

- 1 **b.) Approval of Planning Commission Report and Recommendation for an**
2 **Amendment to a Conditional Use Permit for Fee-in-Lieu-of-Parking (FILOP) for**
3 **Melvin’s 235 Office Building at 235 and 239 Lake Street East**
4 **c.) Acknowledge Application Withdrawal Letter for a Comprehensive Plan**
5 **Amendment, Zoning Map Amendment, Subdivision, Conditional Use Permit, and**
6 **a Variance at 304, 312, and 318 Barry Avenue South**
7

8 Chair Plantan read the items on the consent agenda and asked if any Commissioner wished to pull
9 an item for further discussion.

10
11 Commissioner Bashioum asked to make an addition to page 13 of the February 1, 2021 minutes.
12 She stated that she would like the minutes here to reflect her agreement with Commissioner
13 Flannigan regarding the row houses and the transitional nature of the three Zitloff lots.

14
15 Hearing no further requests for discussion, Chair Plantan asked for a motion to approve the
16 Consent Agenda, with the minutes as amended by Commissioner Bashioum.

17
18 Commissioner Douglas made a motion, seconded by Commissioner Parkhill, to approve the
19 Consent Agenda as so amended.

20
21 Director Goellner completed a roll call vote on the motion. Upon a vote, the motion carried 5
22 ayes, 2 abstentions (Plantan and Bashioum).

23
24 **AGENDA ITEM 5. Public Hearing Items**

25
26 **a) Consider Development Application for Design Approval at 700 Lake Street East**
27

28 Assistant Planner, Nick Kieser, stated that this application is for an expansion to the existing COV
29 restaurant at 700 Lake Street East. The property is zoned C4B, Central Business District, and with
30 the exception of one PUD zoned property to the north, it is surrounded by other C4B properties.
31 In the 2040 Comprehensive Plan, this property is designated as Central Business District along
32 with most of the surrounding properties. Assistant Planner Kieser clarified that this development
33 application is for Design Review and approval under the standards of the Lake Street Design
34 District. He noted that there are some additional requests that will need approval by the City
35 Council in order for this project to proceed, that include: amendments to the City’s Right-of-Way
36 Ordinance; an encroachment permit, and a sidewalk café permit. He further noted that the Planning
37 Commission was only being asked to consider the Design Review requests. He explained that the
38 Planning Commission can convey their feedback to Council on the additional approvals needed
39 by the applicant, but the Design Review is the only item before the Commission. Assistant Planner
40 Kieser explained that at the February 2, 2021 City Council workshop meeting, the Council
41 discussed some potential right-of-way code amendments regarding removable structures, year-
42 round activity, outdoor bar service, and sidewalk clearance that could allow for the applicant’s
43 kind of proposal. He reviewed a depiction of the approximate location for the addition on the
44 building from the clock tower to the west. He gave an overview of the site plan for the entire COV
45 restaurant including the portion where the addition, if approved, would be on the northwest corner
46 of the existing restaurant. The building addition would be approximately 500 square feet in order

1 to allow more public access to areas of the Panoway project. The addition would have a take-out
2 window, as well as 17 seats at an outdoor bar and 6-15 spots on a drink ledge. He noted that they
3 are proposing that the addition would be open from 11:00 a.m. to 11:00 p.m., Monday through
4 Saturday, and 10:00 a.m. to 11:00 p.m. on Sundays, during the months of April through November.
5 He noted that a portion of the addition would be within the existing property, but that the proposed
6 outdoor bar area would be outside of the property line and located on City right of way. He
7 reviewed the proposed planters that would act as a buffer along the sidewalk and Panoway area.
8 He noted that there would be a 12-foot setback from the planters and noted that they plan to
9 continue to use on-street parking and the Mill Street E parking ramp for customer parking. He
10 showed some renderings that depicted the proposed take-out window, the shutter system to
11 indicate when they are open or closed, and also showed the planter area more clearly. He noted
12 that this proposed addition does not require any footings because the bar would essentially just sit
13 on the sidewalk, so it could be removed if work is needed. He reviewed details from the Lake
14 Street Design Standards, and noted that the project meets all but two of the design standards. The
15 applicant is asking for a deviation from the 909.14A standard for Primary Opaque Surfaces, in
16 order to use Hardie board panels rather than one of the permitted materials - brick, stone, cast
17 stone, or stucco. He also explained the second deviation for the proposal related to only having
18 glass located on the kitchen take-out window, with the other areas having Hardie board or wood
19 shutter material. Sec. 909.11.B of the Design Standards, Façade Transparency, states that the
20 façade facing Lake Street must be 50% glass. He reviewed the design plans and showed where
21 the applicant is proposing to use Hardie boards. He noted that one public comment had been
22 provided in advance of the meeting, and that was sent to the Planning Commission and will be
23 made part of the record. He reviewed the questions for the Commission to consider with the
24 requested deviations from the Design Standards.

