



Approved: June 14, 2021

**CITY OF ARDEN HILLS, MINNESOTA
REGULAR CITY COUNCIL MEETING
MAY 24, 2021
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.

Note: On March 20th, 2020 the Mayor signed a determination allowing Councilmembers to participate in City Council meetings via telephone pursuant to State Statute 13D.021

Present: Mayor David Grant, Councilmembers Brenda Holden, Fran Holmes, Dave McClung and Steve Scott

Absent: None

Also present: City Administrator Dave Perrault; Interim Public Works Director David Swearingen; Finance Director Gayle Bauman; City Attorney Joel Jannik; Planning Consultant Jane Kansier (Bolton & Menk); Senior Planner Jessica Jagoe; City Clerk Julie Hanson; and Aaron Nielsen, MMKR

1. APPROVAL OF AGENDA

MOTION: Councilmember Holden moved and Councilmember Holmes seconded a motion to approve the meeting agenda as presented. A roll call vote was taken. The motion carried (5-0).

2. PUBLIC INQUIRIES/INFORMATIONAL

None.

3. RESPONSE TO PUBLIC INQUIRIES

A. Public Inquiry Response from May 10, 2021 City Council Meeting – Water Bill

Finance Director Bauman reported the City Council discussed two disputed water bills at the May 17 work session and provided direction to staff. She explained staff had made the necessary adjustments to the two customer accounts and communicated the changes to the customers.

- B. Public Inquiry Response from May 10, 2021 City Council Meeting- Snelling Avenue Project

Interim Public Works Director Swearingen stated at the May 10, 2021 City Council meeting there was a comment made regarding the direction staff was given to prepare plans and specifications for the Snelling Avenue project. He explained at the April 26, 2021 City Council meeting the Council directed staff to move forward with the recommendation within the feasibility report, Alternate 2, which has a strong emphasis on implementing safe pedestrian travel while utilizing the shoulder areas of the roadway. Staff commented further on the design proposed within Alternate 2 and discussed how the roadway would be modified and restriped.

4. PUBLIC PRESENTATIONS

- A. 2020 Financial Statements

Aaron Nielsen, MMKR, provided the Council with a presentation on the City's 2020 financial statements. He reported the City received an unmodified or clean opinion on its financial statements. The operation of the enterprise funds was reviewed with the Council. He discussed the General Fund revenues and expenditures in further detail and he commended the City on its strong financial position.

Councilmember Holmes thanked Mr. Nielsen for his presentation. She thanked staff for working with the auditors to address the segregation of duties concern.

Councilmember McClung stated he was pleased to see staff had worked very hard with the auditors to address the segregation of duties concern.

Councilmember Scott congratulated staff for a job well done.

Mayor Grant thanked staff and the auditors for their tremendous efforts on behalf of the community.

5. STAFF COMMENTS

- A. COVID-19 Update

City Administrator Perrault provided the Council with an update on how the City was responding to COVID-19. He encouraged residents to visit the City's website for the most current and up to date information regarding COVID-19. He reported the Minnesota Department of Health and CDC also had websites with current guidelines and recommendations. He explained the mask mandate was recently lifted by the governor and noted the City of Arden Hills did not have a mask mandate in place. He stated Arden Hills City Hall would remain closed to the public until further notice, not normal operations would continue. He indicated staff could be reached

via email or phone. He reported the City was currently planning to reopen City Hall on July 1, 2021, but that could change depending on the Governor's decision on whether or not he'll extend his emergency declaration. He commented the State was still awaiting receipt of federal government (ARP) funding and once received payments would be made to non-entitlement cities.

B. Transportation Update

Interim Public Works Director Swearingen provided the Council with an update on the I-35W MNPASS project. He encouraged residents to visit MNDOT's website for the most current and up to date information on this project.

6. APPROVAL OF MINUTES

A. May 3, 2021, Special City Council

MOTION: Councilmember Holden moved and Councilmember Holmes seconded a motion to approve the May 3, 2021, Special City Council meeting minutes as amended. A roll call vote was taken. The motion carried (5-0).

7. CONSENT CALENDAR

- A. Motion to Approve Consent Agenda Item - Claims and Payroll
- B. Motion to Approve 2020 City Financial Statements and Audit
- C. Motion to Approve Payment No. 5 – Air Express, Inc. – City Hall HVAC Replacement Project
- D. Motion to Approve Construction Contract for 2021 Concrete Improvement Project with Pember Companies
- E. Motion to Authorize Purchase of Public Works Equipment (Ford F-350, Plow and Hitch, Ford F-250)
- F. Motion to Approve Planning Case 21-004 – Amendment to Master Planned Unit Development and Phase 3 Final Planned Unit Development – Lexington Station Phase III
- G. Motion to Approve Planning Case 21-001 – 16th Amendment to Master Planned Unit Development – Boston Scientific
- H. Motion to Approve Watershed Maintenance Agreement with AHSL Partners LLC (Trident Development) and Stormwater Maintenance Agreement with Rice Creek Watershed – Arden Hills Senior Living
- I. Motion to Approve Resolution 2021-028 Appointing Kurtis Weber to the Planning Commission

MOTION: Councilmember Holden moved and Councilmember Holmes seconded a motion to approve the Consent Calendar as presented and to authorize execution of all necessary documents contained therein. A roll call vote was taken. The motion carried (5-0).

