



DRAFT

Approved: May 22, 2023

**CITY OF ARDEN HILLS, MINNESOTA
REGULAR CITY COUNCIL MEETING
APRIL 24, 2023
7:00 P.M. - ARDEN HILLS CITY COUNCIL CHAMBERS**

CALL TO ORDER/ROLL CALL

Pursuant to due call and notice thereof, Mayor David Grant called to order the regular City Council meeting at 7:00 p.m.

Present: Mayor David Grant, Councilmembers Brenda Holden, Emily Rousseau, Tom Fabel and Tena Monson

Absent: None

Also present: City Administrator Dave Perrault; Public Works Director/City Engineer David Swearingen; Community Development Director Jessica Jagoe; Finance Director Gayle Bauman; and City Attorney Joel Jamnik

PLEDGE OF ALLEGIANCE

1. APPROVAL OF AGENDA

Mayor Grant reported a change to the agenda and has added Item 9A – TCAAP Public Hearing in order to provide residents with a time and space to discuss TCAAP.

Councilmember Fabel requested Items 9A and 10C be removed from the agenda. He reported both of these items were brought before the Council in defiance of the agreement signed by the Council on February 17, 2012, which is a joint powers agreement. He explained this agreement states the parties intend to exercise their respective authority granted by to Minnesota Statute 471-59 to establish a joint powers board, to be named the Joint Development Authority, or such other name as the parties may determine. The parties intend that the Joint Development Authority shall be a governmental unit of the State, which is authorized to exercise to the extent permitted by the JPA Act, the general laws of the State of Minnesota and laws 2009 Chapter 88, Section 16 applicable to the TCAAP site. The common powers of each party for the development of the TCAAP site is a governmental entity of the State. These powers include, but are not limited to remediation of contamination and elimination of blight, infrastructure, construction and financing, comprehensive planning and zoning and economic development. By that agreement, he believed the City of Arden Hills created a separate governmental unit charged with the development and planning of the TCAAP site. It also adopted bylaws for that organization, one of which

specifically provides that the JDA shall develop mechanisms for public involvement in any planning process. Another bylaw provides that the JDA may by resolution establish one or more advisory committees. He stated by having a hearing at the Council meeting on TCAAP was misleading or false advertising since this body has not possessed planning power over TCAAP since December of 2012. He explained this body assigned this power to the JDA and the JDA was proceeding at the present time to do those very things. He explained the JDA would be meeting on May 1, 2023 where the subject of communication and public input would be addressed. He encouraged residents to come forward at that meeting. He reported residents were still free to come forward during Public Inquiries to speak about any matters they wish. He recommended Item 9A be removed because this would be viewed as a direct defiance to the JPA agreement. Likewise, he recommended Item 10C be removed noting the JDA was allowed to have advisory committees. He did not want the Arden Hills City Council creating animosity between the City and the County.

Mayor Grant questioned who signed the JPA.

Councilmember Fabel reported the JPA was signed by Mayor Grant and the former City Administrator.

Mayor Grant explained the proposed public hearing would provide a time for residents to have a conversation specific to TCAAP. He indicated he would like to speak to Councilmember Fabel further regarding the JPA and the public mechanisms that should be in place to provide for public involvement.

Councilmember Monson questioned what the intent was on the TCAAP Public Hearing. She stated it appeared the City was proposing to have a standing public hearing for TCAAP. She questioned how this would be different than the Public Inquiries.

Mayor Grant reported the City began holding a separate TCAAP Public Hearing in 2014 to allow the public a dedicated space to speak about the development.

Councilmember Monson asked how this was different than Public Inquiries.

Mayor Grant stated the hope was that the public would see that the Council had a separate space to hear residents concerns and comments regarding TCAAP.

Councilmember Monson indicated she was confused given the fact the City was not the governing body regarding TCAAP. She feared the public hearing felt misplaced or misleading. While she understood this body listened to comments from the public, this body does not make decisions regarding TCAAP. She did not believe this meeting was the proper place to deliver TCAAP messages.

Councilmember Holden suggested the TCAAP Hearing be Item 2B, right after Item 2A, Public Inquiries in order to provide residents a place to speak regarding TCAAP. She was disturbed by the fact the Council did not want to hear from the public regarding this development. She noted decisions would still have to come from the City in order to move this project forward. She reported the Council had this item on the agenda for many years and it allowed people to come

forward and speak about questions or concerns they may have had about TCAAP. She commented further on the bylaws from the JDA noting it also states all meetings will be open to the public.

Mayor Grant recommended the Council not further debate the bylaws for the JDA, but noted he understood the City had responsibilities within the document. He stated the JDA shall take into consideration the concerns, issues and desires of each parties governing body in an ongoing planning initiative discussion and process. He reviewed Schedule B which had two pages of information regarding community involvement and public engagement. He questioned how the City was to represent the public, it was by listening to the public. He stated he could support the TCAAP Hearing being Item 2B or 7A, it made no difference to him, but he would like to see a separate time and space set aside for the City to hear from the public. He reported he represented all residents in Arden Hills and part of this representation involved listening to all residents. He understood this Council has voted to not conduct a community survey, but he still saw value in listening when residents wanted to speak.

Councilmember Rousseau stated she was disappointed at the optics of this situation and she wanted the Council to make a decision at this point.

MOTION: **Councilmember Fabel moved and Councilmember Holden seconded a motion to approve the meeting agenda as amended removing agenda Items 9A and 10C.**

Councilmember Monson explained she supported having Agenda Item 2A (Public Inquiries) and 2B (TCAAP Hearing) going forward. She questioned if she could make a friendly amendment to support this change.

Mayor Grant explained this would have to be supported by the maker and seconder of the motion.