25
26 Chair Plantan asked if the Commission had any questions for Staff about the application.

27
28 Commissioner Merriam asked about the façade material of the existing building.

29
30 Planner Kieser stated that is something that staff tried to look into, but could not find the exact
31 material that was used. He noted, however, that the proposed materials would look very similar.

32
33 Commissioner Merriam stated that Planner Kieser explained this would be a temporary structure,
34 but noted that the renderings do not make it look like it would be very easy to take down, if needed.
35 She asked for an explanation of this being considered a temporary structure.

36
37 Planner Kieser explained the temporary aspect of this structure, and how it will be the applicant's
38 responsibility and expense to remove it if the City needs it removed at any time. He stated that the
39 applicant has said it would be built like a kiosk that just sits on the sidewalk.

40
41 Commissioner Merriam asked if the roof was in two pieces since the kitchen portion would be on
42 their property, so that section would not need to be removed, but questioned how that would work
43 if the City asks them to remove the other portion.

44
45 Planner Kieser stated the applicant would have to answer that question.

46

1 Erica Freeman, 2715 Weston Lane N, Plymouth, representative for the applicant, stated that the
2 roof will have a split design at the end of the kitchen. She explained that the kitchen portion of
3 the roof would be stationary and everything built in front of it will be built as a kiosk that can be
4 taken down.

5
6 Commissioner Merriam asked how much further west the proposed planters would be from the
7 existing planters.

8
9 Planner Kieser stated that it will probably be a few more feet than the existing planters, and noted
10 that the existing landscaped area would be removed.

11
12 Commissioner Stockton asked if it was reasonable to require a structure to be both temporary and
13 removable but also built out of brick, stone, or glass.

14
15 Planner Kieser stated that is a very good point, and that this situation is unique because some of
16 the structure would be in the public right-of-way. He noted that he does not think the City has had
17 a Design Review of a structure in the right-of-way before.

18
19 Commissioner Bashioum stated that currently, a permanent structure is not allowed to be built into
20 the right-of-way.

21
22 Planner Kieser stated that this was correct, and needs to be removable.

23
24 Commissioner Bashioum stated that the patio permits are temporary, and they have to be reviewed
25 and renewed every year. She stated that this really has the appearance of a permanent structure.
26 She stated that if this is approved, there are other items that will follow almost lock-step after this
27 item. She stated that she is uncomfortable because it seems as though the cart is going before the
28 horse in this situation.

29
30 Planner Kieser stated that this Design Review approval would essentially be contingent on the
31 additional approvals that will be reviewed and made by the City Council. He explained that the
32 applicant would need all of those things to be approved by the City Council for the project to
33 proceed, and noted that this is being brought before the Planning Commission now for Design
34 Review, so when it does go to Council, staff can bring all of the required approval requests to them
35 at once, rather than a piece-by-piece approval process.

36
37 Commissioner Bashioum stated that to her it seems as though it is not in keeping with how the
38 City does things. She stated that it appears as though this process is jumping ahead, and believes
39 a Design Review should be done after some of the other variances have been granted by the
40 Council.

41
42 Planner Kieser clarified that there are no variances needed for the proposal, but additional permits
43 and a text amendment to the right of way ordinance; however, the process point she has raised is
44 fair.

45

1 Commissioner Stockton asked if this is indeed a temporary structure, because it does look more
2 permanent. She stated that she would like to know whether the City wants it to look temporary or
3 function more temporarily, and why.

4
5 Planner Kieser stated that is not a question that has been discussed very much because this is the
6 first application for something like this that would go in the right-of-way.

7
8 Commissioner Stockton stated that she asked the question because she thinks it would be a
9 disservice to the City to make the structure look temporary in nature.

10
11 City Attorney Schelzel stated that Commissioner Stockton has raised a good point, and explained
12 that the temporary requirement does not have to do with the Design Standards, but rather is a
13 requirement of the City's right-of-way ordinance. He explained that when someone is granted a
14 license to put something in the right-of-way, generally, the City needs it to be removable when the
15 permit expires or if the City or someone like the electrical company needs to come in and do work
16 in the right of way. He noted that Staff has discussed this dynamic and feels that temporary, in
17 this context, means that a structure has to be removable at the owner's expense and not the City's
18 expense.

