill asked for the percentage of parking that is below grade.

14
15 Mr. Fish stated that approximately 45% of the volume is underground, but difficult to determine
16 due to the slope. He identified a space on a diagram that is both above and below grade.

17
18 Commissioner Parkhill asked if the identified space was removed from the FAR calculation would
19 the design be at 2.0 FAR.

20
21 Mr. Fish stated that the identified area as well as an outside covered area would account for the
22 difference in the achieved and required FAR.

23
24 Commissioner Douglas asked for clarification regarding an elevation diagram on page 69 of the
25 Commissioner's packet. She asked if the area was open to the parking area.

26
27 Mr. Keller stated that the area can be accessed by walking or driving and is part of the retail use
28 space that the City had requested. They had thought to propose a screen of vines at the location
29 but discovered that wouldn't meet City Code requirements.

30
31 Commissioner Iverson asked for clarification regarding a rooftop job drawing that states "recessed
32 plumbing vent area, screen from bluff and neighboring properties". She asked for the height and
33 a description of the item.

34
35 Mr. Fish stated that the description is an attempt to creatively hide pipes.

36
37 Commissioner Merriam asked about a statement indicating that an ornamental 12-foot-tall tree
38 would be part of the rooftop terrace landscape.

39
40 Mr. Keller responded that the third floor will have a center section that is open to the sky and
41 surrounded in glass for the connected offices to view. A tree will be planted in this section and
42 would not project above the building roof plane.

43
44 Commissioner Iverson asked about the mechanical screens and potentially how much noise would
45 be expected in that area. She further asked if the adjacent area was residential or commercial.

46

1 Community Development Director, Emily Goellner stated that the adjacent property to the
2 mechanical screening area would be commercial.

3
4 Mr. Keller stated that they are not at the construction phase of having specifics. He added that the
5 HVAC subcontractor indicated that there would be no difficulty meeting code regarding noise
6 levels.

7
8 Commissioner Iverson asked Staff how noise levels are measured. She indicated that she has
9 gotten noise complaints from residents at another location near a commercial building. She added
10 that the City needs to do a better job at monitoring those noise level requirements.

11
12 Mr. Keller stated that noise levels will be a factor of the equipment chosen for the project. He
13 clarified that the screening is pointed towards the back space of the Masonic temple.

14
15 Commissioner Plantan asked Staff as well as the applicant if additional screening could be added
16 to the parking garage with the understanding that the City Code contained restrictions regarding
17 screening specifics.

18
19 Commissioner Parkhill asked how much parking is required for the retail and office space.

20
21 Mr. Fish stated that the zoning code is three parking spaces for every thousand feet. The retail
22 would require approximately 7-8 spaces.

23
24 There being no further questions from the Commission for the applicant, Chair Flannigan opened
25 the public hearing on the application at 7:24 p.m.

26
27 Property owner of 315 Manitoba Ave, and owner proxy for 445 Lake, Charles Nolan, stated that
28 many significant improvements have been made since the public hearing on the last application.
29 He continues to have two issues with the plan. He agreed that moving from a PUD to a variance
30 was appropriate. Unfortunately, he does not believe that the circumstances are even close to being
31 met to qualify for a variance. He stated that the test for being granted a variance includes that the
32 difficulty cannot be self-created, and that economics cannot play a part in the need for a variance.

33
34 Planner Imihy clarified that the standard is economics cannot be the only consideration for granting
35 a variance.

36
37 Mr. Nolan stated that the applicant wants everyone to believe that it is the properties uniqueness
38 that is creating a need for a variance. He added that the property is a complete rectangle with two
39 frontages and the dimensions perfectly maximize the ability to put parking on the site. He also
40 stated that the increasing grade does not create a hardship but instead allows for parking to be
41 hidden underground and benefits the FAR calculation. He believes the problem is self-created and
42 the building is too big for the site. He stated that his building will look down on this building, and
43 he is concerned with the terrace and the lack of control over the space and its use.