Councilmember Fabel reported he stood by his motion and the Public Inquiry portion of the agenda was a time for the public to speak on any topic. He did not support the agenda having a separate agenda item for a TCAAP Hearing stating this would be done in defiance to the JPA agreement.

Mayor Grant stated listening to the public is never disingenuous, but rather it was a very important part of representing people.

Councilmember Holden explained she did not see the harm in allowing residents a space to speak about TCAAP, noting the slate was not allowing communication.

A roll call vote was taken. The motion carried 3-2 (Councilmember Holden and Mayor Grant opposed).

2. PUBLIC INQUIRIES/INFORMATIONAL

Donna Weiman, 1406 Arden View Drive, stated at the April JDA advisory committee meeting, the City rep said additional units could go into the TCAAP project anywhere from 1,700 to 2,200

units. She explained this was 540 more units than the City submitted to Ramsey County. She questioned what the basis was for the new density range and where did these numbers come from. She stated the JDA told the advisory committee to work on a communication plan regarding the TCAAP property. However, at the April advisory committee meeting the City rep decided to delay a communication discussion until a later date. What she was hearing now, was that this discussion would be held at the May 1, 2023 JDA worksession meeting. She encouraged both City and County representatives to hear residents and lead regarding TCAAP. She wanted the City and County to hear the public's thoughts regarding density, traffic, front end costs, impacts on fire, police and schools, and how much TIF may be needed. She wanted to see a plan or plans before they are developed and presented for consideration.

Councilmember Rousseau requested the density range be addressed by the Council at a future meeting.

Mayor Grant requested staff respond to the questions raised by Ms. Weiman in the May 8 Response to Public Inquiries.

Margie Durhman, 3628 Snelling Avenue North, reported she lives next to Lindey's Steakhouse. She discussed how her property would be impacted by the roundabout. She commented on how visitors used the parking lot at Lindey's throughout the day noting some of the visitors were invasive and disruptive. She explained pets were allowed to use her yard as their dumping site and snow piles have killed the bushes, she was trying to grow for screening between the two properties. She stated five years of this has been too much. She reported she could not use her yard and headlights were glaring into her home. She requested Lindey's be required to install a fence along her property line in order to improve the privacy for her family. While she understood some trees may be lost, she wanted to see the fence installed.

Tom Ryther, (address not provided) explained he was a retired news and sports broadcaster from St. Louis. He reported he has lived in Arden Hills for the past 20 years and has really enjoyed his time in the community. He commented on an article in the recent Arden Hills newsletter and asked why the new Councilmembers were using woke terms like diversity, equity and inclusion to describe the plans for the former TCAAP site. He noted terms like affordability and sustainability were also being used, which were purely political in nature. He questioned why the new Councilmembers needed money from Arizona and California and big unions to back their election campaigns. He believed this was a mystery and inquired why people from outstate had any right to say how the Arden Hills election should be run. He questioned why money was not sought from Arden Hills residents directly. He asked what the new Councilmembers' motivation was in using left-wing terminology. He inquired why the new Councilmembers would not allow the public to attend their meetings. He recommended Arden Hills residents be allowed to vote on this project because it was our community. He encouraged the new Councilmembers to not be so secretive with meetings. He reported Arden Hills was peaceful and safe and he would like to keep it this way. He urged the new Councilmembers to provide residents with reasons for why they were acting the way they were.

Lynn Diaz, 1143 Ingerson Road, reported the JDA advisory committee does not fall under the open meeting law, since there are only two members. However, she also understood the public's interest in keeping abreast of the committee. She encouraged the JDA advisory committee post

more detailed minutes online and upload materials that are presented at the meetings. She stated it would be nice to know what information or conclusions they would be providing to the full JDA ahead of their next meeting. She stated if the advisory committee chooses to have observers or video that would be fine, but she did not support public input or public comment period. She suggested this only be done at JDA meetings. She was glad to see the JDA and advisory committee moving forward in a sincere, non-confrontational manner. She hoped the JDA would come up with a wonderful plan that brings businesses, jobs and affordable/middle housing that fosters community and will be environmentally friendly. She believed Mayor Grant's statement was misleading that he wants public input. She was of the opinion this was the proper place for public input regarding TCAAP and a separate agenda item was not necessary.

Gregg Larson, 3377 North Snelling Avenue, commented on the TCAAP Public Hearing item. He noted this was déjà vu after a TCAAP item appeared on the February 13 Council agenda. He stated in both cases, the Mayor made unilateral decisions to embellish the agenda without consulting the Council. He reported in both cases, there was no Council action pending, no proposal to consider. He noted in both cases, there was no staff memo. He stated at the February 13 meeting and tonight, the Council wisely removed those items. He was of the opinion the Mayor has found religion for his abrupt push for public participation on TCAAP. He indicated it was ironic the Mayor and previous Council never sought public participation in the year and half after the district court dismissed both the County and City claims in June of 2021. Surely that would have been a time to seek resident reactions on the City's next steps. But then, the Council took the step and approved a term sheet agreement with the TCAAP developer at their May 9, 2022 meeting. He explained this term sheet provided 20% of the 1460 units would be affordable and the City agreed to \$17 million in TIF. He reported this was a significant approval that was worthy of public reaction, but the approval came at the end of a meeting with no opportunity for public comment and when he tried to make comment he was ruled out of order. He suggested the Council adopt a meeting agenda policy. He recommended agendas be built by as a Council function and not a mayoral function.

