

1 **WAYZATA PLANNING COMMISSION**
2 **MEETING MINUTES**
3 **FEBRUARY 28, 2022**

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

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

9
10 Chair Parkhill read a prepared statement regarding the hybrid meeting format, including
11 information on attending in person, viewing online, and providing public comment.

12
13 **AGENDA ITEM 2. Roll Call**

14
15 Chair Parkhill asked Community Development Director Goellner to take roll call.

16
17 Present at roll call were Commissioners: Douglas, Parkhill, Stockton, Sorensen, Schwalbe, and
18 Severson. Community Development Director Emily Goellner, Planning Consultant Eric Zweber,
19 Assistant Planner Valerie Quarles, Public Works Director/City Engineer Mike Kelly, and City
20 Attorney David Schelzel were also present.

21
22 Absent at roll call: Commissioner Merriam (with prior notice)

23
24 **AGENDA ITEM 3. Approval of Agenda**

25
26 Chair Parkhill asked for a motion to approve the agenda for the meeting.

27
28 Commissioner Douglas made a motion, seconded by Commissioner Stockton, to approve the
29 February 28, 2022 agenda as presented. Motion carried unanimously.

30
31 **AGENDA ITEM 4. Consent Agenda**

- 32
33 **a.) Approval of the February 7, 2022 Planning Commission Meeting Minutes**
34 **b.) Approval of Planning Commission Report and Recommendation of Denial for**
35 **Planned Unit Development Concept Plan for Wayzata Beach Club at 200 Lake**
36 **Street East**

37
38 Chair Parkhill read the items on the consent agenda and asked if any Commissioner wished to pull
39 an item for further discussion.

40
41 Hearing no such request, Chair Parkhill asked for a motion to approve the Consent Agenda as
42 presented.

43
44 Commissioner Sorensen made a motion, seconded by Commissioner Douglas, to approve the
45 Consent Agenda as presented.

46

1 Motion carried unanimously.

2
3 **AGENDA ITEM 5. Public Hearing Items**

4
5 **a) Consider Variance for Driveway Setback at 445 Bovey Road**

6
7 Planning Consultant Eric Zweber stated that this item is a request for a driveway setback variance
8 at 445 Bovey Road. He gave an overview of the Comprehensive Plan land use designation and
9 zoning for the property and the surrounding neighborhood; location of the fire access on the
10 property; the lot of record and existing condition details; and history of the site. He explained that
11 the variance request is from the 10 foot setback requirement from a side property line for
12 driveways. He noted that the proposed driveway would tie into the existing cul-de-sac on Bovey
13 Road, and would need to be graded with appropriate provisions because it was regulated as a
14 'steep' slope. He gave an overview of the reason behind staff's support for construction of the
15 driveway before the home. He reviewed the tree removal, landscape plans, and the wetland buffer
16 averaging that is necessary.

17
18 At the conclusion of Consultant Zweber's presentation, Chair Parkhill asked if the Commission
19 had any questions for Staff.

20
21 Commissioner Douglas asked if the City could turn down the house plan even if the variance were
22 approved.

23
24 Planning Consultant Zweber explained that the Planning Commission does not review house plans.

25
26 Commissioner Douglas clarified that she did not mean the house plan, but the building site.

27
28 Planning Consultant Zweber stated that the building permit is administratively reviewed by the
29 City's various departments. He clarified that the building permit would not be reviewed by either
30 the Planning Commission or the City Council.

31
32 Commissioner Douglas noted that if there would be a need for a variance for the building site or
33 house, then it would come before the Planning Commission.

34
35 Commissioner Schwalbe noted that in some of the other drawings included in the packet, it showed
36 the house being placed in the lower left hand quadrant. She asked if Ferndale Woods Drive, which
37 becomes the fire access lane, could not be extended far enough to give them access from that side.
38 She stated that it appears as though it would be a much easier solution.

39
40 Planning Consultant Zweber stated that was previously discussed and the Council, at the time,
41 could have authorized the improvement and conversion of the fire access lane to a public street if
42 they deemed it would be a benefit to the surrounding properties. In 2018, the City Council did not
43 see that as a benefit.

44
45 Commissioner Schwalbe noted that it would not have to go all the way down to Peavey Lane, and
46 could just go far enough to give them access to a driveway.

1
2 Planning Consultant Zweber asked City Engineer Kelly to address this issue because he was not
3 at the Council meeting in 2018, nor did he prepare that staff report.

4
5 City Engineer Kelly explained that the fire lane, when it was originally platted, was granted as an
6 easement through the area across several properties. As part of the platting and the agreement, it
7 listed that the fire lane could potentially be converted to a public street if the City Council deemed
8 it to have benefit. He stated that it was determined that the only way it would be a benefit is if it
9 were constructed all the way from Ferndale Woods to Peavey Lane and because it is only used for
10 utility access to the lift station, and availability as a fire lane, the Council did not see the benefit of
11 it being improved.

12
13 Commissioner Stockton stated that the property directly to the north appears as though it gains
14 access from the fire lane, and questioned why this property couldn't also do that. She asked what
15 the slope measurement is in this location.

16
17 City Engineer Kelly stated that the driveway in question for the property to the north was originally
18 platted as part of the access for that lot. He explained that the lot to the north and the lot being
19 discussed tonight, were originally owned by the same property owner, so there was access to both.
20 He explained that when the property to the north was sold, they failed to include an easement to
21 the property being discussed tonight.

22
23 Planning Consultant Zweber stated that his measurement of the grade was between 16% and 17%.