19
20 Commissioner Douglas stated that she is also having a difficult time with this because she agrees
21 with Commissioner Bashoum that this is putting the cart before the horse. She asked what other
22 reasons there may be for the City to ask them to remove this structure, and gave an example of a
23 liquor violation. She asked if these things would be listed in the agreement.

24
25 City Attorney Schelzel explained that that kind of issue is not part of the Design Review, but noted
26 that if a permit holder violates a term of a permit, such as repeated liquor violations, the City can
27 revoke the permit. Upon revocation of the permit, the property owner would need to remove
28 everything that had been permitted from the right-of-way.

29
30 Ms. Freeman stated that part of why the renderings are making the structure appear more
31 permanent than it is, is because they did initially design it to be permanent before they discovered
32 where the property line was located. She stated that they were under the impression that the entire
33 existing patio was within the applicant's property boundaries. She stated that they have reached
34 out to reputable companies that do the mobile bars for stadiums, such as Target Field, and feel
35 completely confident that they can execute this design so it looks high quality, like it belongs here,
36 and does not look temporary, even though it can be removed. She stated that the utilities will be
37 plugged in through the kitchen so they will not need to run separate plumbing or permanent
38 footings.

39
40 Applicant representative, Dean Vlahos of COV restaurant, stated that he has spent a lot of money
41 on this project and that because this is at the main intersection for the City, it needs to look
42 beautiful. He stated that he doesn't feel it should be made to look like a temporary structure. He
43 stated that he feels it should look like a permanent structure, but be temporary. He stated that City
44 Manager Dahl had asked him if he would create something that would add a lot of activity to the
45 area, and he thinks this is the perfect scenario because it can serve food out of a window that will
46 be more affordable. He shared the special menu that he has created for this new venture. He noted

1 that the only way he can make this profitable is to also sell liquor at an outdoor bar that would be
2 contained and beautiful. He stated that he believes COV has already done a lot for the City, and
3 believes this would be a great addition to the activity that the City is looking for in this area. He
4 stated that he is even willing to open up the bar and serve hot chocolate or tea for any of the
5 promotions that the City may have during the winter months. He stated that everything that COV
6 has already done has been beautiful, and this will be no different. He noted that he has never had
7 a liquor violation in all his years in business. He stated that he is also committing to maintaining
8 the public area to make sure it always looks nice.

9
10 Commissioner Douglas asked whether people can also get liquor from the walk-up take-out
11 window.

12
13 Mr. Vlahos stated that City Manager Dahl had asked him about serving liquor in the public area
14 in between the restroom and their restaurant. He explained the necessary controls and
15 responsibilities, and gave an example of someone older than 21 ordering two margaritas and taking
16 them out to the public area, where one of them was handed to someone under age. He explained
17 that he would be responsible for that, and stated that he cannot serve liquor from the take-out
18 window unless the City wants to enclose the area and have it secured so he can control it. He noted
19 that in the outdoor bar area, he can serve liquor, but customers cannot leave that area with a drink,
20 and will be carded before the drink is served.

21
22 Ms. Freeman explained that the experience they would be offering is to be able to get food from
23 the walk-up window, and then take that food out into the public plaza area. Or they could sit at the
24 bar and get a cocktail and look at action.

25
26 Mr. Vlahos stated that he believes this venture will be very successful and will attract people from
27 all over the area, because it will have a lower price point. He stated that on a side note, he would
28 like to ask the City to put a restroom sign on the restrooms because everyone is still using his
29 restrooms.

30
31 Commissioner Merriam asked about the bar table that can sit six people, noting that it looks pretty
32 open and would be easy to leave there and go out onto the plaza. She asked if there would be a
33 staff member sitting outside near the edge of the planters to control people trying to leave.

34
35 Mr. Vlahos stated that he will eliminate the bar table because he doesn't like it and feels the
36 entrance area should be an entrance area. He stated he agrees that it would be too risky to have
37 someone take a drink and just walk out, so he will be eliminating that portion of the design.

38
39 Commissioner Merriam asked how someone would be able to go sit at the bar.

40
41 Mr. Vlahos stated that it would be no different than a Maynard's or Fletchers.

42
43 Commissioner Merriam asked if they had ever thought about eliminating the shutters from the
44 design.

