

**Commissioner Wicklund** stated he would like to a third condition for approval requiring the applicant to plant coniferous screening vegetation along the property line between the driveway extending to the rear corner. He indicated this would assist with screening the driveway from the street.

**Commissioner Weber** commented he did not believe it was necessary to add this condition.

**Commissioner Wicklund moved and Commissioner Jeffreys seconded a motion to recommend approval of Planning Case 21-006 for a Variance at 4073 Valentine Court based on the findings of fact and the submitted plans, as amended by the two (2) conditions in the May 5, 2021, report to the Planning Commission adding Condition 3 which shall require the applicant to plant coniferous screening vegetation along the property line between the driveway extending to the rear corner.**

**Commissioner Wicklund** explained he does not want to have the applicant to do anything differently, but he also did not want any future owner of the property to take down all of the vegetation because this would expose the larger garage to the street.

**Commissioner Weber** reported the plantings were within the City right of way and the property owner could not cut them down.

**Commissioner Wicklund** stated if this was the case, then Condition 3 would not be necessary.

**Commissioner Wicklund** and **Commissioner Jeffreys** withdrew their motion and second from the floor.

**Commissioner Weber moved and Commissioner Wicklund seconded a motion to recommend approval of Planning Case 21-006 for a Variance at 4073 Valentine Court based on the findings of fact and the submitted plans, as amended by the two (2) conditions in the May 5, 2021, report to the Planning Commission. A roll call vote was taken. The motion carried unanimously (4-0).**

**B. Planning Case 21-011; 3855 Lexington Avenue – Chick-fil-A – Conditional Use Permit – Master Planned Unit Development and Final Planned Unit Development – *Public Hearing Required***

**Planning Consultant Kansier** stated HR Green, on behalf of Chick-fil-A has submitted an application for Conditional Use Permit, Master Plan Planned Unit Development and Final Planned Unit Development. The Applicant is requesting to construct single story fast food restaurant with a drive-through. The property is located at 3855 Lexington Avenue and is zoned B-3, Service Business District, and is designated for Commercial Uses on the 2040 Comprehensive Land Use Plan.

**Planning Consultant Kansier** reviewed the surrounding area, site data, the Plan Evaluation and provided the Findings of Fact for review:

1. The property located at 3855 Lexington Avenue is designated for Commercial uses on the 2040 Comprehensive Plan.
2. The applicant has proposed a Master Plan Planned Unit Development, Final Planned Unit Development and Conditional Use Permit in order to construct a fast food restaurant with drive-through lanes.
3. The Final PUD substantially conforms with the requirements of the City Code.
4. Where the plan is not in conformance with the City Code, flexibility has been requested by the applicant and/or conditions have been placed on an approval that would mitigate the nonconformity.
5. Flexibility through the PUD process has been requested in the following areas: lot size, minimum landscape coverage, building height and parking requirements.
6. The proposed development plan meets or exceeds the minimum requirements of the City Code in the following areas: accessory structure setbacks, drive-through facility setbacks, drive-through facility landscaping setbacks, and number of parking spaces.
7. Fast food restaurants with drive-through facilities area allowed as a conditional use in the B-3 District.
8. All new developments or redevelopments in the B-3 district require a planned unit development.
9. The adjacent properties to the south and west are zoned B-3 and are guided for Commercial use in the Arden Hills 2040 Comprehensive Plan.
10. The application is not anticipated to create a negative impact on the immediate area or the community as a whole.

**Planning Consultant Kansier** recommended approval of Planning Case 21-011 for a Master Plan Planned Unit Development, a Final Planned Unit Development, and a Conditional Use Permit at 3855 Lexington Avenue, based on the findings of fact and submitted plans, subject to the following conditions:

1. The project shall be completed in accordance with the plans submitted as amended by the conditions of approval. Any significant changes to the plans, as determined by the City Planner, shall require review and approval by the Planning Commission and City Council.
2. The Conditional Use Permit and Planned Unit Development approvals shall expire one year from the date of City Council approval unless a building permit has been requested or a time extension has been granted by the City Council.
3. Prior to the issuance of building permits, the Applicant shall enter into a Planned Unit Development Agreement.
4. All areas of the site, where practical, shall be sodded or seeded and maintained. The property owner shall mow and maintain all site boulevards to the curb line of the public streets.
5. All light poles, including base, shall be a maximum of 25 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.