24
25 Commissioner Sorensen asked whether the fire lane was extended to the north, just to this property,
26 and cost was not an issue or a City expense, if the City would have a problem with it.

27
28 City Engineer Kelly explained that he would have to look back at notes from the original
29 discussion, but he believes that the project, if it were to move forward would have been at the
30 developer's expense, so the City was not being asked for a capital outlay. He reiterated that it was
31 determined that there was no benefit to make such an improvement to a public street. He stated
32 that there would be environmental impacts because it is a very narrow roadway, and would need
33 to be constructed to at least 20 feet wide in order to meet current fire standards.

34
35 Commissioner Severson asked for further explanation of what the proposed driveway would look
36 like and the location of the setback.

37
38 Chair Parkhill noted that he would also like to know where the cul-de-sac ends.

39
40 Planning Consultant Zweber stated that this request is for the driveway to not meet the required
41 setback from the side property line. He gave a brief explanation of how the City determines what
42 is the front, rear, and sides of the property. He showed where the edge of the cul-de-sac is located
43 using the site plan drawings. He stated that there is a section of the driveway that would need to
44 be constructed within the Bovey Road right-of-way. He explained that because the driveway is not
45 coming from the front property line at a point at least 10 feet from the side property line, a variance
46 is necessary.

1
2 Commissioner Severson noted it is basically City property within the right-of-way, and asked if it
3 was encroaching on any other private property.
4

5 Planning Consultant Zweber stated that as it is being proposed, the driveway would not encroach
6 on any private property. He explained that the front lot line is the east lot line, and the driveway
7 should come from the front at a location that is a minimum of 10 feet north of the south property
8 line. He stated that this variance application proposes that the driveway comes through the side
9 lot line and not the front lot line.
10

11 Commissioner Douglas referenced the aerial photograph, and noted that there was a letter
12 submitted from 410 Peavey Lane that was in opposition to the variance. She stated that she also
13 received a call from someone who lived at 420 Peavey Lane that was in support of the variance.
14 She asked staff to identify where those properties were located in relation to the subject property.
15

16 Community Development Director Goellner indicated the location of the properties on Peavey
17 Lane.
18

19 Commissioner Sorensen asked if the proposed driveway, as it parallels the property to the south,
20 would be right up against the property line.
21

22 Planning Consultant Zweber explained that the driveway curb cut should be at least 10 feet from
23 the side property line. He stated that the driveway as proposed, once it turns completely east/west,
24 would be 10 feet from the south property line. He stated that the retaining wall would be almost
25 perfectly between the two so the driveway surface is 10 feet from the side property line.
26

27 Commissioner Sorensen asked if a variance was needed because of the retaining wall.
28

29 Planning Consultant Zweber explained that they do not need a variance for the retaining wall but
30 from the section of the code about driveways, which requires a 10 foot setback for the curb cut.
31

32 Commissioner Severson asked where the driveway would have to be located in order for a variance
33 not to be required.
34

35 Planning Consultant Zweber stated that there are a number of possibilities for locating the
36 driveway without the need for a variance, but there would be a lot of things to take into
37 consideration for those options, such as the wetland, the wetland buffer, and the slopes. He noted
38 that there could be more impact to the slopes, and also likely the wetland buffer and trees, if a
39 different location was chosen for the driveway.
40

41 Commissioner Schwalbe asked if the driveway is planned to be permeable or non-permeable.
42

43 Planning Consultant Zweber stated that it is proposed to be impervious. He stated that there is a
44 retaining wall of about 18 feet in height that would be constructed that needs to be sufficiently
45 compacted.
46

1 Commissioner Sorensen asked if his understanding was correct that this proposal would include
2 moving the sanitary force main and installing a new one.

3
4 City Engineer Kelly explained that the applicant is proposing to relocate the force main and
5 reconstruct it as part of their project.

6
7 Commissioner Sorensen asked why that would be necessary.

8
9 City Engineer Kelly explained that it was constructed back in the 1980s, and the Public Works and
10 Engineering Departments had concern about the proposal's potential for impact to the force main.
11 He stated that they spoke with the applicant about their concerns, and the applicant proposed its
12 replacement to quell the concerns.

13
14 There being no further questions for staff, Chair Parkhill invited the applicant to address the
15 commission.

16
17 Timothy Lovett, Coldwell Banker, 235 Lake Street East, Wayzata, explained that he was here
18 representing the applicants. He stated that a buyer would like to develop this pretty little lot. He
19 stated that there is enough high ground that would be a great building site. He stated that the
20 difficulty is that no matter where else they would go with the access for the driveway, they start to
21 violate what is already delineated wetlands. He stated that they feel that there is really nowhere
22 else to go but the proposed location. He stated that their proposed driveway engineering will solve
23 some of the washout and erosion problems that currently exist at the end of the cul-de-sac. He
24 noted that there has been a lot of discussion about other possible access locations that they do not
25 have legal rights to, and explained that currently the engineering costs for constructing this
26 driveway is about \$300,000. He stated that they have worked very hard on the engineering and
27 surveying in order to avoid any further erosion in terms of watershed management. He stated that
28 he agrees that it is out of the ordinary to be here taking this action before there are house plans, but
29 believes this needs to be figured out before they can figure out where everything can be set on the
30 building pad. He stated that the moving of the sewer line is another expense that they have agreed
31 to take on.

32
33 Chair Parkhill asked if the commission had any questions for the applicant.

34
35 Commissioner Stockton stated she is confused because this seems to be a very complicated
36 solution when the fire lane is currently used by another property in the very same manner, which
37 is right next to the property. She asked if the same easement had been looked at for this lot to use.