8. PULLED CONSENT ITEMS

None.

9. PUBLIC HEARINGS

A. Planning Case 21-011 – Conditional Use Permit, Master Plan Planned Unit Development and Final Planned Unit Development – 3855 Lexington Avenue (Chick-Fil-A)

Planning Consultant Kansier stated the proposed development site is the location of the former Perkins and is approximately 66,853 square feet (1.535 acres) in size. 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 proposing to demolish the existing building on this site and construct a 4,995 square foot fast food restaurant, with dual drive-through lanes. There are two canopies, totaling approximately 3,654 square feet covering the ordering and pick-up areas. There is also a 50-stall parking lot. The Chick-fil-A building is proposed to be located on the west side of the site, with the storefront facing Lexington Avenue. The applicant is choosing to face the store front towards Lexington Avenue to attract potential new customers that are traveling along the major arterial roadway. Positioning the building in the given layout allows the applicant to begin the drive-thru lane at the north end of the lot and run it along the west property line. The proposed patio will feature six (6) tables for a total of 24 outdoor seats.

Planning Consultant Kansier reviewed the Plan Evaluation, Traffic Study along with the Design Standards in detail with the Council and recommended the Council hold a public hearing.

Councilmember Holden asked who owns the property directly east of this parcel.

Planning Consultant Kansier stated this property was public right of way that was owned by the State and the County.

Councilmember Holden asked who owned the vacant parcel to the north and west.

Planning Consultant Kansier commented she was uncertain but could look this up for the Council.

Mayor Grant indicated he believed the Roberts Management Group owns this property.

Planning Consultant Kansier reported the owner of the property directly north of the hotel was North American Land Company.

Councilmember Scott clarified the applicant would not be using brick veneer but rather would be using a thin brick on the building.

Planning Consultant Kansier stated she would like clarification from the applicant on this building material.

Councilmember McClung indicated the order board was quite close to the property line and would be facing the hotel. He stated this was a concern to him and questioned if the order board could be moved to another location on the site. He feared that the hours of operation for Chick-Fil-A would impact that adjacent hotel. He questioned if the applicant had addressed this concern.

Planning Consultant Kansier commented there was some discussion about putting screening along the west property line. She explained the actual order board was located north of the hotel building.

Councilmember McClung stated he was mostly concerned with the noise that would be generated by the drive through and how this would impact the hotel.

Planning Consultant Kansier reported the drive through order board was more than 100 feet from the hotel building.

Councilmember McClung supported supplemental screening along the west property line. In addition, he wanted to see all deliveries made during daily operating hours and not overnight.

Councilmember Holden questioned what the hours of operation would be.

Planning Consultant Kansier stated the standard hours of operation for Chick-Fil-A were 6:00 a.m. to 10:00 p.m.

Councilmember Holden asked when the AM and PM peaks were for Chick-Fil-A.

Planning Consultant Kansier commented the AM peak can occur between 6:00 to 9:00 a.m. and the PM peak was generally between 4:00 and 6:00 p.m.

Councilmember Holden stated she was having trouble with the traffic study. She explained the traffic study was estimating the site would have 200 trips per hour and did not believe this made any sense.

Planning Consultant Kansier explained she did not have enough of an traffic background to explain the statements made within the traffic study.

Councilmember Holmes indicated she would like further clarification on where the order boards would be located on the site.

Planning Consultant Kansier reviewed the location of the order boards on the site plan.

Mayor Grant opened the public hearing at 8:00 p.m.

With no one coming forward to speak, Mayor Grant closed the public hearing at 8:01 p.m.

B. Planning Case 21-005 – Zoning Code Amendment – Chapter 13, Section 1320, Subsection 1320.05 – Land Use Concept

Planning Consultant Kansier stated Grove Church, otherwise known as Everyday Church, (“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 parking lot. The office building is no longer in use. The Subject Property includes two access points off of Red Fox Road. The property is zoned I-FLEX, which does not permit houses of worship, or other assembly uses.

Planning Consultant Kansier commented at a special work session on March 22, 2021, the Council discussed the Applicant’s proposal to develop a House of Worship in the I-FLEX District. Following the discussion, the City Council directed staff to review and propose a zoning code amendment to allow Houses of Worship in the I-FLEX District as a Conditional Use. The amendment will impact Zoning Code Section 1320.05 – Land Use Chart. At their meeting on May 5, 2021, the Planning Commission voted to recommend approval of Planning Case 21-005 to allow Houses of Worship in the I-FLEX District as a Conditional Use.