45

1 Mr. Vlahos stated that he has not thought that through yet, but thinks he will leave the kitchen
2 open as long as he leaves the bar open, because it is important to have people eating while they are
3 drinking. He stated that there will be heaters in the kitchen, so the equipment does not freeze, and
4 also in the bar area so it could be opened up during the winter months.
5

6 Ms. Freeman stated that the shutters partly come from extending the ambiance of what is inside,
7 so it is a continuation of the restaurant where there are shutters that flip up like that on the existing
8 interior bar. She explained that it will also give Mr. Vlahos some security because it will be closed
9 at night and during the winter months to ensure that nobody is in there, breaking things.
10

11 Mr. Vlahos noted that the kitchen will also be air conditioned during the summer months, so the
12 employees are comfortable.
13

14 Chair Plantan asked where the vent exhaust for the kitchen would be located.
15

16 Mr. Vlahos stated that it will exit out of the box that is shown on the renderings.
17

18 Ms. Freeman stated that they have spoken with their contractor and his recommendation is to put
19 a mini-split type system on the wall inside the kitchen space because the space is so small. She
20 stated that it is not shown on the renderings, but their contractor has said that it may be on a small
21 corner of the kitchen roof.
22

23 Mr. Vlahos explained that the vent can be put so it is facing the existing patio. He stated that this
24 is not a large area, and the goal is just to create some energy for people walking down the street,
25 and create more activity for the City. He stated that what the City did with the approval of Grocer's
26 Table and the other patio areas will add a lot of fun and atmosphere for the City because this is a
27 great community, and he feels it absolutely needs energy and will be great for everyone.
28

29 There being no additional questions from the Commission for the applicant, Chair Plantan opened
30 the public hearing on the application at 7:26 pm.
31

32 Terri Huml-Fox, 293 Grace Point Court, noted that she is the owner of Gianni's. She stated that
33 98% of every phone call and comment she has gotten has been in support of what they have done
34 for their patio. She stated that Mr. Vlahos and COV sit in a very unique place because that building
35 is always in the forefront of any map or advertising about the City. She stated that in this industry,
36 at this time, it is the most challenging thing to just stay afloat. She is so grateful for the support
37 Gianni's and other restaurants have received from the community. She stated that she feels what
38 Mr. Vlahos is proposing is absolutely perfect for what this community is looking for in the future.
39 She stated that she likes to look at the big picture, and listed some of the other food services that
40 exist or will be coming to the area. She stated that she thinks restaurants are going to be the most
41 exciting thing that keeps bringing people back to the community. She fully supports this
42 application by Mr. Vlahos, and encouraged the Commissioners to take into consideration that
43 everything should be done in a top notch, first class fashion, because that will speak to who we are
44 as a City.
45

1 Commissioner Stockton stated that before moving to Wayzata about 5 years ago, she lived in
2 Singapore and Manhattan Beach where she was near the water and liked the port city feel of the
3 restaurants. She stated that when she came here, she felt that Wayzata could become a more
4 vibrant port city and thinks that projects like this will add to that. She stated that rather than
5 focusing on the devastation to the restaurant industry because of COVID-19, she thinks the City
6 should be thinking about the Comprehensive Plan and the walkability of the City. She stated that
7 in terms of adding vibrancy and a place to go and serve the public as an extension of what has
8 already been accomplished. She asked if the City was looking at the walkability component to
9 this application and noted that she does not see this encroaching on the sidewalk at all.

10
11 Cathy Iverson, 220 Central Avenue South, stated that she is a bit concerned that it has been stated
12 multiple times that City Manager Dahl wants to sell liquor on the plaza. She stated that there was
13 also a statement made that City Manager Dahl told Mr. Vlahos to build this. She noted that this is
14 the first time she has heard those comments which she finds concerning. She stated that there is
15 no equipment allowed on rooftop, so that detail needs to be clarified. She stated that she has also
16 traveled to Asia and does not feel Wayzata is a port city and does not agree with Commissioner
17 Stockton's portrayal. She stated that her concern, as a citizen, has to do with the comments about
18 what the City Manager is or is not saying. She stated that she would like City Attorney Schelzel
19 to speak to this issue, and reiterated that she is gravely concerned if the Lake Effect walkway that
20 the City just spent a lot of money on is just going to become a place for people to sell liquor. She
21 stated that she does not agree with that approach at all.

22
23 Director Goellner stated that she was in the meeting with City Manager Dahl and Mr. Vlahos this
24 past summer. They were observing the public space and asked Mr. Vlahos if he had any ideas on
25 how to keep the space lively, but also if he had any ideas about managing the space because this
26 is a new public space for the City. She explained that they had asked him if he had any other plans
27 for his patio, including expansion plans, and how he planned on using the space to liven up the
28 pedestrian activity in the area. She stated that at the time of the meeting, Mr. Vlahos was also
29 concerned about his proximity to the public restrooms, and expressed the desire to screen himself
30 from that area and discussed how the public property would interplay with his private property.
31 She stated that after they spoke about those things, they talked a little about liquor and service of
32 liquor but the conversation did not revolve around the point, nor that this public space should be
33 there to serve liquor. Instead, it was about having a space for people to use. After this discussion,
34 Mr. Vlahos designed the proposal that is being presented to the Commission tonight. She noted
35 that the beginning of the process included a misunderstanding of where the property line was
36 actually located. She noted that now that the property line is known, and that has changed the
37 process because there is public right of way involved in the application.