38
39 Mr. Lovett stated that the owner, over time, has pursued trying to purchase that access from the
40 property owners to the north, but no reasonable agreement was ever reached because they were
41 asking for a large amount of money. He stated that when the lot was platted, the plan was to deed
42 an access when the lot was split up, but somehow it was missed. He stated that the question just
43 asked by Commissioner Stockton is sort of 'the question of the day', and was where they were
44 headed until they finally decided that they would have to pursue building this driveway in another
45 location in order to make the lot work. He noted the location suggested by Commissioner Stockton
46 may also run into delineated wetlands, so he isn't sure the extensive engineering, in terms of

1 conservation, in that location would end up being any different than what they are proposing
2 tonight.

3
4 Commissioner Stockton stated that this request is frustrating because there is already a road, there
5 are no trees to take away, and it is one-fifth the distance to the house. She stated that she would
6 have thought there would be the ability to collaborate since it would improve the road for both
7 homeowners.

8
9 Commissioner Douglas asked about the building pad and whether they will have to build on a slab.

10
11 Mr. Lovett stated that he was not sure because in Minnesota people like to have basements.

12
13 Commissioner Douglas stated that tree removal was mentioned, and asked if additional trees will
14 need to be removed in the building pad location. She asked if the number of trees for removal
15 indicated in the report was just for the driveway, or if it also included the proposed building pad.

16
17 Mr. Lovett stated that he was not sure if it was for the entire project or just for the driveway and
18 hardcover areas. He explained that it is an interesting piece of property, and noted that he assumed
19 the basement would not be a walk-out or set as deep into the site, as you would another lot in terms
20 of the water table.

21
22 Commissioner Douglas noted that the site plans looked like they had tree removal information in
23 the proposed building pad location.

24
25 Planning Consultant Zweber reviewed the information that was submitted for the tree protection
26 plan, and noted that trees #29, #30, and #34 are shown in the building pad area, and were counted
27 as being removed in their calculations.

28
29 Commissioner Douglas stated that the report says that there are nine trees in poor condition, and
30 asked if trees that are dead or in poor condition are considered in the calculation.

31
32 Planning Consultant Zweber stated that those trees are exemptions under the Tree Preservation
33 Ordinance, and noted that the City has the ability to have the City's tree consultant double check
34 and confirm the health of the trees.

35
36 There being no further questions from the Commission for the applicant, Chair Parkhill opened
37 the public hearing on the application at 7:23 pm.

38
39 Rodger Finke, 450 Bovey Road, stated that in the past, he looked at buying a portion of this
40 property and was informed by the City that because he has a lot that is less than the standard size
41 of 2 acres, if he moved ahead with the purchase of more 'green space', he would make the lot that
42 is in question unbuildable. He stated that he negotiated with the owner of the property at that time
43 and was not able to come to a satisfactory agreement. He stated that he has an easement driveway
44 through his property right now that serves the Riley family. He stated that it looks like this would
45 create more impervious surface for a driveway to access a house pad that is smaller. He stated that
46 he thought that there would be a public benefit to allow building to have an access through the fire

1 road from Peavey Lane. He stated that he cannot understand the lack of a ‘public purpose’ for an
2 extension of the roadway on the fire lane because he thinks there could be an economic benefit to
3 the City to have a nice house that would be worth a lot of money. He stated that he feels this
4 proposal creates a massive amount of impervious surface, and noted that another speaker called it
5 a ‘causeway’. He stated that this may be an appropriate description, but explained that he did not
6 feel this was an appropriate use of the property. He stated that he believes this request is over
7 development of the area because it is a wetland and is pretty much landlocked. He noted that there
8 is a pumping station for the sewer system on the west side. He stated that he understands that they
9 are kind of stuck about where they can place the house, but there are choices about the massiveness
10 and the amount of impervious surface. He stated that this is a very difficult lot, and asked that the
11 City only consider an application for development of this property that does not require a variance.
12 He reiterated that he lives right next door, and this parcel is what he calls a ‘swamp’. He stated
13 that the driveway will take up more space than the house would ever take up and feels this proposal
14 is inappropriate.

15
16 Peter Riley, 382 Bovey Road, stated that his family goes back a long way in the City, and explained
17 that his mother served for 15 years on the City Council and before that, she served on the Planning
18 Commission and the deck at The Depot is named after her. He stated that she would be horrified
19 to see what is being proposed on this lot. He stated that as an attorney, he knows that the
20 application has to be reasonable, and one of the things not seen tonight is the massive retaining
21 wall that is proposed. He explained that some of it will be more than 20 feet high. He stated that
22 he termed it a ‘causeway’, and noted that he cannot think of another lot in the City that would have
23 such an immense structure. He stated that this would absolutely change the character of the lot.
24 He stated that Mr. Lovett described it as a ‘pretty little lot’ and knows a number of builders who
25 have come over, looked at the lot, shook their heads, and said that there was no way to build on
26 that lot. He stated that he thinks what the Commission should really focus on in their decision to
27 deny this request, is whether this issue was created by the landowner. He stated that they know
28 conclusively that this is the case because this property was originally owned by the property owner
29 at 430 Peavey Lane and as stated by Mr. Lovett, access for this property was ‘missed’. He stated
30 that he also knows that without a shadow of a doubt that it was never thought of, in a million years,
31 to bring this lot access off of Bovey Road because then they would have platted it completely
32 different. He agreed with Commissioner Stockton that it would make the most sense to use the
33 fire lane off of Ferndale Woods because it is already paved, used by vehicles, and noted that there
34 is even a garage access off of it. He stated that he feels there are ways to proceed that would avoid
35 losing the trees, require a massive retaining wall, or adversely affect the drainage with that simple
36 solution. He stated that he would strongly suggest to the Commission that common sense and the
37 very language of the variance statute should direct that they recommend denial of this request.