Planning Consultant Kansier explained the I-FLEX District is guided as Mixed Business (MB) and Light Industrial & Office (IND) in the Arden Hills 2040 Comprehensive Plan Land Use Chapter. The MB area is designated for a variety of businesses, including commercial, certain light industrial uses, warehousing, office, general business, and retail. The expected share of uses within this area are as follows: 0% to 50% Light Industrial; 0% to 50% Retail; and 25% to 100% Office. A development intensity of up to 0.8 FAR may be allowed. The IND area is designated for a broad range of light industrial uses such as manufacturing, processing, and warehousing. This land use may also include offices. The expected share of uses within this area are as follows: 50% to 100% Light Industrial and 0% to 100% Office. A Development intensity of up to 0.8 FAR may be allowed. According to the Comprehensive Plan the total area of the MB land use is 55 acres, or 0.9% of the total land area in the City, the total area of the IND land use is 346 acres, or 5.7% of the total land area in the City.

Planning Consultant Kansier reported the entire I-FLEX District is within the Red Fox/Grey Fox/Lexington Avenue Business Area which is discussed in the Land Use Chapter. This area includes Red Fox and Grey Fox roads and is bounded by Lexington Avenue, Highway 51, Interstate 694, and the Canadian Pacific railway. This area is used by a number of small and large businesses for a variety of retail, manufacturing, distribution, warehousing, and office uses. This area was largely developed between the 1950s and 1970s, though the retail area along Lexington Avenue has had some new development and redevelopment in the last 15 years. This area is marked as an area of possible redevelopment in 2040.

Planning Consultant Kansier reviewed the Plan Evaluation and recommended the Council hold a public hearing.

Mayor Grant opened the public hearing at 8:07 p.m.

With no one coming forward to speak, Mayor Grant closed the public hearing at 8:08 p.m.

C. Planning Case 21-008 – Zoning Code Amendment – Chapter 13, Section 1330, Subsection 1330.03, Subd. 5, E – Shoreland Structure Setback

Planning Consultant Kansier stated in September of 2020, Kye Samuelson (“Applicant”) requested a Variance in order to construct an accessory structure near the shoreline of 3493 Siems Court (“Subject Property”) within the Shore Impact Zone of Lake Johanna. The Applicant requested a variance to build a 120 square foot accessory storage structure that encroached eighteen (18) inches into the Shore Impact Zone of Lake Johanna. The proposed structure exceeded the eight (8) foot height limitation at ten (10) feet, six (6) inches. The rationale for the variance was that the structure would be used for the storage of modern day recreational water equipment and the hardship was due to the rear yard topography. The Subject Property is zoned R-1, Single Residential District, is located in the Shoreland Management District, and is guided as Low Density Residential on the Land Use Plan.

Planning Consultant Kansier reported at its October 7, 2020 meeting, the Planning Commission voted to table the request to allow the Applicant to revise their plans to better conform to the Shoreland Ordinance provisions. The Applicant took the Planning Commissions comments under consideration and submitted revised plans for a smaller structure that would not encroach into the Shore Impact Zone. The Applicant then proposed to construct an accessory structure that would be nine and a half (9.5) feet tall and ninety-three and a half (93.5) square feet in size. However, the proposed structure still required a variance due to the proposed height and area that exceeded current ordinance standards. At its December 9, 2020 meeting the Planning Commission reviewed and discussed the updated application. The Planning Commission voted 4-3 to approve the planning case.

Planning Consultant Kansier commented at its January 11, 2021 meeting the City Council reviewed Planning Case 20-017. The City Council voted unanimously to table this planning case to allow them to review the existing accessory structure size standards for the Shoreland District. The Applicant signed a 6-month Extension Form, requiring the City Council to take action on the variance request by July 12, 2021. At its February 16, 2021 meeting the City Council discussed increasing the permitted size of accessory structures within the Ordinary High Water Level (OHWL) setback. The City Council directed staff to draft ordinance language to increase the size of accessory structures located within the OHWL setback. The City Council did not support increase the height of accessory structures located within the OHWL setback.

Planning Consultant Kansier explained following this meeting, staff drafted ordinance language and sent the language to the DNR for review. At its April 19, 2021 Work Session, the City Council reviewed the proposed amendment to the zoning code and directed staff to bring the draft language to the Planning Commission for review. Staff received written comments from the DNR prior to the Planning Commission meeting. A full evaluation of the proposal was presented to the Planning Commission on May 5, 2021. At this meeting, the Planning Commission voted to approve Planning Case 21-008 with some amendments.

Planning Consultant Kansier stated during the May 5, 2021 Planning Commission Meeting, a resident noted that the classification of Lake Johanna in the Arden Hills City Code as a general development lake is inconsistent with the classification of Lake Johanna on the Minnesota Department of Natural Resource’s website as a recreational development lake. Since this meeting, staff has been in contact with the DNR to discuss this inconsistency. The DNR noted that this inconsistency was identified in 1984 and the City of Arden Hills passed a resolution requesting the DNR to change their classification to Lake Johanna to a general development lake to match

the classification in the Arden Hills City Code. Unfortunately, the resolution was never sent to the DNR, and the classification was never changed. With consent of the Arden Hills City Council, the DNR is willing to accept the 1985 resolution and update their classification of the lake to match that of Arden Hills.