44
45 Representative for the properties of 306 through 324 Manitoba, Darren Schmidt, stated that his
46 properties are to the north of the project. He believed that the current proposal is much improved

1 over the previous one. He continued to have concerns regarding the rooftop and its use. He stated
2 that other properties have been imposed with limitations and that should be the same for the current
3 proposal. He stated that the parking stalls on the north side of the building should have screening.
4 He would also like to see trash screening. He stated that the north side of the buildings grading
5 will impact snow loading and he would like to see a formal agreement to address the issue.
6

7 There being no one else wishing to comment on the application, Chair Flannigan closed the public
8 hearing at 7:35 p.m.
9

10 Chair Flannigan asked for the Commission to provide feedback regarding the application.
11

12 Commissioner Merriam stated that the Swans building and another building at Broadway have
13 FAR's greater than 2.0. She asked for the City approvals that allowed for the increase in FAR to
14 be granted.
15

16 Planner Imihy stated that both of the identified projects were reviewed by the Planning
17 Commission and approved by City Council, and increased FARs as part of a Planned Unit
18 Development.
19

20 Director Goellner stated that she could look into past approval documents to provide more
21 information.
22

23 Chair Flannigan asked for the City Code regarding the rooftop and the potential uses allowed.
24

25 Director Goellner stated that the City Code does allow a rooftop terrace with parapet walls or
26 protective railing with a height on no more than 35 feet. The City Code does not regulate the
27 activity or use of a rooftop terrace.
28

29 Planner Imihy stated that there was another property that was given restrictions regarding the use
30 of a rooftop, but that was due to mechanicals being present on the roof.
31

32 Commissioner Parkhill asked if average grade is used to calculate FAR.
33

34 Planner Imihy stated that the average grade is used to determine building height. The FAR is
35 determined by visual impact and not by using the average grade calculation. It doesn't matter how
36 much of the parking is below grade as long as its visible it will be included in the FAR.
37

38 Director Goellner stated that the Zitzlof building at 305 and 309 Lake has 55% retail use. They
39 were granted a variance to FAR due to circumstances unique to the property, and in large part due
40 to the desire to maintain the historical aesthetic of the bank façade and the desire to provide
41 enclosed parking within the building. That was included in the floor area rather than as a surface
42 parking lot. The other property that Commissioner Douglas inquired about was Wayzata Blue.
43 She stated that the property is west of Berry Ave and is not required to have 50% retail.
44

45 Commissioner Merriam asked if Director Goellner asked if there was information regarding the
46 Broadway building.

1
2 Director Goellner stated that she believes that it was considered unique and that and FAR deviation
3 was granted, but she would look for more information.

4
5 Commissioner Merriam asked for the square footage of the retail space, and the type of retail that
6 would be pursued.

7
8 Mr. Keller stated that it is too early to determine what the retail space would be used for. He would
9 anticipate a clothing store, but they would have to meet the City requirements.

10
11 Commissioner Plantan asked if a setback to the second or third floor was considered to allow the
12 property to meet the 2.0 FAR.

13
14 Mr. Keller stated that they reduced the building a lot to accommodate the required parking space.
15 Further reductions in the building would create difficulty and limitations to balancing the necessary
16 elements of the building and its proposed uses.

17
18 Chair Flannigan stated that application is interesting, and he appreciates the applicant attempting
19 to address the concerns that were raised in the review of the previous application. He stated that
20 the building appears to be lighter and more airy than other buildings. He appreciates the comments
21 by Mr. Nolan and believes that there are practical difficulties in meeting the parking and the
22 required FAR. He stated that the building architecture overcomes the excess calculation of the
23 FAR. He thinks that the property is unique in the grading, the parking requirement, the retail
24 requirement, and he could agree with an approval of the FAR calculation.

25
26 Commissioner Douglas stated agreement with Chair Flannigan.

27
28 Commissioner Plantan stated her appreciation for the applicant's willingness to work with the
29 community and attempts to address the concerns raised with the previous application. She does
30 not believe the applicant has unique circumstances. She believes that there is likely a way to meet
31 the 2.0 FAR while still being economically responsible. She agreed with allowing the retail floor
32 percentage reduction, but not due to unique circumstances but rather to accommodate parking.
33 She stated that the property will contribute to the retail vibrancy on Lake Street. She would agree
34 with the Design review deviations that the City has requested and in regard to the Shoreland
35 Impact. She would like to add a couple of requirements or conditions that would include an
36 agreement with the City for the snow loading of the adjacent buildings, open areas of north and
37 east side parking garage to add screening, adding hours of operation to the rooftop use, and
38 regulations limiting the height of objects on the rooftop to not extend above the five foot railings.

39
40 Commissioner Merriam agreed with much that has been said. She stated that there are many
41 balconies on buildings in town and they are not regulated. She is not certain how rooftop terraces
42 are different. She acknowledged that she is not knowledgeable of the issues, but she has listened
43 to the concerns.