38
39 Matt Mithun, 465 Bovey Road, stated that if they can figure out how to develop this lot, he does
40 not want to take that away from them. He stated that he has not been approached about an access
41 solution on his property, and noted that he would be happy to explore that option. He stated that
42 he feels there are two ways to look at this and possibly have the Bodin’s grant an easement. He
43 explained that the letter they received was that they should either buy this lot or deal with the
44 construction for a few years. He stated that was the one letter he received, and reiterated that he
45 would be happy to discuss a potential solution coming from Ferndale Woods.

1 Gretchen Piper, 463 Highcroft Road, explained that her property extends down to Bovey Road.
2 She stated that it seems pretty clear to her that this application does not meet the standard for a
3 variance. She stated that the property value reflects that there is no access to the property, and the
4 easement was not maintained whether it was accidental or for some other reason. She stated that
5 this plan will substantially alter the character of the neighborhood by coming in from Bovey Road,
6 and there would be no way to replace the tree cove which is very concerning to her. She stated that
7 she does not want to see the character substantially altered. She stated that with regard to the
8 criteria of practical difficulty, they touched on the construction of the driveway/causeway and the
9 elevation. She stated that one thing that has not come up is how steep this is from the end of Bovey
10 Road into the access, and then it requires a steep left turn. She stated that coming in from the fire
11 road is right where the lift station is located, and the access was not granted, which is reflected in
12 the value of the property. She noted that her next door neighbor was told that this lot couldn't be
13 built on, and would urge them to come up with a different solution. She stated that she does not
14 want to deny someone the ability to build on a property that they own, but does not think this
15 variance meets the City standards.
16

17 John Sexter, 410 Peavey Lane, stated that he is just north of this property and his property is located
18 on the same wetland. He explained that this property is very low, and he feels that the plans show
19 that his property could possibly get flooded out. He stated that there are a lot of areas that feed
20 into the wetland which then slowly filters into his lot, passes through 445 Bovey Road into a
21 drainage ditch or creek, and then it goes under the fire lane through a culvert to Peavey Pond and
22 Lake Minnetonka. He stated that the plans show that the drainage ditch will be covered with a silt
23 fence, which just cannot happen because they will be flooded out which they have seen happen
24 with other projects. He stated that the corner of the proposed building pad is only a few feet away
25 from the creek that runs under the fire lane, and feels that there is no way the house can be built
26 without filling in the creek. He explained that there was a massive mud slide last year from
27 Highcroft Road, even though there were silt fences in place, and the mud slides were 100 feet long.
28 He stated that this creek drains all the water from the whole area and not just this lot. He stated
29 that he does not feel it is possible to build a house that close to a creek without filling it in. He
30 stated that he believes the plans were drawn up last year during a drought year, and the creek he is
31 referring to did stop running last fall. He explained that he had been in his house for 6 years, and
32 it has run spring, summer, and fall, for the past 6 years, other than last fall during the drought. He
33 stated that this lot is deceiving because there is only a tiny bit of high ground and the rest is wetland
34 and, in his opinion, would be a poor lot to build on.
35

36 Community Development Director Goellner asked if there was anyone on the Zoom call who
37 would like to speak to the Commission. After hearing and seeing none, she informed the chair
38 that there were no people that called in to the meeting that have asked to speak at the public hearing.
39

40 Jane Payfer, 439 Shoreline Rd, Lake Barrington Illinois, explained that she used to own 430
41 Peavey Lane and currently owns 445 Bovey Road. She stated that she was the one who did not
42 make sure there was an easement before she sold her lot. She explained that at the time, her
43 husband had had a massive stroke and was no longer able to speak. She explained that it was
44 missed when he tried to communicate it to her, and it was also missed by her real estate agent. She
45 noted that both the real estate agent and her husband have passed away, so there is no way she can
46 go back and get it fixed. She stated that she has a lot and a buyer, and realizes that there may be

1 some significant changes to the lot; however, the retaining wall and the engineering that has gone
2 into figuring out how they can get access to the building pad has taken into consideration all the
3 water run-off, because they would also have trouble if they didn't do it right. She stated that as a
4 former resident of Golden Valley, she saw what happened when a house was built on a steep cliff
5 without the appropriate retaining wall and the house was completely destroyed. She stated that
6 would be the last thing she wants for this potential buyer or the nearby homes. She stated that she
7 assumes that the right efforts are being made with the engineering plans in order to deal with the
8 water in the correct way. She stated that they thought they had already reached out to Mr. Mithun
9 to see if they could extend a portion adjacent to the Ferndale Woods driveway and apologized if
10 that had not happened. She noted that Mr. Bodin had paved that portion of the fire lane by himself.
11 She stated to address Ms. Piper's comment, the retaining wall will be tucked under the slope and
12 will not impede her views in any way, and she may not even be able to see it. She stated that she
13 has, in good faith, approached the owner of 430 Peavey Lane multiple times and requested an
14 easement, and pointed out to that owner that it would be a much more suitable approach with much
15 less environmental damage if that easement would be granted. She stated that the owner of 430
16 Peavey Lane asked for more money for the easement than what is the estimated amount is for the
17 driveway, which she found to be morally repugnant and not in the spirit of cooperation. She
18 decided that she could not do that. She stated that the buyers may be able to speak to Mr. Mithun
19 about another option, but she would encourage the Commission to recommend approval until they
20 may hear from the buyers that they have been able to find an alternate method.