Planning Consultant Kansier reviewed the Plan Evaluation in further detail with the Council and recommended the Council hold a public hearing.

Mayor Grant opened the public hearing at 8:15 p.m.

Kye Samuelson, 3493 Siems Court, thanked the Council for considering this issue on behalf of the residents that live on Arden Hills lakes. He appreciated that fact that both practicality of the structure and beautification of the lake was considered within this Ordinance. He stated he would appreciate more information from the Council regarding the proposed building height and why the structures had to be parallel to the lakeshore. He explained there were a number of unique properties along the lakes that had existing structures and he questioned why existing foot prints had to be utilized.

Gregg Larson, 3377 North Snelling Avenue, explained he made the Planning Commission aware of the fact the Arden Hills Shoreland Zoning Ordinance was inconsistent with the DNR's lake classification for Lake Johanna. He discussed the differences between a general development lake and a recreational development lake. He noted Lake Johanna has a surface area of 230 acres and three miles of shoreline. He explained Lake Johanna was clearly a recreational development lake. He stated this was important to understand because there was a difference in the setbacks required for recreational development lakes (35 feet from OHWL) versus general development lakes (25 feet from OHWL). He indicated this helped to enhance the aesthetics of smaller lakes and to provide for more screening between the setback and the lake. He discussed how the improper classification of Lake Johanna, Karth Lake and Little Johanna in the City were impacting the community. He encouraged the Council to put this item on hold so the City could properly inform the lakeshore owners about the correction that was needed.

Mayor Grant closed the public hearing at 8:24 p.m.

10. NEW BUSINESS

A. **Planning Case 21-011 – Conditional Use Permit (Resolution 2021-029), Master Plan Planned Unit Development and Final Planned Unit Development – 3855 Lexington Avenue (Chick-Fil-A)**

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 proposed development site is the location of the former Perkins and is approximately 66,853 square feet (1.535 acres) in size. The Applicant is proposing to demolish the existing building on this site and construct a 4,995 square foot fast food restaurant, with dual drive-through lanes. There are two canopies, totaling approximately 3,654 square feet covering the ordering and pick-up areas. There is also a 50-stall parking lot. The Chick-fil-A building is proposed to be located on the west side of the site, with the storefront facing Lexington

Avenue. The applicant is choosing to face the store front towards Lexington Avenue to attract potential new customers that are traveling along the major arterial roadway. Positioning the building in the given layout allows the applicant to begin the drive-thru lane at the north end of the lot and run it along the west property line. The proposed patio will feature 6 tables for a total of 24 outdoor seats.

Planning Consultant Kansier reviewed the request in further detail and offered the following Findings of Fact:

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 stated the Planning Commission reviewed this application at their May 5, 2021 meeting. At that time, they recommended approval of the Chick-fil-A application for a Conditional Use Permit, Master Planned Unit Development and Final Planned Unit Development by a 4-0 vote. Staff recommended approval of Resolution 2021-029, approving the Conditional Use for Planning Case 21-011 at 3855 Lexington Avenue, based on the findings of fact and the submitted materials. In addition, staff recommended approval of Planning Case 21-011 for a Master Plan Planned Unit Development and a Final Planned Unit Development 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.
 19. The Applicant must meet MPCA noise guidelines.
 20. Noise screening must be approved by City staff that addresses the ordering stations.

Planning Consultant Kansier reviewed the options available to the City Council on this matter:

1. Recommend Approval with Conditions
2. Recommend Approval as Submitted
3. Recommend Denial
4. Table

Councilmember McClung requested further information regarding the sidewalk alignment.

Planning Consultant Kansier reviewed the location of the sidewalks on the site plan.

Councilmember McClung suggested Condition 20 be amended to note the ordering stations refer to the western most ordering stations.

Councilmember Scott asked if the exterior building material would be a brick veneer or full depth brick.

Justin Lurk, Chick-Fil-A representative, reported the building would have full depth brick.

Councilmember Holden questioned if there would be only four lights in the parking lot. She asked what type of lights would be installed.

Joe Vavrina, HR Green representative, reviewed the photometric plan in detail with the Council.

Councilmember Holden inquired how tall the light poles would be.

Mr. Vavrina indicated the poles would be 25 feet in height. He reported the lights in the drive through would be installed under the canopy and would not be installed on 25 foot poles.

Councilmember Holden suggested Chick-Fil-A consider using 20 foot light poles in order to reduce the impact on the adjacent property. She suggested a four or six inch skirt be considered on the canopy to keep the light down and away from the adjacent hotel property.

Mr. Vavrina noted the lights would be downlit within the canopies. He stated he has not been required to install a skirt before and indicated he was not certain how this would impact vehicles.