44
45 Chair Flannigan stated that there are a number of cities that love the rooftop use, but he
46 acknowledged that he does not live or work closely to one to have a different experience or opinion.

1
2 Commissioner Iverson stated that she agreed with most of what has been said. She would like to
3 see the FAR be brought down. She agreed with Mr. Nolans' comment regarding density and scale.
4 She would like the city to look at the Shoreland Impact Plan and the lack of green space in anything
5 other than sidewalks. She is concerned with the project utilizing 100% of the site and the lack of
6 greenspace. She is concerned the impact of the future. She would like to see greenspace on the
7 first level.

8
9 Commissioner Douglas stated that the rooftop will likely be utilized once a year for fireworks.
10 She stated that she lives in downtown Wayzata, and she doesn't see the terraces utilized very often.

11
12 Commissioner Parkhill appreciated the challenge of incorporating the required 40 parking spots
13 into the project. He stated that changes requested are reasonable. He stated that if the City Code
14 does not have regulations regarding the use of a roof top terrace, then it should likely not be an
15 important factor. He would like to have the FAR reduced.

16
17 Chair Flannigan would like to see screening for the parking stalls and the trash. He asked if there
18 were other remedies to consider regarding the stormwater handling.

19
20 Planner Imihy stated that the Shoreland Impact Plan conditional use permits is a conditional use
21 permit that can be issued as long as the applicant meets all of the conditions of the permit. City
22 Engineer Kelly did find that the plan for stormwater handling to be in line with best practices. The
23 City Code allows applicants to go up to 100% impervious surface so long as they can remediate
24 the effects of that impervious.

25
26 Commissioner Plantan asked about an application for a roof top terrace on Swans corner.

27
28 Planner Imihy stated that she believed that the issue with the referenced proposal was that it
29 included a cupola that was too large and too tall, and so the removal of that element removed the
30 rough elements for the proposal.

31
32 Director Goellner provided follow up information regarding the Broadway Place development at
33 326 Broadway Avenue. She stated that the property was in the planned unit development district
34 approved for the project, and there is no FAR standard for a PUD district.

35
36 Commissioner Iverson asked if they could make a condition that prohibits storing any items on the
37 rooftop.

38
39 Chair Flannigan added that a condition could be that nothing is allowed on the rooftop.

40
41 Commissioner Iverson stated that she would agree to Chair Flannigan's condition. She added that
42 she thinks that the green roof is brilliant, and she thinks the country should move that direction.
43 She questioned if there has been enough discussion regarding green roofs, and if the Planning
44 Commission should gather more information and present their findings to the City. She asked if
45 they could get additional time to gain more knowledge regarding the topic before making a
46 decision on the application.

1
2 Director Goellner stated that the City's concern for rooftops would mostly be related to nuisances
3 by human activity, which is not predictable, but the City can enforce nuisance ordinances if
4 necessary.

5
6 City Attorney, David Schelzel, stated that any conditions need to be reasonably related to a land
7 use request being made. City Code does not currently prohibit the use of the rooftop. If the
8 Commission would like to pursue the matter more, he believes more discussion is warranted to
9 determine how a proposed condition would relate to something the applicants are requesting.

10
11 Commissioner Iverson stated that City Code does not have a statement allowing rooftop terraces
12 activities.

13
14 Mr. Schelzel responded that there are limits to what the space can be used for due to it being in a
15 particular zoning district. The use would need to be something related to the proposed office or
16 retail uses in the building. There are also tools in the code that could be used to address nuisances,
17 noise and similar issues.

18
19 There being no further discussion among the Commissioners, Chair Flannigan asked for a motion
20 on the application.

21
22 Commissioner Parkhill made a motion, seconded by Commissioner Douglas, to direct staff to
23 prepare a draft Planning Commission Report and Recommendation, with appropriate findings,
24 reflecting a recommendation of approval of the FAR variance of 2.33, the variance for the ground
25 floor retail percentage of 22%, a deviation of the design standards for retail activity of 22% of the
26 total first floor footprint, a deviation from the design standards of City Code §909.06.A.2 and City
27 Code §909.16.A (so Lake Effect Plans can be incorporated), and the Shoreland Impact
28 Plan/Conditional Use Permit to allow 100% impervious coverage with the stormwater treatments
29 measures that include a green roof system with the recommendation of providing screening for the
30 northern side of the ramp for the property at 401 Lake St E, for review and adoption at the next
31 Planning Commission meeting.