38
39 Commissioner Stockton stated that her use of the phrase 'port city' may have been too aggressive,
40 and clarified she simply meant to take advantage of the water.

41
42 There being no one else wishing to provide public comment on the application, Chair Plantan
43 closed the public hearing at 7:37 pm.

44
45 Chair Plantan asked for the Commission to share their questions and feedback on the application.
46

1 Commissioner Merriam asked if having alcoholic beverages on the plaza would be legal.

2
3 Director Goellner stated that it is not legal to have liquor anywhere outside of a contained and
4 licensed space as part of a private business. She stated that Mr. Vlahos is suggesting that where
5 the drink rail is located on the south portion of the proposal will actually need to be closed off with
6 a stronger delineation, if this moves forward. She explained that City department heads have been
7 meeting about this proposal for a few months, and have been talking to both the City Clerk and
8 the Police Chief about liquor licensing and their provisions. One of the most important pieces of
9 that is a clear delineation between liquor service area and no liquor service areas, and at this point
10 there is not liquor service allowed within the public right-of-way.

11
12 Commissioner Bashioum stated that she would like to just reiterate that alcohol or bars are not
13 allowed in public right-of-way, whether it is contained or not contained.

14
15 Director Goellner agreed that having an outdoor bar is strictly prohibited under the City's ROW
16 Ordinance, but noted that an outdoor café format would allow it alongside food service. But a bar
17 where the drinks are actually mixed is different, and is not permitted in the right-of-way.

18
19 Commissioner Bashioum stated that the Commission is once again being asked to vote on
20 something that is currently illegal.

21
22 Director Goellner stated that she thinks the best way to look at this is that the Council will be
23 considering the feedback from the Commission on the design of the proposed building addition,
24 but also their input on how the right-of-way should be used in this area.

25
26 Commissioner Bashioum stated that she has a lot of sympathy for Mr. Vlahos for having the public
27 restrooms placed in such close proximity to the entrance of his restaurant and patio. She stated
28 that she understands that he is trying to come up with something to mitigate the presence of those
29 restrooms; however, she is not feeling that this proposal is the right thing to do. She stated she does
30 not appreciate the process of asking the Planning Commission to vote on something that has
31 ramifications, and thinks this process has been backwards.

32
33 Commissioner Flannigan stated that he thinks this is an intriguing option for the space. He noted
34 that what he thinks is being seen in the City is that all ships are rising in this tide because of the
35 tumultuous times. He feels the entrepreneurial spirit in the City is taking a front seat and bringing
36 the residents, as well as those in the area, an amazing experience. He stated that the utilization of
37 this space, which would otherwise be somewhat dead, is a neat project and one that he would
38 commend City Manager Dahl, Director Goellner, and Mr. Vlahos for coming together and talking
39 about. He stated that as this application relates to Design Standard deviations, they have his full
40 support. The work that has been done to this building has been beautiful and has had a positive
41 impact on the entire landscape. He stated that he believes that the extent to which the proposed
42 addition advances specific policies and provisions of the Comprehensive Plan would be positive,
43 and have a positive effect on the area, and explained that he would also fully support this with the
44 two design deviations. He stated that he feels this is a very intriguing option for the City to pursue.

45

1 Commissioner Parkhill stated that he has no issue with the requested deviations from the Design
2 Standards. His only concern is that he is not sure that the first thing someone would see when they
3 drive into the City should be a bunch of people standing at a bar. He stated that he would prefer
4 that to be in some of the other patios spaces, and he'd prefer to look at a nice patio as he drove into
5 town, although he recognizes that there is a toilet nearby. He reiterated that he is fine with the
6 deviations, supporting the City's businesses, and feels this falls into line with the Comprehensive
7 Plan regarding bringing vitality and life to the lakefront.
8