21
22 Applicant's representative Mr. Lovett returned and stated that he is not familiar with any of the
23 past conversations that individuals may have had with the City about this lot, and noted that he did
24 not think any of them affected this application process. He stated that he was also under the
25 impression that Mr. Mithun had been approached and had responded that he was not interested in
26 working with them, but noted that they are open to talking with him about possible options. He
27 stated that they would still like to move forward with their request for variance even though they
28 would like to take the opportunity to address alternative possibilities with Mr. Mithun. He stated
29 that he cannot disagree with many of the neighbors' comments that this is a lot of driveway going
30 in to get to a small building pad, but this is a buildable lot that is also a platted lot. He stated that
31 they are just trying to get on the lot so they can build the house. He stated that right now the end
32 of that cul-de-sac has just a spillway and washes out to the low land so this driveway, and its
33 engineering, will improve what is currently there.

34
35 There being no additional public comments on the application, Chair Parkhill closed the public
36 hearing at 7:53 pm.

37
38 Chair Parkhill asked for the Commission to share their questions and feedback on the application.

39
40 Commissioner Douglas asked where Mr. Sexter's property was located in relation to this parcel.

41
42 Planning Consultant Zweber explained that it was too far away to be shown on the applicant's
43 plans.

44
45 Commissioner Douglas clarified that it was not immediately adjoining this property, and there was
46 one in between.

1
2 Commissioner Schwalbe stated that it seems as if through the discussion tonight they may have
3 stumbled on a solution worth looking into that may be better than the request before the
4 Commission. She asked procedurally how the Commission can give the applicant more time to
5 pursue that possibility.
6

7 Community Development Director Goellner explained that the applicant always has the option of
8 withdrawing their current application in order to explore other alternatives. She stated that the
9 Commission's decision needs to be based on the request and facts in front of them today under the
10 relevant criteria from the Code.
11

12 Commissioner Stockton noted that she understands that there is a lot of emotion involved in this
13 process. She stated that she is looking at the primary questions that the Commission is to use in
14 their decision making, but must also consider the drawings and the comments that have been made.
15 She stated that she sees that there has been a significant amount of effort to produce very
16 complicated drawings which have a lot of engineering in order to be able to create this driveway.
17 She stated that from what she can glean of her knowledge of the area because she frequently walks
18 her dog through the fire path, she believes the tree removal will alter the area significantly
19 especially since many of the trees cannot be replaced. She stated that she thinks the length and the
20 amount of pavement that would be put into place is excessive when there is an opportunity from
21 another close access point. She stated that she thinks the retaining walls will present a different
22 character to the area. She noted that she feels this a bit of over development for the area, and feels
23 there is opportunity for further discussion and collaboration with neighbors to pursue another
24 option. She stated that what is jumping off the page to her is the possibility of utilizing the fire
25 path. She noted that she understands the City did not improve it, but it seems to her that the best
26 interest of the community and the natural area is to look more closely at that option. She stated
27 that with respect to the possibility that this was created by the landowner, unfortunately they heard
28 that there was no easement put into place with the sale of the property and was an oversight that
29 was created by the owner of this lot. She stated that it is the result of human error, and not the land
30 itself, and feels it would be an overstep to approve what is being proposed despite the fact that it
31 has been thought out meticulously well. She stated that it appears as though there needs to be a
32 different collaboration of efforts between the City, the community, and the landowner to achieve
33 that, and she just felt this needed to be looked at more closely.
34

35 Commissioner Sorensen stated that regardless of how tonight's vote goes, he would highly
36 recommend the City and everyone who has an interest tonight move forward in pursuing an
37 alternative solution, such as coming through the Mithun property or extending access from the fire
38 lane easement. He stated that the issues raised tonight are important and need to be dealt with
39 appropriately, and explained that was why the City had professional staff and engineers to assist
40 them. He stated that the only issue for the Commission to consider is if this variance request
41 complies with the criteria that they are supposed to consider. He stated that this road needs to be
42 built and used for construction access to the site before anything can be built on the lot. He
43 reiterated that even if the variance is approved, he would encourage all parties to try to find a
44 solution that would work out better for everyone.
45

1 Commissioner Schwalbe stated that from everything she has heard tonight, it seems as if almost
2 everyone would rather see a different solution than a variance for access off of Bovey Road. She
3 stated that she personally does not see any objection to the request, and would recommend approval
4 because she does not see any reason to deny the request. She stated that she would go towards
5 recommending approving with the hope that in order to avoid it actually happening, that all of the
6 interested parties get together and see if there is another solution.
7

8 Commissioner Severson stated that the variance itself is not the issue she is struggling with, and
9 instead is the intent and the outcome of approving the variance when there are other options that
10 have not been fully explored. She stated that she would like to see more discussion around those
11 other options versus this variance, and would rather see that than recommend approval of this
12 variance. She explained that she thinks this would potentially alter the character of the locality.
13

14 Commissioner Douglas stated that she can remember when this came before the Commission a
15 few years ago. She stated that she is torn but as pointed out by Commissioner Sorensen, the
16 Commission should be ruling on the variance for a driveway setback of 10 feet on the side yard,
17 and not whether this property should be developed or about the retaining wall. She stated that she
18 wished there was some way for the neighbors to all come together and figure this thing out, but
19 noted that she will support the request based on the fact that it is unique to this property and also
20 that the variance is for the 10 foot side yard setback.
21