Planning Consultant Kansier commented it would benefit the City to have a photometric plan that went all the way to the property line.

Councilmember Holden asked what lights would remain on after the business closed for the night.

Mr. Vavrina stated he was almost certain that the canopy lights would turn off overnight and the parking lot lights would remain on during the evening hours.

Mr. Lurk discussed the enhanced landscaping buffer that would be installed on the western property line. He explained this would create a year round screen to break down some of the light spill, if there is any.

Councilmember Holden questioned if the hotel knew about the proposed landscaping buffer.

Mr. Lurk reported his team spoke with the hotel owner and they supported the proposed landscaping buffer.

Councilmember Holden commented she was concerned with the lights and the light wash that would spill over to the hotel property. She discussed how the operation of a Chick-Fil-A differed from Perkins.

Councilmember Holmes stated she was interested in mitigating the light coming from the order boards.

Mr. Lurk reviewed the location of the order boards and discussed how traffic would flow through the site. It was noted the speakers for the order boards face west. He reported all MPCA requirements were being met for the sound system on the site.

Councilmember Holmes questioned if the grassy median would remain in place between the hotel and Chick-Fil-A.

Mr. Lurk stated this would remain in place. He commented further on the proposed landscaping plan.

Further discussion ensued regarding the HVAC unit locations and MPCA requirements for the sound coming from this site.

Councilmember Holden requested further information regarding the traffic study.

Mr. Lurk discussed the trip generation and daily trip data within the traffic study.

Councilmember Holden questioned how many trips would be coming and going to this site per day.

Mr. Lurk estimated the site would have around 2,500 trips per day which meant there would be 1,250 cars coming in and 1,250 cars going out. He estimated 40% to 50% of these trips were already traveling in the network and the remainder would be vehicles coming from outside the area to the restaurant. He commented further on the mid-day and evening peaks.

Councilmember Holden asked if one lane of the drive thru would be shut down during non-peak times.

Mr. Lurk stated the site would have the option of shutting down the outer lane during non-peak hours.

Councilmember McClung discussed the City's delivery policy and questioned if Chick-Fil-A understood the City's ordinance requirements.

Mr. Lurk reported he understood the delivery Ordinance.

Councilmember Scott asked if any of the exterior walls would be washed with lighting.

Mr. Vavrina reported there would be sconces on the south, east and north faces, with only one sconce near the pick up window on the west face.

Mayor Grant recommended a motion be put on the floor for Council consideration.

MOTION: **Councilmember McClung moved and Councilmember Holden seconded a motion to approve Planning Case 21-011 for a Master Plan Planned Unit Development (PUD) and a Final Planned Unit Development at 3855 Lexington Avenue, based on the findings of fact and submitted plans, and the twenty (20) conditions in the May 24, 2021, Report to the City Council.**

AMENDMENT: **Councilmember McClung moved and Councilmember Holden seconded a motion to amend Condition 20 to read: Noise screening consisting of supplemental tree and vegetation plantings along the west property line, screening the order and pick up stations, must be approved by City staff.**

A roll call vote was taken. The amendment to Condition 20 carried (5-0).

AMENDMENT: **Councilmember McClung moved and Councilmember Holden seconded a motion to add Condition 21 to read: Refuse collection and all deliveries are subject to applicable Arden Hills City Ordinances which prohibit overnight deliveries.**

A roll call vote was taken. The amendment to add Condition 21 carried (5-0).

Councilmember Holden indicated she would like to remove Condition 19 because the applicant would have to meet State law for all noise standards. She stated this would require renumbering of the conditions.

AMENDMENT: **Councilmember Holden moved and Councilmember Holmes seconded a motion to remove Condition 19.**

A roll call vote was taken. The amendment to remove the original Condition 19 carried (5-0).

AMENDMENT: **Councilmember Holden moved and Councilmember McClung seconded a motion to add Condition 22 to read: The water connection will be a wet tap and there will be no service disruption to other businesses in the area.**

Councilmember Holmes asked why this was necessary.

Councilmember Holden stated this requirement would ensure that when the site was hooked up to City water the surrounding businesses were not impacted.

Interim Public Works Director Swearingen reported the existing water service on the site cannot be used so a wet tap or pressure tap would have to be used to run water service to the new building.

Mr. Lurk explained he supported this recommendation.

A roll call vote was taken. The amendment to add Condition 22 carried 4-1 (Councilmember Scott opposed).

AMENDMENT: **Councilmember Holden moved and Councilmember McClung seconded a motion to add Condition 23 to read: The most western drive thru lane will be closed before 8:00 a.m. and after 9:00 p.m.**

Mayor Grant requested comment from the applicant regarding the proposed condition.

Mr. Lurk stated this condition would take the flexibility away from the operator, but he understood the notion.

Councilmember Holmes commented she would not support this amendment. She recommended the applicant be allowed to open or close the lane when needed. She questioned how the City would be able to enforce or patrol this. She supported the business being a good neighbor and recommended the City allow Chick-Fil-A to operate as they see fit.