9 Commissioner Douglas stated that she is also okay with the two design standard deviations. She
10 stated that she thinks this application is premature because it sounds like they are still working out
11 a lot of things besides the design related to infringement on City property. She stated that she does
12 not like the proposal where you go in the west door, and the bar is wide open. She is glad that Mr.
13 Vlahos explained that they would be taking out the stand-up bar. She stated that she thinks there
14 should also be planters or something in that area so it is not just wide open and people could just
15 easily leave. She stated that for families, she believes that the planters need to be continued around
16 in a U shape. She stated that they also have not shown the ventilation system, and whether it will
17 be on the roof or not. She stated that she thinks there are many details that should be known before
18 this moves forward. She stated that she agrees that what COV has done has been a great addition
19 to the City. She noted that she loves what they have done, and feels that the building design has
20 captured what the City is. She stated that she just wished that the City had the other things ironed
21 out before the Commission was asked to consider it, because it seems like a backwards process.
22 She stated that if the Commission is just looking at design standards, she is fine with the deviations.
23

24 Commissioner Stockton stated that from a design point of view, she has no problem with the
25 concept and is in favor of the idea. She stated that she feels that the City owes it to the community
26 to be forward thinking with how interior and exterior spaces are merged in a time of COVID and
27 a future that is changing. She stated that even for the winter months, there is an opportunity to
28 consider the possibilities for the enjoyment of the community as a way to get outdoors and have
29 somewhere to go. She stated that this is the concept phase, so it would be premature to affirm the
30 entire design. She agreed that there are some questions that still need to be answered, such as the
31 roof ventilation and some flow issues, but feels strongly that the City needs to be future oriented
32 and think about merging indoor and outdoor spaces with the City's eateries.
33

34 Commissioner Douglas stated that this is the final review from the Commission, and is not just a
35 preliminary review.
36

37 Director Goellner agreed that if the Commission is comfortable with conditions, this could be the
38 Commission's final review. She noted that during discussion she has heard a few conditions pop
39 up that she could restate after everyone has had a chance to speak. She explained that what she
40 has heard so far that seems very important is the ventilation, and ensuring that it is fully screened,
41 that the drink rail area should be closed off with planters, so there is clear delineation and a more
42 family friendly experience for people entering on the west side.
43

44 City Attorney Schelzel stated that the Commission is talking about many issues in their discussion
45 that will be helpful to the Council as they wrestle with these issues, but that the Commission
46 ultimately needs to deliver a report and recommendation on the design of what has been submitted

1 with the application. He stated that there will be things that can be tweaked in the design, but as
2 far as the criteria under the design standards, this is potentially the Commission's final review of
3 the design. He stated that if the applicant wants to tweak things and needs another deviation, then
4 it would have to come back to the Planning Commission. He explained that as long as the applicant
5 meets the standards and any recommended conditions, the project could have a recommendation
6 of design approval, if that is the direction the Commission gives, and then the Council would act
7 upon the application, along with the other approvals that this project will require.

8
9 Chair Plantan stated that she is struggling with this proposal, and agrees that the design review
10 seems to be done in haste, since the current right-of-way ordinance does not allow alcohol service
11 on public property. She stated that she cannot think of a worse place to have alcohol service than
12 this proposed location. She stated that since the Commission is just reviewing the design, she is
13 in favor of the proposed material deviation to match the existing building, and is in favor of the
14 proposed façade transparency deviation for the wood shutters, but is concerned about transparency
15 when they would be down. She stated that it looks as though this is sticking out about 25 feet.
16 She stated that people were concerned about the restrooms sticking out like a shipping container
17 and now this would be something else that sticks out that is solid with the shutters down blocking
18 the view of the plaza area. She stated that this proposal impedes the view of the lake, and is another
19 project eating up the area. She stated that it feels like there is another place where this bar could
20 be placed, and noted that there is no hardship stated in the application. She stated that she does
21 not understand why the plan couldn't be changed to move the bar so it is within the property lines.
22 She noted that it appears as though it would be easier to have café style seating in the right-of-way
23 rather than an actual bar. She noted that nowhere in the Comprehensive Plan does it state that
24 there needs to be bar service connected to the Panoway. She stated that she does not think there
25 needs to be something actually on the Panoway serving alcohol, because there are many other
26 places where people can go get a drink in the area. She stated that she wanted to make that
27 statement so the Council understands her opinion on the location of the proposed bar. She
28 explained that she would approve the building material deviation but not the shutters.

29
30 Commissioner Bashioum asked Planner Kieser to address the letter from the law office that was
31 included in the packet.

32
33 Planner Kieser stated that his understanding was that the letter was mostly against a code
34 amendment allowing a bar in the public right-of-way. He noted that this letter will be included in
35 the record when that is addressed by the Council but is not applicable to the Design Standards.

36
37 Commissioner Bashioum stated that the letter did mention the walkability and the sidewalk
38 encroachment, and asked if there would be any reason to think that this design would encroach on
39 the walkability through the Panoway area.