Linda Swanson, 1124 Ingerson Road, stated based upon an April 13 JDA advisory committee meeting, it became obvious the only reason the JDA advisory committee was formed was to keep information a secret from the Arden Hills residents. She reported during the April 10 Council meeting, at which time Councilmember Fabel was present, Mayor David Grant asked the City Attorney if the JDA advisory committee could conduct open meetings at which time the City Attorney said the JDA advisory committee could conduct open meetings. She commented on April 13 a few Arden Hills residents and the Mayor met at the Arden Hills office intending to attend the JDA advisory committee meeting. She was told at that time that the advisory committee members refused to open the meeting to the public and Mayor. After the meeting, Dave Perrault posted the meeting summaries as well as other advisory summaries. She explained when the County sued the City, the number of units stood at 1460 units. Although the meeting summaries don't provide all information, discussion about the number of units on TCAAP was proposed to be 1,700 to 2,200 units. She questioned where this number of units came from. She noted this number did not come from a City Council or JDA meeting. She asked if the JDA advisory committee was withholding pertinent and relevant information, and are they making decisions that should not be made. She questioned if this was why the JDA advisory committee meetings were being held under the cloak of darkness. She believed it was appalling that this information was being withheld. She explained she sent an email to Tom Fabel and encouraged him to remember

he represents all Arden Hills residents and yet he was withholding information. She inquired what happened to his campaign promise for transparency and public participation. She recommended the JDA advisory committee meetings be opened to all interested parties.

3. RESPONSE TO PUBLIC INQUIRIES

A. Responses from April 10, 2023 Regular City Council Meeting

City Administrator Perrault reported five residents spoke at the April 10 Council meeting. He summarized the comments and questions that were raised. He explained the JDA's meeting scheduled for May 1 would address questions raised for communication and public engagement. He stated the blueprint for TCAAP remains the same as it did in 2018 and 2016, that was approved within the master development agreement, otherwise known as the TCAAP redevelopment code. Going forward, the JDA committee was considering adjustments or ranges to the density.

4. PUBLIC PRESENTATIONS

None.

5. STAFF COMMENTS

A. TCAAP/Rice Creek Commons Update

City Administrator Perrault stated the County held a press release meeting today to announce the official release of the request for development interest on the thumb property at TCAAP. He noted the release was announced today, but was approved by the JDA on April 3. He explained a draft of the solicitation can be found within the packet for this meeting. He stated the County has relaunched the Rice Creek Commons website. In the future, he hopes to have the advisory committee summaries on this website. He reported the JDA would be holding a special worksession on May 1, 2023 at 5:30 p.m. and a special regular meeting may follow if anything needs approval. Otherwise, the JDA would be holding its next regular meeting on June 5, 2023.

Councilmember Holden asked if public comment would be allowed at the JDA worksession meeting.

City Administrator Perrault commented this has not been specifically discussed.

Councilmember Holden stated she was concerned regarding the criteria within the solicitation for the thumb property based on the fact only county goals and county initiatives would be considered. She questioned what happened to the City goals for this project.

City Administrator Perrault stated the City was not privy to this land sale. This would be a County function as they are the landowner and the City's responsibility was the zone the site.

Councilmember Holden reported the JDA does allow for City input.

City Administrator Perrault reported the solicitation went to the JDA for approval, per the bylaws and the reps of the JDA represent the City at that meeting.

Councilmember Holden indicated the City reps choose not to require any City scoring or input on this project.

City Administrator Perrault stated he could not speak to that.

Councilmember Holden expressed frustration with the fact she was asking a question and staff was not providing her, an elected official with any information.

Mayor Grant stated Administrator Perrault served as the Development Director for the JDA.

Councilmember Holden stated she would like an answer to her question.

City Administrator Perrault reported he had provided an answer.

Councilmember Holden requested a JDA representative provide her with information on where the City's criteria and goals were for the sale of the thumb property.

Councilmember Fabel explained the development plan and zoning code has criteria. He stated the RFP calls the attention of potential developers to refer to these documents to learn what the City and County have prescribed for this property.

Councilmember Holden expressed frustration with the fact the City would not be involved in scoring this project, or in setting any goals or objectives for this development. She asked where the 1,700 to 2,200 units on TCAAP came from.

City Administrator Perrault stated this was discussed at a JDA advisory committee meeting. He noted the intent was to have an additional range of densities that were plausible within the AUAR which was between 1,500 to 2,500 units and to give a range of options to explore with the developer.

Mayor Grant reported the JDA chose to meet only six times over 2023 and has elected to limit discussions to the JDA to only two minutes, which was a short period of time. He asked if the JDA would allow residents to speak for more than two minutes on May 1.

City Administrator Perrault stated he was not certain, noting this would be a special JDA worksession. He stated Chair Wicklund has stated his intention for all future JDA meetings was to allow the public to speak for up to three minutes.

Mayor Grant asked that staff gather all documents regarding the County RFP for the thumb property and have these distributed to the Council.

City Administrator Perrault noted all of these documents were available on the Rice Creek Commons website.

Mayor Grant questioned how much advanced notification did the Council have regarding the solicitation.

City Administrator Perrault stated the initial heads up that the County was exploring this project was as early as March 10 and noted the draft solicitation was available at the JDA meeting.

Councilmember Holden requested staff provide a direct link to the JDA advisory committee in order to assist the public in finding the summaries for this group.

City Administrator Perrault stated he would work make this information more easily accessible to the public.

Mayor Grant commented prior to April 13 there were no minutes or summaries for the JDA advisory committee.

City Administrator Perrault explained Council was receiving summaries from the advisory committee since March and the public posting of the summaries occurred after April 13.

B. Transportation Update

Public Works Director Swearingen updated the Council on the Lexington Avenue reconstruction project. He reported Canadian Pacific Railroad began their work on the rail crossing on April 17. He explained no vehicles would be allowed through the closure and noted a detour was in place. He indicated the closure should be in place for another two or three weeks. Starting April 26, Ramsey County will be closing the traffic movement on I-694 eastbound to Lexington Avenue northbound and traffic movement for Lexington Avenue southbound to I-694 eastbound. He described the detour that would be put in place through this area and noted the detour would be in place for two weeks.