32
33 Commissioner Douglas asked if the screening on the north side of the parking ramp could be
34 required.

35
36 Planner Imihy stated that the applicant removed screening from the identified area due to the
37 resulting need to obtain an additional design deviation for an increase of metal percentage. She
38 asked for clarification if the Commission would like the applicant to pursue the deviation.

39
40 Chair Flannigan stated that he would agree that something would need to be in that location. He
41 would like to see coverage.

42
43 Commissioner Parkhill amended the motion to include a Design Standards deviation for additional
44 metal or plantings to provide screening on the north side of the parking ramp.

45
46 Commissioner Douglas seconded the motion. The motion carried 5 ayes and 1 nay (Iverson).

1
2 Commissioner Iverson asked to express her reason for voting nay to be on the record. She stated
3 that her vote is based on the Shoreland Impact Plan, and that she is not comfortable with allowing
4 100% of the site to be covered by impervious surfaces. She would like the City Council to have
5 further discussion regarding the issue.

6
7 Chair Flannigan asked for a timeline for the application.

8
9 Director Goellner stated that the report and recommendation would come back to the Planning
10 Commission at the January 23, 2020 meeting and then to the City Council in early February.

11
12 **b.) Consider Development Application for Planned Unit Development General Plan,**
13 **Design Review, Preliminary Plat, Zoning Map Amendment, and Shoreland**
14 **Impact Plan/Conditional Use Permit for North Lake Townhomes at 215 Walker**
15 **Ave S and 545 Indian Mound E**

16
17 Planning Consultant PeggySue Imihy stated that the applicant, Walker Partners Limited
18 Partnership, and the property owner, RE Clark Land Invest, LLC, have submitted a development
19 application to redevelop the properties at 545 Indian Mound E and 215 Walker Ave S. The
20 applicant is proposing to demolish the existing commercial building on the site and construct
21 seven, two-story townhomes, split between three buildings. Two of the homes would face Indian
22 Mound E, while the other five would face Walker Ave S. The development would have a private
23 driveway to access the garages, which are located to the rear of the homes.

24
25 The application requests review and approval of a General Plan for a Planned Unit Development
26 (PUD), a deviation from the requirement that the buildings be located no closer than one-half the
27 sum of the building heights of the two buildings, and a deviation from the setback requirements
28 requiring new structures to be set back no less than 15 feet from the back of the curb line along
29 roadways. The applicant is also requesting a rezoning from C-1: Office and Limited Commercial
30 to PUD. The property is subject to the Design standards of the Bluff District and the applicant
31 requests four deviations from these standards. They are requesting that the stone joints in the
32 building materials be allowed to be larger than one-fourth of an inch, to allow for mechanical
33 equipment to be located on the exterior of the building, to omit the streetscape features that require
34 a bench, exposed aggregate, and additional streetlighting, and to allow for six-foot arborvitae
35 between the driveway and the adjacent property to the west.

36
37 The property is currently zoned C-1 Office and Limited Commercial District. The 2030
38 Comprehensive Plan Designation is Mixed Use Business District. The 2040 Comprehensive Plan
39 Designation is Mixed Use Commercial/Residential. The property is also in the Shoreland Overlay
40 District and the Bluff District Design District.

41
42 The Planning Commission reviewed a PUD Concept Plan for this proposed development at their
43 meeting on June 1, 2019. The Plan showed eight townhomes split between two buildings. After
44 receiving feedback from the Planning Commission and the City Council about the massing and
45 bulk of the two buildings, the applicant has modified the concept in their PUD General Plan to
46 remove one unit and break up the development into three buildings. The General Plan lowered

1 impervious surface coverage, increased the green space, and lowered the density of the site.
2 During the concept stage, approval of the buildings as a single use with only residential was
3 approved by the City Council. The proposed development does not meet any of the setback
4 standards in the C-1, R-4 or PUD districts, but the proposed plan is consistent with the design of
5 the PUD Concept Plan, which was approved by the City Council on August 7, 2019. The proposed
6 development does not meet the requirement that the buildings be spaced apart a distance equal to
7 one-half of the heights of the two buildings, however the proposed plan is consistent with the
8 design of the PUD Concept Plan that was approved by the City Council on August 7, 2019.