Councilmember Holden reported if issues were to arise, Chick-Fil-A could request a change to the times in the future.

A roll call vote was taken. The amendment to add Condition 23 carried 3-2 (Councilmembers Holmes and Scott opposed).

AMENDMENT: **Councilmember Holden moved and Councilmember Holmes seconded a motion to add Condition 24 to read: The landscaping along the west property line on hotel property will be maintained by Chick-Fil-A.**

A roll call vote was taken. The amendment to add Condition 24 carried (5-0).

Councilmember Holden asked if she could add a condition requiring the canopy lights in each lane to be placed on a separate switch.

City Attorney Jamnik reported this could be done and noted a glare shield could also be required.

AMENDMENT: **Councilmember Holden moved and Councilmember McClung seconded a motion to add Condition 25 to read: The canopy lights in each lane shall be put on separate switches.**

Councilmember Holmes believed this condition was too cumbersome for the applicant. She noted the hotel would have lights on in the parking lot. She indicated she would not be supporting this condition.

Councilmember Scott anticipated turning off the lights in one lane of the drive thru would not greatly impact the adjacent hotel. For this reason, he would not be supporting the amendment.

Mayor Grant commented he believed it was wise to have the lanes on separate switches and that this was best done up front.

A roll call vote was taken. The amendment to add Condition 25 carried 3-2 (Councilmembers Holmes and Scott opposed)

AMENDMENT: **Councilmember Holden moved and Councilmember McClung seconded a motion to add Condition 26 to read: The western most canopy will have its lights shut off at 9:00 p.m.**

A roll call vote was taken. The amendment to add Condition 26 carried 3-2 (Councilmembers Holmes and Scott opposed).

AMENDMENT: **Councilmember Holden moved and Councilmember McClung seconded a motion to add Condition 27 to read: A stop sign shall be installed at Red Fox Road.**

Councilmember Holmes questioned why the proposed stop sign was 16 feet back.

Mr. Lurk reported this was to accommodate the sidewalk that would run to the west. He reported the stop sign could be moved five feet further to the south.

Councilmember Scott stated he did not have enough knowledge to say one way or the other on this.

Councilmember Holmes indicated she was confused. She noted there was not a stop sign at Lexington Plaza. She believed people seemed to know to stop before coming out of a parking lot. She commented if the intent was to stop traffic before the crosswalk, then the proposed location would work.

Planning Consultant Kansier reviewed the site plan and noted the location of the proposed stop sign at Red Fox Road.

Councilmember Holden stated she was trying to have a stop sign at the parking lot exit at Red Fox Road.

Mr. Lurk explained typically you wanted to stop traffic before they got to the crosswalk. He indicated it was not typical to have two stop signs only 10 to 15 feet apart.

City Attorney Jamnik reported when trails are separated by a boulevard back from the road right of way, some cities have put a small sign up for trail crossing and a larger stop sign at the road entrance. However, he deferred this matter to the City Engineer or County traffic safety individuals. He suggested this condition be amended to require the applicant to verify with City and County Engineers what signage approach would work at this intersection.

Councilmember Holden withdrew her amendment to add Condition 27.

Councilmember McClung withdrew his second.

AMENDMENT: **Councilmember Holden moved and Councilmember McClung seconded a motion to add Condition 27 to read: The City Engineer and the County Engineer will verify with the applicant what signage approach should be installed at the intersection of Red Fox Road.**

A roll call vote was taken. The amendment to add Condition 27 carried (5-0).

A roll call vote was taken. The amended motion to approve Planning Case 21-011 for a Master Plan Planned Unit Development (PUD) and a Final Planned Unit Development at 3855 Lexington Avenue, based on the findings of fact and submitted plans, the twenty (20) conditions as presented in in the May 24, 2021, Report to the City Council and the addition of Conditions 20, 21, 22, 23, 24, 25, 26 and 27 carried (5-0).

- B. Planning Case 21-005 – Ordinance 2021-003 Zoning Code Amendment – Chapter 13, Section 1320, Subsection 1320.05 – Land Use Charter**

Planning Consultant Kansier stated Grove Church, otherwise known as Everyday Church, (“The Applicant”) has submitted an application for an amendment to the language of Chapter 13 – Zoning Code of the Arden Hills City Code to allow for Houses of Worship as a Conditional Use in the I-FLEX District in City Code Section 1320.05 – Land Use Chart. 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 parking lot. The office building is no longer in use. The property is zoned I-FLEX, which does not permit houses of worship, or other assembly uses. Staff reported the City Council was asked to hold the required public hearing for Planning Case 21-005 under Agenda Item 9B.