Mayor Grant reiterated that the Lexington Avenue reconstruction project was being led by Ramsey County.

Councilmember Monson stated she has had some conversations with local businesses and it was her hope the City would revitalize the EDC. She discussed how important it was for the public to know how to get to the businesses along Lexington Avenue.

Councilmember Holden explained she has been told by six business owners that they have tried to contact the County and have not had a response. She asked that staff speak with the County and encourage the County to be in contact with the local business owners. She commented further on how detrimental this project has been to the businesses along Lexington Avenue.

Mayor Grant indicated he spoke with staff regarding signage changes to ensure the public knows the Lexington Avenue businesses were open.

Public Works Director Swearingen stated he drove through the site and noted the new signs have not been added. It was his understanding the project manager was seeking approval from his

supervisor to make the addition. He noted the request has been made, but the signage has not been placed.

Mayor Grant explained the businesses along Lexington Avenue were not happy and several spaces within Lexington Station were now vacant. He wanted to see better signage in place to assist these businesses. He commented on how the City was very surprised by the railroad work and road closures that were now in place due to the work being completed by Canadian Pacific.

6. APPROVAL OF MINUTES

- A. March 13, 2023, Regular City Council
- B. March 20, 2023, City Council Work Session
- C. March 20, 2023, Special City Council

Councilmember Holden reported she spoke with staff regarding changes to the March 13 regular and March 20 worksession minutes.

Councilmember Monson noted she also had a minor change to the March 20 worksession minutes and this was discussed with staff.

MOTION: **Councilmember Monson moved and Councilmember Rousseau seconded a motion to approve the March 13, 2023, Regular City Council meeting minutes, March 20, 2023, City Council Work Session meeting minutes; and March 20, 2023, Special City Council meeting minutes as amended. The motion carried (5-0).**

7. CONSENT CALENDAR

- A. Motion to Approve Consent Agenda Item - Claims and Payroll
- B. Motion To Approve First Quarter Financials
- C. Motion To Approve 2024 Budget Calendar
- D. Motion To Authorize City Staff To Begin Summer Work Hours Beginning Tuesday, May 30, 2023, And Concluding On Friday, September 1, 2023
- E. Motion To Approve NYFS Council Liaison
- F. Motion To Approve Resolution 2023-019 – Site Plan Review For 4300 Round Lake Road And 1987 Gateway Boulevard
- G. Motion To Accept Building Inspector/Code Enforcement Resignation
- H. Motion To Authorize To Recruit For A Building Inspector/Code Enforcement Officer

MOTION: **Councilmember Rousseau moved and Councilmember Holden seconded a motion to approve the Consent Calendar as presented and to authorize execution of all necessary documents contained therein. The motion carried (5-0).**

8. PULLED CONSENT ITEMS

None.

9. PUBLIC HEARINGS

A. TCAAP Public Hearing

This item was removed from the agenda.

B. Planning Case 23-007 - Site Plan Review For 1273 W. County Road E And Amendments To Chapter 13, Sections 1305.04, 1320.05, And 1325.02, Subd. 5 – Zoning Code – Commercial Recreation – Outdoor In B-2 District

Community Development Director Jagoe stated the Applicant is applying for Site Plan Review for evaluation of the site layout and parking modifications that are being proposed to expand the existing outdoor patio area. The patio expansion will include additional dining tables, pergolas, a lounge area with fireplace, and a commercial recreation area for cornhole leagues. In order to construct the patio expansion, the Applicant would need to remove five parking spaces in front of the building. Two of those spaces are accessible parking spaces that will be relocated near the patio within the existing parking lot. A Site Plan Review is required in any Business, Industrial, or Multiple Family Zoning District when there is the reorganization of parking, drives, and entrances.

Community Development Director Jagoe commented as part of the application, the Applicant is also requesting a zoning code amendment to allow for commercial recreational use to be conducted outdoors in the B-2 Zoning District. Currently, the city code limits any commercial recreational activity to be conducted within an enclosed building (i.e. indoors). The Applicant is proposing that the allowance for a commercial recreation – outdoor would be limited to being an accessory use only when conducted in conjunction with a commercial recreation – indoor land use. Additionally, their narrative notes that restrictions could be included in the amended ordinance language such as capping the evening hours for which the outdoor recreational activity would be allowed (i.e. 10 PM) or no high voltage lighting (i.e. flood lights).

Community Development Director Jagoe explained the Subject Property is approximately 1.5 acres. The bowling alley also features a full service restaurant/party room and an arcade. In addition to the Subject Property, the Applicant owns two other parcels in the immediate area (i.e. east and north) along Connelly Avenue that are utilized for overflow off-street parking for the bowling alley. Neither of these parcels have a structure, parking lot only.

Community Development Director Jagoe further reviewed the surrounding area, site data, Plan Evaluation and requested the Council hold a public hearing.

Councilmember Holden asked if commercial recreation would be a CUP.

Community Development Director Jagoe explained commercial recreation would be an administrative permit and not a CUP.

Councilmember Holden expressed concern with the level of noise that would be created from the outdoor recreation.

Community Development Director Jagoe reported these uses would still be subject to the City's noise ordinance.

Councilmember Holden questioned if Flaherty's would have enough handicap parking stalls.

Community Development Director Jagoe stated it was her understanding handicap parking stalls would be relocated, and noted the number of handicap parking stalls would not be reduced.

Mayor Grant opened the public hearing at 8:26 p.m.

With no one coming forward to speak, Mayor Grant closed the public hearing at 8:27 p.m.