9
10 The applicant proposes to remove 140 inches of trees on the subject property and are required to
11 replace 81 inches. The applicant has provided a landscape plan, which proposes 48 new trees on
12 the site, totaling 129 replaced inches of trees.

13
14 The applicant is proposing to reconfigure the two existing lots on the subject properties in to seven
15 new lots with an outlot to accommodate a shared driveway. Staff found that the subdivision is
16 consistent with the Draft 2040 Comprehensive Plan, and that the creating of the new lots are in a
17 similar scale to adjacent properties which can be adequately accommodated by the City's
18 infrastructure. If the Preliminary Plat is approved, the applicant must submit a Final Plat within
19 100 days to be reviewed by the City Council.

20
21 Shoreland Impact Plan/Conditional Use Permit (CUP) is required when requesting to develop land
22 or construct any dwelling or any artificial obstruction on land located within any Shoreland
23 Overlay District in the City. The property currently has 52% impervious surface. The applicant's
24 proposed plans for the amount of impervious surface is 39%, which exceeds the allowable
25 impervious surface limit of 25% without a SIP/CUP. The applicant has prepared plans to mitigate
26 stormwater runoff using a combination of pervious pavers and a graywater system.

27
28 Chair Flannigan asked for clarification regarding the parking and staggering of the buildings. He
29 further asked if a person would be able to purchase two of the units and open it up to function as
30 one.

31
32 Planner Imihy stated that residents would enter the shared driveway from Indian Mound East, and
33 each would be able to access their tuck-under 2-4 car private garage. She further added that if the
34 residents wanted to combine two units into one, they would need to come to the Planning
35 Commission for replatting and an amendment of the approved PUD plan.

36
37 Commissioner Merriam stated that approval was granted for the Concept Plan, but the issue with
38 the setbacks appears to be new and she questioned the reason for that.

39
40 Planner Imihy stated that the Concept Plan didn't provide all of the specifics of the PUD, and
41 approval signified that the concept and general appearance of the units was acceptable. With the
42 current step of the PUD process, specific measurements are part of the plan, and two deviations to
43 applicable standards are being requested. She stated that it was important to make the Commission
44 aware of the standards and the requested deviations.

45
46 Chair Flannigan asked for the distance from Unit seven and the lot line.

1
2 Planner Imihy stated that the right-of-way is likely 12 to 15 feet.

3
4 There being no further question from the Commission for Staff, Chair Flannigan invited the
5 applicant to address the Commission.

6
7 Client's representative, Terry Schneider, 15333 Boulder Creek Dr, Minnetonka, , stated that the
8 property owners are looking to take their old and tired building and turn it in to a quality product
9 where new families can live. They used the information received from the Planning Commission,
10 the City Council, neighbors, and potential buyers and it was decided to break up the original
11 concept and create three separate buildings. The result is a project with less impervious surface,
12 better drainage, and a better overall look. He added that the deviations that are being requested
13 are due to some anomalies in how the ordinance is written and applies more to Lake Street and not
14 the Bluff District.

15
16 Chair Flannigan asked for the setback of the property line on the north side.

17
18 Mr. Schneider stated that each building increases or decreases by about two feet. The setbacks
19 vary from six to 10 feet.

20
21 Commissioner Plantan asked what the setback was on John Adams townhome.

22
23 Mr. Schneider stated that the property is located right up to the property line which exceeds the
24 setback on that side.

25
26 Commissioner Douglas asked for the reason for the staggered buildings.

27
28 Mr. Schneider responded that the staggering allows for each unit to have unobstructed patio views
29 to the lake.

30
31 Commissioner Iverson asked for the location of the air conditioning units.

32
33 Mr. Schneider stated that they will be placed by the garage doors and screened.

34
35 There being no further questions from the Commission for the applicant, Chair Flannigan opened
36 the public hearing on the application at 8:40 p.m.

37
38 Resident, Gary Kramer, 240 Minnetonka S, stated that he likes the projects and especially likes
39 the space in between the buildings. He added that Garrison Landing will be facing the garage side
40 of the buildings. He would also like to see the air conditioners relocated to the side of the buildings,
41 so as to not be visible to Garrison Landing. He also wanted information regarding the storage of
42 garbage cans. He shared the John Adams, resident of Garrison Landing, asked for Gary to express
43 his interest in seeing the buildings staggered the opposite direction. He explained that the location
44 of John's unit is directly facing and closest to one of the proposed townhomes. They believe that
45 the change would better fit the property and would allow more room and opportunity for screening
46 between the properties.