Planning Consultant Kansier offered the following Findings of Fact:

1. The City of Arden Hills is proposing amendments to the language of Chapter 13 – Zoning Code of the City Code.
2. The Subject Property is located in the I-FLEX Zoning District.
3. Under City Code Section 1320.05, Houses of Worship are not allowed in the I-FLEX District.
4. The City is proposing to alter Section 1320.05 to allow Houses of Worship as a Conditional Use in the I-FLEX District.
5. Amendments to the Zoning Code regulations require a public hearing prior to action by the City Council.
6. If this amendment is approved, the Applicant will submit a Conditional Use Permit application for the permitting of Grove Community Church (Everyday Church) at the Subject Property.

Planning Consultant Kansier explained the Planning Commission reviewed this application at their May 5, 2021 meeting. At that time, they recommended approval of Planning Case 21-005 for an amendment to the language of Chapter 13 – Zoning Code of the Arden Hills City Code to allow for Houses of Worship as a Conditional Use in the I-FLEX District in City Code Section 1320.05 – Land Use Chart by a 4-0 vote.

Planning Consultant Kansier reviewed the options available to the City Council on this matter:

1. Recommend Approval with Conditions
2. Recommend Approval as Submitted
3. Recommend Denial
4. Table

MOTION: Councilmember Holden moved and Councilmember Holmes seconded a motion to approve Planning Case 21-005 for a Zoning Code Amendment to Chapter 13 of the Arden Hills City Code to allow Places of Worship as a Conditional Use in the I-Flex District as presented in the May 5, 2021 Report to the Planning Commission. A roll call vote was taken. The motion carried (5-0).

Mayor Grant reported it was now 10:00 p.m. and the Council needed a motion to extend the meeting.

MOTION: **Councilmember Holden moved and Councilmember Scott seconded a motion to extend the City Council meeting for 30 minutes to 10:30 p.m. A roll call vote was taken. The motion carried (5-0).**

C. Planning Case 21-008 – Ordinance 2021-004 Zoning Code Amendment – Chapter 13, Section 1330, Subsection 1330.03, Subd. 5, E – Shoreland Structure Setback

Planning Consultant Kansier stated the City Council was asked to hold the required public hearing for Planning Case 21-008 under Agenda Item 9C. Staff offered the following Findings of Fact for this request:

1. The City of Arden Hills is proposing amendments to the language of Chapter 13 – Zoning Code of the City Code.
2. The City of Arden Hills is proposing to permit accessory storage sheds within the required structure setback from the ordinary high water level of up to 100 square feet in size and 8 feet in height.
3. Amendments to the Shoreland Regulations require approval from the Minnesota DNR.
4. Amendments to the Zoning Code regulations require a public hearing prior to action by the City Council.

Planning Consultant Kansier explained the e Planning Commission reviewed this application at their May 5, 2021 meeting. At that time, they recommended approval with amendments of Planning Case 21-008 for a Zoning Code Amendment to Chapter 13 of the Arden Hills City Code to permit accessory storage sheds of up to 100 square feet in size and 8 feet in height within the required structure setback from the ordinary high water level by a 4-0 vote.

Planning Consultant Kansier reviewed the options available to the City Council on this matter:

1. Recommend Approval with Conditions
2. Recommend Approval as Submitted
3. Recommend Denial
4. Table

Councilmember Holden stated she supported tabling this item to a future work session in order to address the lake designation concerns.

Mayor Grant indicated this particular request was specific to the actual structure itself and not what type of lake it was.

Planning Consultant Kansier reported this was the case.

Mayor Grant asked what the timeline was for approving this matter.

Planning Consultant Kansier explained the zoning amendment was initiated by the City Council. However, the variance request that triggered this action had to be considered by the Council prior to July 12, 2021.

Councilmember Holmes supported the Council taking action on this item tonight.

Councilmember Holden reported if the classification of the lake were to change, Mr. Samuelson would be allowed to have his structure 25 feet from the OHWL and every future request would have to be set back 35 feet.

MOTION: **Councilmember Holden moved and Mayor Grant seconded a motion to table action on Planning Case 21-008 for a Zoning Code Amendment to Chapter 13 of the Arden Hills City Code to a future City Council worksession meeting. A roll call vote was taken. The motion carried 3-2 (Councilmembers McClung and Scott opposed).**

D. Planning Case 21-006 – Resolution 2021-030 – Variance at 4073 Valentine Court

Planning Consultant Kansier stated Robert Kunze (“Applicant”) is requesting a variance to decrease the required side yard setback of his single-family detached dwelling on the Subject Property from 40 feet to 7.82 feet for a proposed garage addition. The Subject Property is zoned R-1, Single Family Residential District, and is guided as Low Density Residential in the land use plan. Section 1320.06 of the Arden Hills City Code requires a side yard setback of 40 feet on corner lots. According to the Applicant’s narrative submitted as a part of his application, the Subject Property includes unique circumstances due to its nontraditional shape. The front of the property includes one curved section and three straight sections that make it difficult for the applicant to conform to current setback regulations. The Subject Property is a legal non-conforming lot, as the required side yard setback for corner lots was ten (10) feet when the property was built in 1953. The Applicant is requesting the proposed garage addition to allow for more storage space for his vehicles and additional space to store woodworking equipment. The proposed garage addition would meet applicable building codes and all other regulations in the R-1 District. The applicant would not be able to construct the proposed garage addition without a variance.