10. NEW BUSINESS

- A. **Planning Case 23-007 – Site Plan Review And Amendments To Chapter 13 – Zoning Code – Commercial Recreation, Outdoor B-2 District • Resolution 2023-020 - Planning Case 23-007 – Site Plan Review For 1273 W. County Road E • Ordinance 2023-004 - Amendments To Chapter 13, Section 1305 – Subsection 1305.04, Section 1320 – Subsection 1320.05, And Section 1325 – Subsection 1325.02 • Authorization Publication Of Summary Ordinance 2023-004**

Community Development Director Jagoe stated the Applicant is applying for Site Plan Review for evaluation of the site layout and parking modifications that are being proposed to expand the existing outdoor patio area. The patio expansion will include additional dining tables, pergolas, a lounge area with fireplace, and a commercial recreation area for cornhole leagues. In order to construct the patio expansion, the Applicant would need to remove five parking spaces in front of the building. Two of those spaces are accessible parking spaces that will be relocated near the patio within the existing parking lot. A Site Plan Review is required in any Business, Industrial, or Multiple Family Zoning District when there is the reorganization of parking, drives, and entrances.

Community Development Director Jagoe reported as part of the application, the Applicant is also requesting a zoning code amendment to allow for commercial recreational use to be conducted outdoors in the B-2 Zoning District. Currently, the city code limits any commercial recreational activity to be conducted within an enclosed building (i.e. indoors). The Applicant is proposing that the allowance for a commercial recreation – outdoor would be limited to being an accessory use only when conducted in conjunction with a commercial recreation – indoor land use. Additionally, their narrative notes that restrictions could be included in the amended ordinance language such as capping the evening hours for which the outdoor recreational activity would be allowed (i.e. 10 PM) or no high voltage lighting (i.e. flood lights).

Community Development Director Jagoe explained the Planning Commission reviewed this application at their April 5, 2023 meeting and have offered the following findings of fact for your consideration.

General Findings:

1. The Applicant has submitted an application for Site Plan Review at 1273 West County Road E to expand the existing outdoor patio that will include an accessory outdoor commercial recreation area.
2. The Subject Property is located within the B2 General Business District and is guided as Community Mixed Use on the 2040 Land Use Plan.
3. Through the Site Plan Review, the Applicant is seeking approval to remove five off-street parking spaces and reconfigure the location of accessible parking spaces in order to expand the outdoor patio space.
4. The Applicant is proposing to add approximately 1,350 square feet of new impervious surface for the expanded outdoor patio area and is converting approximately the same square footage of existing impervious surface to a permeable surface with the addition of artificial turf on the Subject Property.
5. The proposed plan does not conflict with the general purpose and intent of the Zoning Code or the Comprehensive Development Plan for the City.
6. The application is not anticipated to create a negative impact on the immediate area or the community as a whole.
7. The proposed plan will not produce any permanent noise, odors, vibration, smoke, dust, air pollution, heat, liquid, or solid waste, and other nuisance characteristics.
8. The proposed plan is not anticipated to have any impact on traffic or parking conditions.
9. The outdoor patio and accessory commercial recreation – outdoor area would be in compliance with all provisions of the Zoning Code.
10. A public hearing is not required for Site Plan Review.

Text Amendment Findings:

1. Flaherty's, The Applicant, is proposing amendments to the language of Chapter 13 – Zoning Code of the City Code.
2. Currently, Section 1305.04 does not include a definition for Commercial Recreation – Outdoor.
3. The Applicant is proposing the City amend the zoning code to add a definition for Commercial Recreation - Outdoor to Section 1305.04 of the Zoning Code.
4. The Applicant is proposing an amendment to alter the Land Use Chart in Section 1320.05 of the Zoning Code to allow a Commercial Recreation – Outdoor as an Accessory Use in the B2 General Business District.
5. The proposed amendment advances the economic development goals in the City's Comprehensive Plan because it provides for land use regulations in commercial zones that provide flexibility for economic development while requiring high aesthetic standards.
6. Amendments to the Zoning Code regulations require a public hearing prior to action by the City Council.
7. If the zoning amendments were approved, an Applicant would be required to apply for an Administrative Permit for the accessory use to allow Commercial Recreation – Outdoor within the B2 Zoning District.

8. The Planning Commission conducted a public hearing for the Text Amendment on April 5, 2023.

Community Development Director Jagoe stated the Planning Commission reviewed this application at their April 5, 2023 meeting. At that time, they recommended approval with conditions of the application from Flaherty’s for a Site Plan Review and Zoning Code Amendments by a 7-0 vote. Staff reported the Planning Commission recommended the Council adopt Resolution 2023-020 and Ordinance 2023-004 for Planning Case 23-007 for Site Plan Review at 1273 West County Road E and Zoning Code Amendments to Section 1305.04 - Definitions, Section 1320.05 – Land Use Chart and Section 1325.02 – Accessory Uses based on the findings of fact and the submitted plans, as amended by the conditions below:

- 1) That the project shall be completed in accordance with the plans submitted as amended by the conditions of approval. Any significant changes to these plans, as determined by the Community Development Director, shall require review and approval by the Planning Commission and City Council.
- 2) An administrative permit shall be obtained for the commercial recreation outdoor area.
- 3) Prior to commencement of patio expansion, the Applicant shall provide the City with the final erosion control plans for review and approval by the Public Works Director/City Engineer.
- 4) The Applicant shall be responsible for obtaining any permits necessary from other agencies, including but not limited to, Rice Creek Watershed District and Ramsey County prior to the start of any site activities. Verification whether a permit is required or not shall be provided to the City.

Councilmember Monson stated she believed this would be a great addition to the City and she supported the recommendation from the Planning Commission to strike limiting this to only indoor recreation uses. She looked forward to allowing more businesses to have great outdoor spaces.