1
2 There being no one else wishing to comment on the application, Chair Flannigan closed the public
3 hearing at 8:43 p.m.

4
5 Chair Flannigan asked for the Commission to provide feedback regarding the application.

6
7 Commissioner Parkhill asked for clarification regarding the location of the air conditioners.

8
9 Chair Flannigan asked for clarification regarding garbage can storage.

10
11 Commissioner Douglas stated that the association can establish rules related to the garbage cans
12 and their storage.

13
14 Mr. Schneider highlighted the locations on a diagram for the Commission but was not at the
15 microphone to record additional responses.

16
17 Planner Imihy stated that Mr. Schneider explained that the air conditioners would only be about
18 two feet high and would be heavily screened by landscaping. She further added that the design
19 deviation for the six-foot Arborvitaes is to provide an adequate buffer between Garrison Landing
20 and the subjects property.

21
22 Commissioner Parkhill asked what was going to be done to mitigate the rainwater runoff.

23
24 Planner Imihy stated that the existing impervious surface is 52%, the proposal will decrease it to
25 39%. Despite the decrease the property will still be required to mitigate the difference between
26 25% which is what is allowed, and the proposed 39%. The plan is to use pervious pavers for the
27 shared driveway leading to the garages, and porous rock for the private sidewalks and stoops. The
28 rainwater will be collected in a gray water system utilizing large underground tanks, and then it
29 will be reused for irrigation.

30
31 Commissioner Iverson asked the applicant to consider that the six-foot Arborvitaes may not
32 provide adequate screening due to the height of the buildings and the impact growth and the
33 seasons have on foliage. She stated that her experience is that trees provide better screening in the
34 winter.

35
36 Planner Imihy stated that the Arborvitaes only make up halfway of the site. She added that there
37 would be six new additional trees planted on the northern side.

38
39 Commissioner Iverson stated that her largest concern is for a proper buffer between the Garrison
40 building and the property.

41
42 Mr. Schneider stated that both sides of the property line have plans to or have recently added
43 additional combinations of foliage for proper screening. He believes that the requested outcome
44 will be achieved due to both sides making efforts to properly screen their properties.

45

1 Commissioner Merriam stated that the design standards require three/four-foot hedges to screen
2 parking lots.

3
4 Director Goellner stated that the three/four-foot screening height is most appropriate for
5 commercial properties, and the six-foot screening height is better suited for residential properties.

6
7 Commissioner Merriam asked the Commission for concerns regarding the 15-foot setbacks on all
8 sides of the property.

9
10 Chair Flannigan asked for the setback for Garrison Landing. He added that the building is located
11 right next to the sidewalk.

12
13 Planner Imihy explained that many communities utilize a similar 15-foot setback requirement with
14 the intent of giving an activated looking street front.

15
16 Commissioner Merriam stated that she thought the requirement was to have at least a 15-foot
17 setback.

18
19 Director Goellner stated that the opposite is required. The requirement was to have no less than
20 15-foot setback.

21
22 Commissioner Iverson stated that she would like to see more green space. She stated that
23 eliminating one more of the units may provide more light and additional landscaping between the
24 buildings. She expressed concern with the precedence of homes being built closer together. She
25 added that bump outs for things like a fireplace, are not calculated in the space required between
26 buildings.

27
28 Commissioner Merriam stated that her comment regarding the setbacks was not incorrect. She
29 referred to page 3 of 19 and read “that the setback is to be no less than 15 feet from the back of the
30 curb line and all yards”.

31
32
33 Director Goellner read the Code language “no building shall be located less than 15 feet from the
34 back of the curb line along roadways which are part of the internal street pattern”. She stated that
35 staff made an error and Commissioner Merriam’s understanding was correct

36
37 Chair Flannigan stated that from the curb line to the property it may be 15 feet.

38
39 Commissioner Merriam stated that she believes the topic is worthy of discussion because it would
40 require a variance or deviation.

41
42 Chair Flannigan stated that the type of development being proposed would warrant the building
43 being located closer to the street. He further added that the setbacks appear to be very consistent
44 with Garrison Landings setbacks.

45
46 Planner Imihy explained that the property does meet the setback requirement from the curb line.

1
2 Commissioner Merriam asked for clarification regarding the required 10-feet between buildings
3 on the north side.