22 Chair Parkhill stated that he thinks the Commission has been given the task to determine if this
23 variance request at the entrance to the lot is something that should be approved. He stated that he
24 doesn't think it has much to do with the driveway, the building pad, the wetlands, or anything else,
25 and is about whether this is a reasonable request in order to have access to the property. He shared
26 that as Commissioner Douglas stated, he is also hopeful that the neighbors can figure this out in
27 another way. He stated that he will also support this variance because this person needs access to
28 the property, and noted that there is certainly some practical difficulties in this situation. He stated
29 that the question of whether this will change the essential character of the locality, he cannot say
30 for sure, but can say that there is a better solution, and is hopeful that the community will come
31 together and figure it out.
32

33 Commissioner Stockton asked if it was reasonable to assume that if the Commission recommends
34 approval of the variance request that the hope that everyone will collaborate on an alternative
35 solution will actually materialize.
36

37 Chair Parkhill stated that he did not know, but would think the people who are affected by this
38 may be more willing to make concessions, and noted that Mr. Mithun has offered to open up the
39 dialogue. He reiterated that the Commission should focus on the 10 foot variance request, and he
40 does not think that is an unreasonable request.
41

42 There being no further discussion, Chair Parkhill asked for a motion on the application.
43

44 Commissioner Douglas made a motion, seconded by Commissioner Schwalbe, to direct staff to
45 prepare a draft Planning Commission Report and Recommendation with appropriate findings

1 reflecting a recommendation of approval for a Variance of a Driveway Setback at 445 Bovey Road
2 for review and adoption at the next Planning Commission meeting.

3
4 Ayes: Schwalbe, Douglas, Sorensen, Parkhill. Nays: Stockton and Severson. The motion carried
5 4-2.

6
7 **b) Consider Zoning Ordinance Text Amendments for Residential and Commercial**
8 **Zoning Districts**

9
10 Community Development Director Goellner explained that because there is so much information
11 to be presented with this item, staff is breaking up the presentation and discussion into two
12 meetings. She stated that they would suggest opening the public hearing tonight, but continuing
13 it to the next meeting, similar to what was done when they were discussing the Design Standards
14 updates. She reviewed the Zoning Code update process and schedule.

15
16 Planning Consultant Zweber reviewed the basis for the proposed changes.

17
18 Assistant Planner, Valerie Quarles, noted that she had shared much of this information with the
19 Commission at the Planning Commission workshop. She explained that all of the changes being
20 considered are based on the 2040 Comprehensive Plan and community visioning done in 2018
21 which included things like charm, housing availability, and vibrant City spaces. She reviewed
22 some of the points of these visions such as multi-generational housing and greater housing
23 diversity. She reviewed the proposed residential updates to accessory dwelling units (ADU), R-4
24 and R-5 modifications, upper story housing in C-2 and C-3.

25
26 Commissioner Schwalbe asked what the smallest size lot that could have an ADU.

27
28 Assistant Planner Quarles explained that ADUs are subject to the same lot coverage, setbacks,
29 height restrictions and everything a main house would be. She explained that if a main house was
30 already maxing out those metrics, there would not be room for an ADU that looks like an addition
31 or a detached structure, but could possibly be room for a basement conversion. She noted that
32 building an ADU is difficult and expensive so there will not be a great proliferation of them even
33 though they may be permitted. She noted that the City does not have a quota for ADUs, and
34 explained that she believed the market and site conditions will limit the amount that could be built
35 in the City.

36
37 Commissioner Douglas asked what are the smallest sized lots in their zones.

38
39 Planning Consultant Zweber explained that the R-3 and the R-3A Districts have a minimum lot
40 size of 9,000 square feet, and noted that there are a few that are under 9,000 square feet. He stated
41 that ADUs are allowed in these Districts, provided they meet all the other standards.

42
43 Commissioner Schwalbe noted that she has no concerns about the larger lots but is a bit concerned
44 about R-3 and R-3As being able to have ADUs, and asked if the purpose was to improve the
45 density.

46

1 Planning Consultant Zweber stated that the purpose is two-fold: multi-generational housing, in
2 addition to the density range.

3
4 Chair Parkhill stated that the percentage of the lot coverage is the same whether it is a big lot or a
5 small lot.

6
7 Assistant Planner Quarles reviewed the proposed amendments to the commercial Zoning Code
8 and noted that the allowed lists are outdated, inconsistent and relatively inflexible. She noted that
9 they are proposing a new chapter and a combined use table for allowed uses.

10
11 Commissioner Sorensen asked if these amendments would address allowing more flexibility in
12 what is allowed for uses in the downtown commercial space, and referenced the vacant properties
13 along Lake Street.

14
15 Planning Consultant Zweber noted that one of the guiding principles was pedestrian use and
16 walkability, and one of the proposed amendments would remove drive-thrus from downtown. He
17 stated that with that one exception, he believes the changes that are being proposed provide for
18 more flexibility.

19
20 Community Development Director Goellner stated that she feels the City is providing more
21 flexibility to commercial tenants on Lake Street by combining all retail uses into "Retail Sales"
22 rather than being hyper specific about what is allowed based on what is being sold.

23
24 Assistant Planner Quarles noted that staff wants to talk about the scope and the use table and
25 making it easier to use. She stated that this has brought to light some things that need to be cleaned
26 up, but also some policy questions, definitions that need to be written, and considerations that need
27 to be made about whether to rethink certain uses in certain districts. She stated that they want to
28 take all the policy changes and present them at a separate meeting. She reiterated that she would
29 like the Commission to focus on the table, and then consider the policy changes afterwards. She
30 continued updating the Commission on the proposed amendments to the Commercial Zoning
31 Code. She gave an overview of the current use format for C-2, and the proposed use table, and the
32 difference between permitted and conditional use.