MOTION: **Councilmember Monson moved and Councilmember Fabel seconded a motion to adopt Resolution 2023-020 and Ordinance 2023-004 for Planning Case 23-007 for Site Plan Review at 1273 West County Road E and Zoning Code Amendments to Section 1305.04 - Definitions, Section 1320.05 – Land Use Chart and Section 1325.02 – Accessory Uses based on the findings of fact and the submitted plans, as amended by the conditions in the April 24, 2023, Report to the City Council. The motion carried (5-0).**

MOTION: **Councilmember Monson moved and Councilmember Holden seconded a motion to authorize staff to publish a Summary Ordinance for Ordinance 2023-004 for Planning Case 23-007. The motion carried (5-0).**

- B. Resolution 2023-021 - Planning Case 23-006 – Site Plan Review for 3610 Snelling Avenue North

Community Development Director Jagoe stated Lindey’s Prime Steakhouse opened in Arden Hills in 1961. The City established the Neighborhood Business District on September 27, 1999.

Neighborhood Business sites are located at the edge of residential neighborhoods and are intended to provide a limited range of over-the-counter, convenience, retail, and service uses to accommodate the needs of the adjacent residents. Since these areas are located adjacent to residential neighborhoods, the City did adopt limitations on the type, size and intensity of uses within this district. On November 27, 2000, the City rezoned seven sites, including the Subject Property, to NB, Neighborhood Business District. Today, the Subject Property is considered legal nonconforming in this district.

Community Development Director Jagoe stated the Applicants are applying for Site Plan Review for evaluation of the site layout and parking modifications that are being proposed as a result of the operational changes impacted by the County Road E/Old Snelling Avenue Roundabout project. There are no changes to the restaurant operations or the building as part of this application. As a legal nonconforming site, the County has allowed the continuation of use of the two driveway accesses along Old Snelling Avenue and one access off of County Road E. The access off of County Road E is a smaller commercial/residential driveway. With the roadway project, the Applicants are required by Ramsey County to eliminate one of the driveway accesses along Old Snelling Avenue in order to bring the property closer to conformance with current County standards. Thus, the proposed parking lot improvements have triggered the Site Plan Review process for reconfiguration of the site layout.

Community Development Director Jagoe stated the Subject Property is approximately 1.5 acres which includes both a restaurant, a residential home, and a detached cottage. The main parking lot is located in the western and central portions of the lot. The site has significant tree canopy coverage with more green areas on the southern and eastern portion of the property. The parking lot reconfiguration will occur essentially within the same footprint that exists today with the exception of the addition of parking spaces between the building and eastern property line. For the Site Plan review, the proposed improvements include elimination of the southern most access on Old Snelling Avenue, upgrading the driveway access off of County Road E to full commercial standards, and the addition of parking stalls and a trash enclosure.

Community Development Director Jagoe stated the Planning Commission reviewed this application at their April 5, 2023 meeting. During the meeting, the Planning Commission voted to strike the draft Condition of Approval #5 “All retaining wall materials shall be complementary to the building materials and shall be approved in writing by the Planning Division prior to issuance of a building permit. Retaining walls greater than four (4) feet in height shall be engineered and detailed calculations shall be submitted to the City.” This motion was made after the Applicant clarified that there would be no retaining walls on the Lindey’s property, but rather a retaining wall would be installed in the right-of-way as part of the roadway project and would be installed by the roadway contractor. He explained this retaining wall would be on a portion of land the County would be purchasing from Lindey’s and the retaining wall would be maintained by the County going forward. For this reason, he requested Condition 5 be removed from consideration. The motion carried unanimously (7-0). The Planning Commission also recommended approval with conditions of the application from Lindey’s for a Site Plan Review by a 7-0 vote.

Community Development Director Jagoe reviewed the surrounding area, site data and Plan Evaluation in further detail with the Council. The Planning Commission reviewed this application

at their April 5, 2023 meeting and have offered the following findings of fact for your consideration.

1. The Applicants have submitted an application for Site Plan Review at 3610 Snelling Avenue N. to resurface and reconfigure their existing parking lot that would include as part of the project scope the addition of a parking area along County Road E.
2. The Subject Property is located within the Neighborhood Business (“NB”) District and is guided as Low Density Residential on the 2040 Land Use Plan.
3. The Subject Property was developed prior to the City’s adoption of the Neighborhood Business District and is considered legal nonconforming as the existing parking lot does not comply with current city code requirements.
4. Through the Site Plan Review, the Applicants are seeking approval to resurface and restripe the existing portion of the parking lot within the same footprint.
5. The Applicants are proposing to add approximately 7,073 square feet of new impervious surface for an additional 13 parking spaces on the east side of the Subject Property.
6. Flexibility through the Site Plan Review process as allowed in the NB District is requested for the following areas: buffer yards, parking setbacks, sidewalks, and perennials and shrubberies.
7. The proposed plan does not conflict with the general purpose and intent of the Zoning Code or the Comprehensive Development Plan for the City.
8. The application is not anticipated to create a negative impact on the immediate area or the community as a whole.
9. The proposed plan will not produce any permanent noise, odors, vibration, smoke, dust, air pollution, heat, liquid, or solid waste, and other nuisance characteristics.
10. The proposed plan is not anticipated to have any impact on traffic or parking conditions.
11. The accessory off-street parking would be in compliance with all other provisions of the Zoning Code.
12. A public hearing is not required for Site Plan Review.

Community Development Director Jagoe stated the Planning Commission recommended approval of Resolution 2023-021 approving Planning Case 23- 006 for a Site Plan Review at 3610 Snelling Avenue North, based on the findings of fact and the submitted plans, as amended by the conditions below:

- 1) That the project shall be completed in accordance with the plans submitted as amended by the conditions of approval. Any significant changes to these plans, as determined by the Community Development Director, shall require review and approval by the Planning Commission and City Council.
- 2) The proposed parking area shall conform to all other regulations in the City Code.
- 3) A building permit shall be obtained for the parking lot expansion.
- 4) All light poles, including base, shall be a maximum of 14 feet in height and shall be shoebox style, downward directed, with high-pressure sodium lamps or LED and flush lenses. Other than wash or architectural lighting, attached security lighting shall be shoebox style, downward directed with flush lenses. If complaints are received the lighting adjacent to residential uses shall utilize house shields as directed by the City. In addition, any lighting under canopies (building entries) shall be recessed and use a flush lens.