40
41 Planner Kieser stated that the lens that staff reviewed the project through was the Design Standards,
42 and specifically the Lake Street District criteria with relation to the sidewalk clearance, which is
43 different than the sidewalk café permit standards. He stated that the Lake Street Design District
44 requires 12 feet of clearance for the sidewalk, and this project and addition shows 12 feet of
45 clearance. This project does extend more to the west into the Panoway project, but the walkability
46 and clearance met the criteria.

1
2 Commissioner Merriam stated that she agrees with much of what Chair Plantan stated. She has
3 concerns about a bar in this location, and feels Panoway is meant to be enjoyed by people of all
4 generations. It seems to her that a bar where people sit and drink, in such a profoundly public area,
5 would detract from a family experience. She stated that she can totally see having the kitchen
6 there and food take-out, as well as a little café, but not this type of structure that appears so
7 permanent. She stated that she thinks there are other ways to achieve their goals than what is being
8 presented.

9
10 Commissioner Stockton asked if there is a way to work with the business owner to address the
11 concerns being raised up front.

12
13 Commissioner Parkhill stated that Chair Plantan made a great point about this proposal blocking
14 25 more feet of the lake, and he is not for the proposed façade transparency deviation. He thinks
15 the City needs to keep that as open as possible so people can see out to the lake when they are
16 driving down Broadway Avenue. He agreed with the suggestion that there be café seating in this
17 area, but would still support the use of Hardie board.

18
19 City Attorney Schelzel stated that as for process, staff needs to come back to the Commission with
20 a draft report and recommendation that reflects their direction on the proposed design. He noted
21 that based on the discussion, there are three things that would be good to include in a motion and
22 report: direction on the two requested deviations, and direction from the Commission on their
23 concerns related to modifications to the right-of-way ordinance, even though that is not really
24 what is before the Commission tonight. He stated that he thinks the opinion of the Commission
25 on things beyond design could be included as an appendix to the report and recommendation, in
26 order to get this feedback to the Council, or simply reflected in the minutes.

27
28 Director Goellner stated that she supports that approach, and has taken several notes on right-of-
29 way things that she has heard shared by the Commissioners that can be incorporated in the report
30 and brought to the Council.

31
32 There being no further discussion, Chair Plantan asked for a motion on the application.

33
34 Commissioner Parkhill made a motion, seconded by Commissioner Flannigan, to direct staff to
35 prepare a draft Planning Commission Report and Recommendation with appropriate findings
36 reflecting a recommendation of: approval of the opaque surface standard deviation for the use of
37 Hardie board to be reviewed and adopted at the next Planning Commission meeting; denial of the
38 façade transparency standard deviation request for review and adoption at the next Planning
39 Commission meeting; and inclusion of feedback for the Council that the Planning Commission
40 has concerns about the proposal blocking the lake view; alcohol service or a bar being put in so
41 near to the Panoway project, with this being the primary focus of the entry into the City; concerns
42 about ventilation and items located on the roof; and ensuring that any permitted alcohol service is
43 separated properly from the Panoway project.

44

1 Commissioner Douglas stated that she also feels the wall should be extended around so it is not
2 open on the south side of the structure. She asked if the motion could be amended to include that
3 comment.

4
5 Commissioner Parkhill stated that would be fine but felt he had implied that when he stated that it
6 was separated properly from the Panoway project.

7
8 Commissioner Parkhill amended the motion to include the recommendation that the commission
9 would like to see the planter wall extended around so the structure is not open on the south side.

10
11 Commissioner Merriam stated that what she feels the Commission is mostly concerned about with
12 regard to the façade transparency is that there is a view of the lake from Lake Street and beyond.
13 She asked if the lake could be seen if it were all windows, and noted that this is a discussion about
14 a structure on City right-of-way, and asked if the City would want glass or open air. She stated
15 that they are asking for a deviation from the glass standard, but she feels like the City would not
16 even want glass in this location.

17
18 Commissioner Parkhill stated that he thinks that feedback can become part of the Commission's
19 report, but is not part of the actual request. He stated that in his personal opinion he doesn't think
20 anything should be there, and should just be a nice patio and if they want to serve wine on it that
21 would be great, but does not think it should block anyone's view of the lake.

22
23 Commissioner Merriam stated that she agreed, but does not know how to respond to the motion.

24
25 Commissioner Parkhill stated that he believes that the Commission is saying that it would deny
26 the applicant's request for less than 50% transparency in the façade, with the note to the Council
27 that the Commission would prefer there to be nothing in the right-of-way.