6. The Applicant shall be financially responsible for all applicable water and sanitary charges. Rates applied shall be those in effect at the time of Final Plat approval and shall be memorialized in the Development Agreement.
7. A right-of-way permit shall be required for work performed within the City right-of- way.
8. No exterior storage shall be permitted.
9. Prior to the issuance of a land disturbance permit, the Applicant shall submit an operation and maintenance plan for the long-term care of all on-site and off-site stormwater, sanitary sewer, and water main to the City for review and approval. The Applicant will be responsible to carry out these operation and maintenance activities and to submit the appropriate documentation to the City as specified.
10. Any future trash enclosures shall utilize wooden gates and be constructed on three sides using the same materials and patterns used on the building. Locations shall be approved by the Planning Department.
11. Prior to the issuance of a building permit, a landscape financial security in the amount of 125% of the estimated cost of the landscaping shall be submitted. Landscape financial security is held for two full growing seasons.
12. Before construction, grading, or land clearing begins, trees or tree areas that are to be preserved shall be visibly marked and city-approved tree protection fencing or other method shall be installed and maintained at the critical root zones of the trees to be protected. The location of the fencing shall be in conformance with the approved tree preservation plan and approved by staff in writing.
13. All rooftop or ground mounted mechanical equipment shall be hidden from view with the same materials used on the building in accordance with City Code requirements.
14. All fencing and 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.
15. Prior to City Council, the Applicant shall submit a materials board to be approved in writing by staff.
16. A Grading and Erosion permit shall be obtained from the city's Engineering Division prior to commencing any grading, land disturbance or utility activities. The Developer shall be responsible for obtaining any permits necessary from other agencies, including but not limited to, MPCA, Rice Creek Watershed District, and Ramsey County, MNDOT prior to the start of any site activities.
17. The Applicant shall be responsible for protecting the proposed on-site storm sewer infrastructure and components and any existing storm sewer from exposure to any and all stormwater runoff, sediments and debris during all construction activities. Temporary stormwater facilities shall be installed to protect the quality aspect of the proposed and existing stormwater facilities prior to and during construction activities. Maintenance of any and all temporary stormwater facilities shall be the responsibility of the Applicant.
18. Prior to the issuance Grading and Erosion permit, the Engineering Department shall review and approve final grading and utility plans in writing.

**Planning Consultant Kansier** reviewed the options available to the Planning Commission on this matter:

1. Recommend Approval with Conditions
2. Recommend Approval as Submitted

3. Recommend Denial
4. Table

**Chair Vijums** opened the floor to Commissioner comments.

**Justin Lark**, Chick-fil-A representative, thanked the Commission for their consideration. He reported he had met with the Council at a worksession meeting to discuss this proposal. He commented on the lighting on the west side of the building and explained he would be removing the sign on the western side of the building. He indicated he has moved the monument sign closer to Lexington Avenue per the Council's recommendation. He discussed the buffer space that was located between the hotel and Chick-fil-A and noted this area would be relandscaped. It was noted a gentleman's agreement would be pursued with the hotel for employee parking. He commented further on the parking situation and requested a variance from the City's parking requirements.

**Commissioner Weber** thanked the applicant for the additional information. He stated he was concerned with the double drive thru given how close this property was to Lexington Avenue.

**Mr. Lark** discussed how vehicles would access and exit the property. It was noted all cars exiting would be pulled further from Lexington Avenue to assist with proper vehicle queuing.

**Joseph Vavrina**, HR Green, commented on the traffic study and reported the intersection of Lexington Avenue and Red Fox Road had a service level of B during the AM peak and was at level C during the PM peak.

**Commissioner Jeffreys** asked if the areas of flexibility were typical for new developments.

**Planning Consultant Kansier** reported each site and PUD was unique. She did not believe this applicant was requesting more flexibility than any other applicant.