- 5) A Grading and Erosion permit shall be obtained from the City’s Engineering Department prior to commencing any grading, land disturbance or utility activities. The Applicants shall be responsible for obtaining any permits necessary from other agencies, including but not limited to, Rice Creek Watershed District and Ramsey County prior to the start of any site activities. Verification of approved permits or documentation from other agencies that a permit is not necessary shall be provided to the City.
- 6) A grading as-built and utility as-built plan shall be provided to the City upon completion of grading and utility work.
- 7) Restaurant Pedestrian Trail Connection to be maintained by property owner/business.
- 8) Provide geotechnical engineer recommendations and/or geotechnical report for review by City Engineer.
- 9) Provide statement of estimated quantities (SEQ) sheet and separate items to be funded by Owner and funded by County per the Funded Improvement Sketch plan sheet that was provided to Council at the January 9th 2023 City Council Meeting.

Councilmember Holden asked if the applicant submitted a lighting plan.

Community Development Director Jagoe reported staff received a lighting plan from the applicant and this was included as Attachment F.

Councilmember Rousseau inquired if the applicant would be considering a screening fence along the north property line.

Community Development Director Jagoe explained the applicant had indicated it would be their intent to install a fence on the north property line. She stated a handout was included in the Council packet. She commented the applicants expressed an intent to install this fence at the Planning Commission meeting, but it was not shown on the site plan.

Councilmember Rousseau questioned if it was feasible to install a fence along the north property line prior to any changes being made.

Community Development Director Jagoe stated she has not been out to the site to see where the trees were located along the north property line. She presumed there was area for a fence, but she was not sure of the exact placement, given the trees in the area.

Councilmember Fabel asked if the Planning Commission would have a chance to review the height and building material of the fence before final approval.

Community Development Director Jagoe indicated the fence has not be included in the site plan review. She reported any future fence would be subject to a zoning permit and the standards within the Neighborhood Business District would be considered through this permit process. She stated this would be an administrative process with a zoning permit that is reviewed and approved by staff.

Councilmember Fabel inquired if staff could require a fence as part of approval of the project.

Community Development Director Jagoe indicated this was something the Council could require. She stated if the fence were added as a condition for approval, the City and County would have to review this further. She explained if the fence becomes a requirement of the project there was a potential the City and County costs would have to cover this expense. She stated up to this point the applicant has stated an intention of installing the fence, but it was not a condition for approval of the project.

Mayor Grant commented on the request further noting the applicant had 4.6 feet to install a fence. He stated it was his understanding three nuisance trees would be removed on the north property line. He requested further information regarding the location of these trees.

Community Development Director Jagoe reviewed the location of the two nuisance trees as noted within Attachment E.

Mayor Grant reported he lives in the Chatham neighborhood and he drives by this property often. He explained the parking for the restaurant was only a few feet from the neighboring driveway and he would like this concern addressed.

Councilmember Holden stated based on the lighting plan and the 8% reduction in the landscaping plan, she believed a fence along the north property line was required.

MOTION: **Councilmember Holden moved and Councilmember Fabel seconded a motion to adopt Resolution 2023-021 approving Planning Case 23-006 for a Site Plan Review at 3610 Snelling Avenue North, based on the findings of fact and the submitted plans, as amended by the conditions in the April 24, 2023, Report to the City Council.**

Councilmember Monson questioned how long the fence would be along the north property line.

Community Development Director Jagoe reviewed Attachment G which addressed the location of the future fence. She noted the fence would run from the edge of the parking lot to the property corner. She estimated the fence would be around 190 feet.

Paul Schrader, SRF Consulting, explained he was working with Lindey's on this application. He commented on the fence being discussed and if this was made a requirement as part of the application, this would be part of the compensation from the County. He reported the fence could not be taken to the western property corner due to a utility pole. He estimated the screen fence would be 170 feet in length. He noted Lindey's would be taking down two nuisance trees that were growing into the parking lot.

Councilmember Holden asked what type of trees were growing in the parking lot.

Mr. Schrader stated he was uncertain at this time, but noted the trees were a nuisance because they were growing into the parking lot and not because they were a certain species.

Councilmember Holden requested further comment regarding the buildings on the adjacent residential property.

Margie Durhman, 3628 Snelling Avenue North, commented on the buildings on her property. She noted the trees that would be removed were large full grown trees that provide shade to her property. She requested trees be planted along the fence line that will block light and sound as much as possible.

AMENDMENT: **Mayor Grant moved and Councilmember Holden seconded a motion to add Condition 10 to read: The applicant shall construct a six foot privacy fence on the north property line facing east/west, taking into consideration the guide wires, design to be reviewed by staff along with the applicant and owner of 3628 North Snelling Avenue.**

Ms. Durhman explained she has two vulnerable adults that live with her and vans visit her property on a regular basis to pick them up for activities. She indicated she needs the vans to be able to make the turn into the driveway without hitting the fence. She commented on the retaining wall that she had in her front yard and stated she did not want this to be disturbed.

Mayor Grant clarified that the fence would have to be constructed on the applicants property and would not impede on Ms. Derman's property. He requested further information regarding where the utility pole and guide wires are located.

Ms. Durhman reviewed the location of the pole and guide wires near the driveway. She did not anticipate the wires could be moved, but could possibly be incorporated into the new fence.

Mayor Grant stated he had thought the guide wires were near the back of the property.