Planning Consultant Kansier reported the City Council is being asked to determine if a variance request for flexibility with the side yard setback of a corner lot should be approved. The sketches that have been submitted show the location of the proposed garage addition and the proposed driveway addition. The evaluation of the proposal should be based on the District Provisions in Section 1320 and the Requirements for a Variance in Section 1355.04, Subd. 4. At their meeting on May 5, 2021, the Planning Commission voted to recommend approval of Planning Case 21-006 with conditions to allow at side yard setback variance at the Subject Property. A full evaluation of the proposal was presented to the Planning Commission at the May 5th meeting.

Planning Consultant Kansier reviewed the Plan Evaluation and offered the following Findings of Fact:

1. City Staff received a land use application for a variance request to decrease the minimum side yard setback on a single family dwelling at the Subject Property 4073 Valentine Court.
2. A single-family detached dwelling is a permitted use in the R-1 district.
3. The Subject Property is non-conforming with the R-1 district's standards for minimum side yard setbacks on a corner lot.
4. The proposed garage addition would be located 7.82 feet from the Northwest side yard property line.
5. The proposed garage addition of the subject parcel would conform to all other requirements and standards of the R-1 district.
6. A variance may be granted if enforcement of a provision in the zoning ordinance would cause the landowner practical difficulties.
7. Variances are only permitted when they are in harmony with the general purposes and intent of the ordinance.

Planning Consultant Kansier explained the Planning Commission reviewed this application at their May 5, 2021 meeting. At that time, they recommended approval with conditions of Planning Case 21-006 for a side yard setback variance at 4073 Valentine Court by a 4-0 vote.

Planning Consultant Kansier reviewed the options available to the City Council on this matter:

1. Recommend Approval with Conditions
2. Recommend Approval as Submitted
3. Recommend Denial
4. Table

Councilmember Holden asked if the red pine trees had been removed.

Planning Consultant Kansier explained the red pines were located within the right of way and were not on the applicant's property.

Robert Kunze, 4037 Valentine Avenue, stated when he first began working with Mike Mroska, he was told a new tree survey was not required. For this reason, the trees on the plan were inaccurate. He noted the red pines have been removed because the lower branches died.

Councilmember Holden questioned how the red pines were removed.

Mr. Kunze indicated he hired a contractor to remove the trees.

Councilmember Holden noted for the record that Mr. Kunze removed the red pines that were located in the City right of way. She then questioned what new screening material was planted.

Mr. Kunze reported he planted the new screening material prior to removing the red pines.

Councilmember Holden stated she could not support this request. She indicated the garage could be pushed back 10 feet and there would be ample room. She did not understand why the City right of way was being used for screening and space for the garage.

Councilmember Holmes agreed noting she did not believe the applicant had shown a practical difficulty in this case. She did not believe the lot was so unique that a variance should be granted.

Councilmember Scott explained he would be supporting the variance. He reported he drove by this property and he understood the need to enclose vehicles and equipment in a structure. He believed there was ample screening on this property to support this variance request.

Councilmember McClung commented he would be supporting the application as well. He indicated he spent some time on the property with the homeowner and talked over the options. He stated after he walked the lot, he had a greater appreciation for the request. He reported Mr. Kunze was a long time resident of Arden Hills and he would like to do something meaningful with his retirement. He noted not one resident in the neighborhood has opposed this request.

Councilmember Holden questioned if a tree dies in the right of way would the City be responsible for removing this tree. She did not believe this made sense.

Mayor Grant stated that there appeared to be alternatives for this property and he did not know if these alternatives have been captured. He stated the amount of variance was considerable and for this reason he would not be supporting this variance.

MOTION: **Councilmember Holmes moved and Councilmember Holden seconded a motion to deny Planning Case 21-006 for a Variance at 4073 Valentine Court based on the following rationale:**

1. **The subject property did not have enough room for screening except for using City right of way.**
2. **The variance amount was excessive.**
3. **There are alternatives for increasing storage space on that property other than a third stall on the garage.**

A roll call vote was taken. The motion carried 3-2 (Councilmembers McClung and Scott opposed).

11. UNFINISHED BUSINESS

None.

12. COUNCIL COMMENTS

Councilmember McClung stated he believed it was unfortunate the City Council denied the variance request.

Councilmember Holden reported the Rotary was making four little libraries for the City of Arden Hills. She requested the Council provide her with addresses of existing little libraries because she would like to make a map for the City.

ADJOURN

MOTION: Mayor Grant moved and Councilmember Holden seconded a motion to adjourn. A roll call vote was taken. The motion carried (5-0).

Mayor Grant adjourned the Regular City Council Meeting at 10:25 p.m.

Julie Hanson
City Clerk

David Grant
Mayor