33
34 Commissioner Douglas stated that she would like to see the ADU regulations include a statement
35 that they are subject to rental policies, and asked if it was included.

36
37 Assistant Planner Quarles stated that she remembers that discussion and had intended to add that
38 language. She noted that she will make sure this is added before the next meeting. She noted that
39 staff's goal is to make this as clear as possible.

40
41 Commissioner Severson asked about the ADUs, and noted that the smallest they can be is 300
42 square feet. She asked for confirmation that this meant it would need to be in a 900 square foot
43 home.

44
45 Planning Consultant Zweber explained that it would need a variance, and noted that there is a
46 section of the code that says one-bedroom, single family homes need to be this size and two-

1 bedroom, single family homes need to be 960 square feet. He stated that in this case you would
2 likely have to add 300 square feet.

3
4 Commissioner Severson asked if an ADU can be more stories tall. For example, if she had a ranch
5 style home could she build a two story ADU.

6
7 Planning Consultant Zweber stated that for the house, there is no change to the height requirements
8 and explained that someone could increase the height of their house if their house does not hit that
9 requirement, but they would not be allowed to go above the maximum. He noted that currently, a
10 detached accessory structure has a height limitation of 20 feet, but one change they are proposing
11 is that detached accessory structures could be 25 feet high.

12
13 Commissioner Severson asked if that meant that if she had a ranch home, the ADU could be taller
14 that the home.

15
16 Assistant Planner Quarles stated that would probably come down to how the City would interpret
17 similar architectural design and the requirement that the ADU be architecturally similar to the
18 principal structure. She asked how the Commission felt that should be done, and whether they felt
19 it should be limited to the size of the existing home.

20
21 Commissioner Severson stated that as a homeowner with a ranch style home, the same as many of
22 her neighbors, she would not want her neighbors have an ADU taller than the homes.

23
24 Community Development Director Goellner stated that she is going to look for that within the
25 Code, because she thought she remembered that they did have a provision related to accessory
26 structure height. She stated that it is an interesting point that they can do a bit more research on
27 before the next meeting.

28
29 Commissioner Severson asked whether adding an ADU onto the house would make this a two-
30 family dwelling.

31
32 Community Development Director Goellner asked if she meant from a taxing perspective.

33
34 Assistant Planner Quarles stated that ADUs are categorized separately.

35
36 Commissioner Schwalbe asked how this would be different than a duplex.

37
38 Assistant Planner Quarles explained that it would be different because the ADU is limited in size.

39
40 Commissioner Sorensen stated that he thought the ADU had to be for a family member.

41
42 Community Development Director Goellner stated that it did not need to be for a family member,
43 and explained that either the principal structure or the ADU has to be owner occupied. She
44 explained that this was discussed at the task force meeting, and they determined that enforcing
45 familial relationships would be very difficult.

46

1 Chair Parkhill noted that they have proposed consolidating many of the uses for the Commercial
2 Code, but noted that it appeared that the City would have a lot less control over what may go into
3 those spaces. He asked, for example, if a pawn shop wanted to come in, what could be done. He
4 stated that even if they could afford the rent in downtown Wayzata, he does not feel that is
5 appropriate use for the area. He asked what things staff has pulled out of the Code for things like
6 pawn shops.

7
8 Community Development Director Goellner stated that the ‘adult’ uses are definitely covered
9 under another section of Code that has many more restrictions around its location, and requires a
10 public review process. She noted that pawn shops are interesting because they are considered
11 consignment retail, but from a land use perspective it can be difficult.

12
13 Planning Consultant Zweber stated within the City Code there is Part 5, which is the business
14 license regulations, and that there is a list of requirements where certain businesses need to get a
15 license. If they do not meet those requirements, the license can be revoked. He explained that one
16 of the reasons that is not in the Zoning Code is to eliminate an issue with non-conformity. He
17 stated that if the community feels the impact from a pawn shop is different than other retail, they
18 can come up with a pawn shop license to address those issues, which is what many communities
19 have done.

20
21 Chair Parkhill explained that in Chicago they do not allow too many nail and hair salons to be in
22 close proximity to each other. He stated that they have restrictions, such as having to be 1,000 feet
23 apart from each other, and asked if that would be something that would come through the licensing
24 part of the Code.

25
26 Planning Consultant Zweber explained that the business licenses that he was familiar with, the
27 community prepares a study to show what the impacts are and sometimes it is that other uses, such
28 as a school or a park and the business has to be a certain distance away from them. He stated that
29 if you are regulating something differently than a similar type of business, there should be a study
30 to demonstrate what the impacts are and show how the regulations you are establishing mitigate
31 the impacts which he assumes is what was done in Chicago. He noted that part of what the task
32 force did was try to be more flexible and make things easier for businesses.

33
34 Community Development Director Goellner noted that ‘non-compete’ clauses are a feature of
35 many lease agreements in multi-tenant shopping centers, but individual property owners would
36 likely not have that type of clause. She stated that they can dig into that a bit deeper for the next
37 meeting because there are pros and cons to having more generic language around retail and
38 services and letting the market play it out or being hyper specific.

39
40 Planning Consultant Zweber stated that on page 163 of the packet the section called Special
41 Limitations and Conditions which has not been touched because they are really working on uses
42 and trying to simplify uses. He stated that many of the policy questions being raised will be dealt
43 within sections like this and discussed at a later date.

44
45 Community Development Director explained that they did not want it to appear that a major policy
46 decision was being hidden in the details, so they are trying to just focus on the table at this point.