**Councilmember Holmes** commented the main concern was how close the drive thru lane was to the hotel. She indicated other requests did not have this concern. She stated she would be happy to hear from the Quality Inn regarding this matter.

**Commissioner Jeffreys** questioned what the hours of operation would be for Chick-fil-A.

**Mr. Lark** stated Chick-fil-A would be open Monday through Saturday from 6:30 a.m. to 10:00 p.m. and would be closed on Sundays.

**Commissioner Jeffreys** explained the traffic surprised her because she thought this business would have had more of an impact on the adjacent intersection.

**Chair Vijums** inquired if the canopy was an approved building structure.

**Planning Consultant Kansier** reported this was the case, noting the canopy would require a building permit.

**Chair Vijums** stated his main concerns were noise considerations given the fact this restaurant would be so close to the Quality Inn. He feared how noise would travel from the fast food speakers towards the hotel. He recommended that all speakers be faced away from the hotel. In addition, he was concerned about the noise that would be coming from the coolers and HVAC units on the roof.

**Mr. Lark** commented this restaurant would have two menu boards, one for each of the drive thru lanes. He stated these speakers would face due west, but were located north of the hotel. He reported the speaker boxes were 50 feet away from any of the closest parking spaces. He discussed the trees that were located at the northeast corner of the hotel property and explained these would remain in place. He indicated he has never had any concerns raised about the equipment on the roof and stated he would have to investigate the sound coming from these units and could report back to the City.

**Chair Vijums** suggested a noise study be completed once the building is constructed to ensure the noise coming from the rooftop units was not disruptive to the adjacent properties.

**Mr. Lark** reiterated that his building was meeting all City setback requirements for the Commercial zoning district.

**Mr. Vavrina** discussed the landscaping that would be put in place between the hotel and Chick-fil-A noting this would assist in providing a year round screen, while also helping to block noise.

**Planning Consultant Kansier** reported the City of Arden Hills was required to follow State guidelines and could not have noise requirements that were more restrictive than the State. She indicated the hotel was considered to be in a noise area Classification 1. She stated this meant the maximum night time noise level between 10:00 p.m. and 7:00 a.m. is 50 decibels. She anticipated this property would be similar. She discussed the ambient noise that was already coming from I-694 and other adjacent roadways. She indicated the Commission could require a noise study once the building was completed to see if additional screening was necessary for the rooftop mechanicals.

**Chair Vijums** stated he was satisfied with the location of the drive thru mechanicals. He explained he would be interested in adding a condition for approval that would require the applicant to complete a noise study once the structure was built.

**Commissioner Wicklund** indicated this location, which was formerly a Perkins that ran 24 hours a day, sits adjacent to I-694. He did not believe noise would be a concern for this property. He supported the Commission leaning on staff's expertise on whether or not a noise study should be completed. He was of the opinion this was a great repurposing of this property.

**Chair Vijums** opened the public hearing at 7:52 p.m.

**Chair Vijums** invited anyone for or against the application to come forward and make comment.

**Ankit Bhakta**, owner of the Quality Inn, stated he had concerns about the proposed Chick-fil-A. He indicated he was concerned about the drive-thru, noise that would be generated by the drive-thru speakers, as well as the noise that would be generated by the rooftop HVAC units. He

discussed how the cars waiting for the drive thru would also be generating extra noise. He feared how this would impact his customers given the fact Chick-fil-A would be open until 10:00 p.m. He stated he was also concerned with where Chick-fil-A would store snow in the winter months and did not want snow being pushed onto his property.

**Commissioner Weber** explained Chick-fil-A was requesting to be closer to the property line than was allowed. He stated he now had concerns with the application given the fact the adjacent property owner had concerns with the amount of noise that would be generated by the drive thru. He indicated he did not support allowing the restaurant and drive thru moving closer to the hotel.