4
5 Planner Imihy stated that the 10-feet only meets the C-1 standard. It does not meet the PUD
6 standard of applying similar residential zone districts.

7
8 Commissioner Merriam stated that she feels that townhomes are very appropriate for the setting.

9
10 Commissioner Plantan believes that the project aligns very well with the 2040 Comprehensive
11 Plan. She does not understand the need for a sign on the corner when each unit will have a separate
12 address. She added that it takes away from the residential feel. She stated that she is comfortable
13 with the Shoreland Impact as long as they have the water mitigation plan.

14
15 Commissioner Iverson asked what the price point would be for the townhomes.

16
17 Mr. Schneider stated that the customization options would likely place the price point at 1.2 million
18 and up.

19
20 Chair Flannigan agreed that a sign for the townhouse complex is not necessary.

21
22 Commissioner Douglas really likes the project.

23
24 Commissioner Parkhill stated that he also likes everything about the project except for the sign.

25
26 Director Goellner asked for the Commission to provide clarification regarding the location of the
27 air conditioner units. She noted that the plan included in the application places the air conditioner
28 units between the buildings and not near the garages as the applicant had stated. She asked the
29 Commission if they would like to ask the applicant for a revised plan.

30
31 Mr. Schneider stated that the plan is to have the air conditioner units located at the back of the
32 buildings. He added that the sign is not a necessary item.

33
34 There being no further discussion, Chair Flannigan asked for a motion on the application with a
35 potential condition regarding clarification of the air conditioner locations.

36
37 Commissioner Plantan made a motion, seconded by Commissioner Douglas, to direct staff to
38 prepare a draft Planning Commission Report and Recommendation, with appropriate findings and
39 plan references, including the correct locations of the air conditioner units, reflecting a
40 recommendation of approval of the PUD general plan, the rezoning from C-1 office limited
41 commercial to a PUD, the deviations requested by the applicant as outlined in the packet, for the
42 design review, the approval of the Shoreland Impact Plan/Conditional Use permit, and the
43 preliminary plat of seven new lots and one out lot, for review and adoption at the next Planning
44 Commission meeting. The motion carried unanimously.

45
46 **AGENDA ITEM 6. Other Items:**

1
2 **a.) Review of Development Activities**
3

4 Assistant Planner, Nick Kieser stated the next meeting will have the return of the application for a
5 detached garage at 908 Shady Ln.
6

7 **b.) December 17 City Council Meeting Report**
8

9 Commissioner Douglas presented a report on the December 17 City Council Meeting. She stated
10 that the new Administrative Service Director was introduced. An Exceptional service award was
11 presented. There was a lot of discussion regarding the Lake Street project. New positions were
12 appointed to a number of committees.
13

14 **c.) Planning Commissioner Liaison for the January 7 City Council Meeting**
15

16 Commissioner Plantan will provide a report at the next Planning Commission meeting.
17

18 **d.) Election of Officers of Planning Commission for 2020 Calendar Year**
19

20 Director Goellner stated that Staff solicited nominations for the Chair and Vice Chair roles from
21 the Commissioners. Nominations were received for Commissioner Plantan for Chair and
22 Commissioner Parkhill for Vice Chair, who have each accepted the nominations. She stated that
23 additional nominations could be made at this time. She recommended that each of the nominees
24 make a brief statement and then a motion could be entertained.
25

26 Commissioner Plantan stated that she has learned a lot in her three years on the Commission and
27 would be happy to give Commissioner Flannigan a reprieve from the Chair duty.
28

29 Commissioner Parkhill stated that he was just happy to serve.
30

31 Chair Flannigan asked for a motion to elect Commissioner Plantan as Chair of the Planning
32 Commission for 2020. The motion carried 5 ayes and 0 nays.
33

34 Chair Flannigan asked for a motion to elect Commissioner Parkhill as the Vice Chair of the
35 Planning Commission for 2020. The motion carried 5 ayes and 0 nays.
36

37 **AGENDA ITEM 8. Adjournment.**
38

39 There being no further business on the agenda, Chair Flannigan asked for a motion to adjourn.
40

41 Commissioner Douglas made a motion, seconded by Commissioner Plantan, to adjourn the
42 Planning Commission meeting. The motion carried unanimously.
43

44 The Planning Commission meeting was adjourned at 9:18 p.m.
45

46 Respectfully submitted,

- 1 Jenny Groess
- 2 *TimeSaver Off Site Secretarial, Inc.*