Councilmember Holden reported the parking lot would not be installed all the way down to the guide wires. She supported the fence stopping before the guide wires. She then asked staff for further information regarding the lighting plan.

Mayor Grant asked if a six foot fence was the maximum height allowed for this property.

Community Development Director Jagoe explained six feet was the maximum allowed for residential properties and noted she would have to verify this for commercial properties.

Councilmember Holden requested further information regarding the location and height of the exterior light fixtures.

Community Development Director Jagoe reported the applicant was proposing to install 14 foot downcast light fixtures and all foot candles were less than .4 onto adjoining properties.

Councilmember Monson questioned what the cost would be for a six foot privacy fence that was 170 feet long. She understood this cost would be split between the City and the County.

Public Works Director/City Engineer Swearingen indicated he did not have enough information to provide the Council with a rough estimate.

Councilmember Monson stated she was concerned with the fact the fence would become a tax burden. She did not believe she could support a 170 foot long privacy fence being installed. She questioned if there was a way to review how long the fence should be in order to properly screen the neighboring residential property.

Councilmember Fabel indicated he was surprised to find out Lindey's has not installed a fence in order to screen their business from the neighboring residential property. He stated Lindey's was now getting a brand new fence, which would be at great expense to the public. He did not appreciate that a fence would also be provided to Lindey's in order to make them a good neighbor.

Mayor Grant explained he understood this concern.

Councilmember Holden indicated the fence would be a much lower cost than the parking lot and she wanted to make sure proper screening was in place between Lindey's and Ms. Durhman.

Councilmember Fabel stated it would be his preference if Lindey's would pay for the fence without having this to be done by the public.

Mayor Grant commented it would be nice if this could be done, but unfortunately, a condition for approval would be required to ensure the fence was installed.

A roll call vote was taken. The amendment carried 3-2 (Councilmembers Monson and Rousseau opposed).

A roll call vote was taken. The amended motion carried (5-0).

C. JDA Advisory Committee Request

This item was removed from the agenda.

11. UNFINISHED BUSINESS

None.

12. COUNCIL COMMENTS

Councilmember Monson commented the fire department was considering a review of going into a fire district. She explained she was working with City Administrator Perrault and the Fire Chief in order to present the Council with further information on this topic in May or June.

Councilmember Monson recommended an agenda setting policy be discussed by the Council in May.

Councilmember Monson reported the JDA was more than welcoming and she wanted to have comments from the public. She noted the JDA had lots of ideas for open houses and ideas for presentations. She explained she was excited to have this discussion at the May 1 JDA worksession meeting.

Councilmember Fabel stated as a new Councilmember he was impressed by the intelligence of City staff, along with the citizens that serve on the City's Commissions.

Councilmember Fabel indicated Commissioner Frethem informed him she is hosting a public safety gathering at the Shoreview Library on May 6.

Councilmember Holden recommended the fire department discussion/presentation be brought to a future worksession meeting.

Councilmember Holden stated she looked forward to learning more about how the JDA would be engaging with the public. She believed it would be nice if there was communication between the JDA and the City Council. She found it a shame that the Council couldn't have a line item on the agenda that welcomed people to speak about TCAAP.

Councilmember Holden questioned what was happening with Falcon Heights and the Sheriff's Department.

City Administrator Perrault reported Falcon Heights would not be renewing their contract with the Ramsey County Sheriff's Department in 2024 which meant they would be putting out an RFP for police services.

Councilmember Rousseau provided the Council with an update from the PTRC. She noted this group approved piloting a one year youth position on the PTRC and requested this item be discussed at the next worksession agenda. She would like the Council to have this pilot program up and running by the next school year.

Councilmember Rousseau stated she was looking forward to conversations with the League of Minnesota Cities regarding meeting norms, incorporating professionalism and kindness to staff.

Mayor Grant stated in regard to agenda items, it was past practice to have a public hearing as a specific item on the agenda. He explained it was his understanding the agenda could have Item 2 and 2A for Public Inquiries and TCAAP Comments.

Councilmember Fabel stated the recommendation by Mr. Larson was for the Council to consider how future agenda items are addressed. He recommended the Council address this matter at a future worksession meeting.

Councilmember Holden recalled that Councilmember Monson would support having Public Inquiries as Item 2 on the Agenda with Item 2A being TCAAP Comments.

Councilmember Monson stated she was not willing to make a motion at this time regarding agenda items. She recommended agenda setting be further discussed at a future worksession meeting.

Mayor Grant stated he would find it helpful if the JDA representatives were to clarify if they believe they have a master plan in place and if they believe they have a master developer.

Councilmember Fabel explained the JDA was in the preliminary phase of deliberations after a long period of inactivity. He noted the plans that were on the table were the plans that have been on the table for several years. He indicated there was nothing concrete on the table. He hoped to move forward and have information presented to him that would lead to a master plan. He looked forward to hearing information from the developer who is still on board, along with information on a traffic analysis and updated AUAR. He invited Mayor Grant to attend any future JDA meetings.

Mayor Grant asked if the JDA had a master developer in place.

Councilmember Fabel reported the JDA had a master developer who was under contract. The contract with this developer expired and the developer was currently negotiating with the County and JDA for an extension to the contract. He was hopeful this contractor would stay on.

Mayor Grant explained those residents wishing to recycle American flags, there was a collection bin in the lobby at City Hall. He stated all flags would be disposed of in the proper manner by the Sea Cadets at a military event. He noted the last day to bring a flag to City Hall was May 12.

ADJOURN

MOTION: Councilmember Holden moved and Councilmember Monson seconded a motion to adjourn. The motion carried (5-0).

Mayor Grant adjourned the Regular City Council Meeting at 9:40 p.m.

Julie Hanson
City Clerk

David Grant
Mayor