1
2 Chair Parkhill opened the public hearing on the application at 9:08 pm.
3
4 Assistant Planner Quarles stated there were no people present in the meeting room or that called
5 in to the meeting that have asked to speak at the public hearing.
6
7 City Attorney, David Schelzel suggested that there be a motion to continue the Public Hearing to
8 the next Planning Commission meeting.
9
10 Commissioner Sorensen made a motion, seconded by Commissioner Severson, to continue the
11 Public Hearing to the next Planning Commission meeting on March 7, 2022.
12
13 Motion carried unanimously.
14
15 Commissioner Sorensen stated that he has a bit of a concern about ADUs in the R-3 zoning district
16 because he thinks it may be a bit much, even if it follows all the requirements.
17
18 City Attorney Schelzel stated that the Commission will weigh in on these proposed changes at the
19 close of the Public Hearing. He stated that the concern shared by Commissioner Sorensen is
20 something that could be included in their recommendation to Council, and asked staff if they would
21 like the Commissioners to contact them prior to the next meeting with these types of concerns or
22 things that they would like to go into more depth on at the next meeting.
23
24 Community Development Director Goellner stated that between now and the March 7, 2022
25 meeting it would be helpful if they start getting their comments about areas of concern or areas
26 that they have additional questions about to staff. She stated that she will try to get a sense from
27 the group where that level of attention may be needed in order to spend more time on them. She
28 stated that if there are proposed amendments that the Commission is not comfortable with, those
29 can be pulled out and not be included in the report and recommendation for the Council. She
30 explained that this way they can bring forward to the Council things that the Commission was very
31 comfortable supporting, and note the things that they still have some hesitancy about.
32
33 Commissioner Douglas stated that she will be gone for the whole month of March so she will not
34 be present for the vote, and asked if she could comment in the on-line format.
35
36 City Attorney Schelzel stated that he would advise her against participating in the public hearing
37 and voicing comments via Zoom, even as a citizen, because it is too close to her role as a
38 Commissioner. He suggested that she express her feelings tonight if possible, since she will not
39 be present for the vote.
40
41 Commissioner Douglas stated that she knows that there is a public meeting scheduled for ADUs
42 on March 1, 2022, but questioned how many people know about the meeting. She stated that she
43 has concerns about the smaller lots with relation to ADUs, and gave the example of someone
44 moving to the City to get more in the countryside with green lawns and then their neighbor puts in
45 an ADU five feet from the property line. She stated that she is also concerned about the parking
46 issues this may create on the streets in the smaller neighborhoods with the smaller lot sizes. She

1 stated that she is in support of the rest of the proposed amendments, but remains concerns about
2 some of the ADU details.

3
4 **AGENDA ITEM 6. Other Items:**

5
6 **a) Review of Development Activities**

7
8 Community Development Director Goellner stated that for the next meeting there will be the
9 continuation of the Public Hearing on the proposed Zoning Code Amendments. She noted that for
10 the March 21, 2022 meeting two Public Hearings are scheduled: one for 1022 Wayzata Boulevard
11 for a proposal of a drive-thru coffee and convenience restaurant, and another for the property
12 known as the Sathre-Bergquist building, 150 Broadway Avenue S, for a proposal of a 5
13 condominium building with some office on part of the ground floor. She noted that there are a
14 number of other applications that are in the pre-application stage, including one for the Blake
15 School property.

16
17 **b) Planning Commission Meeting Schedule**

18
19 Chair Parkhill suggested that staff use this time to remind people of the ADU meeting that will be
20 held tomorrow night.

21
22 Community Development Director Goellner explained that there will be a community meeting on
23 March 1, 2022 at 4:30 p.m. at City Hall to discuss Accessory Dwelling Units (ADUs). She stated
24 that there is also a Special City Council meeting on March 1, 2022 at 7:00 p.m. to hear about the
25 development application for Cantissimo Senior Living.

26
27 Commissioner Severson asked if there was a Zoom opportunity for the ADU meeting.

28
29 Community Development Director Goellner stated that it is only an in-person meeting for the
30 ADUs, but the Special City Council meeting will be a hybrid meeting. She noted that the Parks
31 Rezoning Community meeting will be held on March 10, 2022 at 5:00 p.m., and there will also be
32 a community meeting about the Section Foreman House on March 15, 2022 at 4:30 p.m.

33
34 Commissioner Schwalbe asked if staff was aware that in the City of Minnetonka, the former
35 nursing home site, Hillcrest, has a proposal to put in a megachurch with 500 parking spaces.

36
37 Assistant Planner Quarles noted that over the last month, she has learned a lot about the City of
38 Minnetonka's public process as a result of this project. She stated that the City of Minnetonka
39 does an extremely preliminary community meeting that is also a public hearing. She stated that it
40 is held before the PUD concept plan phase, so they essentially present a concept but do not vote.
41 She stated that at the moment, there is really nothing for the City of Wayzata to review on this
42 potential project in Minnetonka.

43
44 Community Development Director Goellner assured the Commission that staff will continue to
45 monitor the City of Minnetonka's process.

46

1 **AGENDA ITEM 7. Adjournment.**

2
3 There being no further business on the agenda, Chair Parkhill asked for a motion to adjourn.

4
5 Commissioner Severson made a motion, seconded by Commissioner Schwalbe, to adjourn the
6 Planning Commission meeting.

7
8 Community Development Director Goellner completed a roll call vote on the motion. The motion
9 carried unanimously.

10
11 The Planning Commission meeting was adjourned at 9:27 p.m.

12
13 Respectfully submitted,
14 Kayla Atkins Rokosz
15 *TimeSaver Off Site Secretarial, Inc.*
16