28
29 City Attorney Schelzel stated that he heard that the motion was essentially to deny that requested
30 design standard deviation, and the applicant would have to conform to that design standard. The
31 note to the Council would be that this is driven by a concern about the lake view, and that they
32 would like it to stay as open as possible. He asked Director Goellner if the transparency
33 requirement requires glass only, or if open air would also conform with this standard.

34
35 Director Goellner stated that this is an interesting piece, and the way that the code reads is that the
36 standard requires that no less than 50% of the ground level façade of any building fronting Lake
37 Street be transparent glass. She clarified that it states 'ground level façade' of any building, so if
38 that is open space, they would need to think about that way of interpreting the code. She stated
39 that she thinks she understands what she is hearing from the majority of the Commission is that
40 there are concerns about any type of façade at all in this location.

41
42 City Attorney Schelzel stated that if it is not glass, it seems to him that they would need the
43 deviation they are asking for. He explained that if the standard is to have glass, and they want
44 shutters, they'd need the deviation.

45

1 Chair Plantan stated that the concern is that when the shutters are down, it is completely opaque
2 so there is no transparency.

3
4 City Attorney Schelzel stated that he thinks they may need a deviation if they want no shutters and
5 no glass with a different architectural solution. He stated that he thinks this can be worked through
6 in the report and made clear. He stated that he believes Commissioner Parkhill accepted a friendly
7 amendment from Commissioner Douglas, but did not hear Commissioner Flannigan agree as the
8 seconder.

9
10 Commissioner Flannigan stated that he would agree to the friendly amendment on the motion.

11
12 Commissioner Douglas asked if façade just refers to the side that faces Lake Street, or is it the
13 whole structure.

14
15 Director Goellner stated that the language specifically says ‘fronting Lake Street’.

16
17 Planner Kieser clarified that there is another requirement that states that 25% of the other facades,
18 which in this case would be the side and rear façade, need to be glass.

19
20 Commissioner Bashioum stated that she is confused whether these parameters apply to a
21 permanent building or a temporary structure. She asked if there were different standards for
22 something that would be temporary.

23
24 Planner Kieser stated that there are not separate design standards for temporary or removable
25 structures. He stated that the design standards are pretty much for any new construction, even
26 though, in this case it would be considered removable, these standards would still apply.

27
28 Commissioner Bashioum confirmed that this structure is being treated as though it were a
29 permanent structure.

30
31 Director Goellner stated that she will summarize this discussion about transparency to note that
32 the glass is what would typically be used as the transparent material, and the issue with this
33 structure is that transparency is only going to be achieved from 11:00 a.m. to 11:00 p.m. and not
34 full-time, so the lake view will be blocked during the times the shutters are closed. She noted that
35 when the code was written, she believes that open air structures on private property were very
36 uncommon.

37
38 Commissioner Douglas stated that when shutters are open there is more than 50% transparency.

39
40 Commissioner Flannigan stated that the City continues to put trees in everywhere, such as on the
41 sidewalks, which blocks the sidewalks, and those would not be considered transparent. He stated
42 that this is something that ultimately the Council will address and handle. He feels that the
43 Commission has given enough information to staff to put in the report that will reflect the
44 Commission recommendations.

45
46 There being no further discussion on the motion, Chair Plantan asked for a roll call vote.

1
2 Director Goellner completed a roll call vote on the motion. Upon a vote, the motion carried 6
3 ayes, 1 nay (Bashioum).

4
5 Chair Plantan asked City Attorney Schelzel to summarize what the Commission just voted on.

6
7 City Attorney Schelzel explained that the motion directed staff to prepare and bring back to the
8 next Planning Commission meeting a draft report and recommendation reflecting approval of the
9 requested design deviation for building materials and denial of the request for transparency. The
10 report will also note the concerns that the Commission has with the overall proposal.

11
12 **AGENDA ITEM 6. Other Items:**

13
14 **a) Review of Development Activities**

15
16 Planner Kieser stated that at the next Planning Commission meeting there will be one development
17 application scheduled for a lot combination subdivision at 522 and 530 Harrington Road.

18
19 **b) Planning Commissioner Liaison Schedule and City Meeting Calendar**

20
21 **AGENDA ITEM 7. Adjournment.**

22
23 There being no further business on the agenda, Chair Plantan asked for a motion to adjourn.

24
25 Commissioner Parkhill made a motion, seconded by Commissioner Stockton, to adjourn the
26 Planning Commission meeting.

27
28 Director Goellner completed a roll call vote on the motion. The motion carried unanimously.

29
30 The Planning Commission meeting was adjourned at 8:22 p.m.

31
32 Respectfully submitted,
33 Kayla Atkins Rokosz
34 *TimeSaver Off Site Secretarial, Inc.*
35