**Chair Vijums** asked if the drive thru speakers could be adjusted so that they faced away from the hotel.

**Mr. Lark** stated this would not be possible. He reported the drive thru speakers were 50 feet from the closest parking lot and over 100 feet from the corner of the hotel. He explained if the drive thru speakers were moved closer to Lexington Avenue this could back up traffic onto Red Fox Road.

**Chair Vijums** commented he supported the proposed plan, but noted he was also concerned about how the restaurant and drive thru would impact the adjacent hotel. He stated this use was different from Perkins, because there would be a drive thru. He supported a noise study being completed.

**Commissioner Wicklund** reported the business model for this company had Chick-fil-A closed on Sundays meaning the hotel guests would not be impacted by the drive thru on Sundays.

**Chair Vijums** suggested a condition for approval be added to address the noise concerns. He recommended a noise study be completed after the restaurant was completed or that the noise boxes be moved.

**Commissioner Jeffreys** commented on the amount of noise cars make when waiting in the drive thru line and noted this was a concern to her.

**Chair Vijums** indicated he had less concerns about the noise coming from the cars because there were only a few months out of the year that drivers could drive with their windows down. He stated he was more concerned about the noise that would be coming from the rooftop units.

**Mr. Lark** reported this was a commercially zoned property and he was meeting the City's setback requirements. He was hopeful that the noise issue would be less of a concern from a building standpoint. He explained he wanted to be a good neighbor and noted Chick-fil-A would be open only till 10:00 p.m. and would be closed on Sundays, where Perkins was open 24/7.

There being no additional comment Chair Vijums closed the public hearing at 8:07 p.m.

**Chair Vijums** stated he would like to add several conditions for approval. He proposed Chick-fil-A move the order stations from the west side of the drive through to the northeast side. In addition, he supported the applicant completing a noise study once the building is constructed to see what type of noise is being generated by the use.

**Commissioner Wicklund** expressed concern with forcing Chick-fil-A to change their drive thru. He reported Chick-fil-A had more expertise with the operation of a drive thru than the City did and he supported Chick-fil-A's proven business model.

**Mr. Lark** reported he spends a great deal of time testing and planning for sites. He explained the proposed location for the order stations would maximize the efficiency and flow on the site.

**Chair Vijums** questioned if some sort of structure should be required along the property line to block the menu boards and speaker sound from the hotel.

**Commissioner Weber** asked if a sound wall would be allowed along the property line.

**Mr. Lark** stated in other locations a wind screen has been installed to create a buffer between the drive thru and the adjacent property.

**Chair Vijums** supported some sort of noise screening being put in place between the drive thru and the hotel property. He suggested a condition be made for approval stating some sort of noise screening be required between the ordering station and the hotel.

**Commissioner Wicklund** stated he could support this recommendation.

**Chair Vijums** stated he also supported the applicant being required to complete a noise study on the building after constructed.

**Planning Consultant Kansier** reported the building would have to follow MPCA decibel level requirements.

**Commissioner Wicklund** indicated he did not support the City making this requirement. Rather, he recommended the noise concerns be brought to the Council given the fact they would have the final say in the matter. He suggested that if a condition was drafted that it read: Noise levels must meet MPCA guidelines for this Planning Case.

**Commissioner Wicklund moved and Commissioner Weber seconded a motion to recommend approval of Planning Case 21-011 for a Master Planned Unit Development, a Final Planned Unit Development and a Conditional Use Permit at 3855 Lexington Avenue based on the findings of fact and the submitted plans, as amended by the eighteen (18) conditions in the May 5, 2021, report to the Planning Commission adding Condition 19: The Applicant must meet MPCA noise guidelines and Condition 20: Noise screening must be approved by City staff that addresses the ordering stations. A roll call vote was taken. The motion carried unanimously (4-0).**

**C. Planning Case 21-005; Zoning Code Amendment to Allow Places of Worship as a Conditional Use in the I-Flex District – *Public Hearing Required***

**Planning Consultant Bemis** stated the applicant is interested in developing the property located at 1275 Red Fox Road ("Subject Property") as a House of Worship. The Property is currently owned by ET Arden Hills LLC and is developed with a two-story office building and associated