1. Open Meeting And Welcome
2. Roll Call
3. Approval Of Agenda
4. Approval Of January 28, 2020 Minutes
   Documents:
   4 DRAFT 01-28-20 PC MINUTES.PDF
5. Open To The Public
6. Public Hearings
   A. Case 20-001: The Luther Group, LLLP - Comprehensive Plan Amendment, Rezoning, Planned Unit Development Amendment
   Documents:
   6A CASE 20-001.PDF
7. New Business: A) Elect Chairperson; B) Elect Vice Chairperson; C) Appoint Economic Development Authority Representative And Alternate; And D) Accept Annual Expense Allowance
   Documents:
   7A-D 2020 ANNUAL BUSINESS.PDF
8. Old Business

9. Reports
   A. Council Liaison
   B. Planning Commissioners
   C. Staff

10. Next Regular Meeting - March 24, 2020

11. Adjourn Meeting
REGULAR MEETING
OF THE
VADNAIS HEIGHTS PLANNING COMMISSION
JANUARY 28, 2020

OPEN MEETING AND WELCOME

Chairperson Evan Cordes called the Regular Meeting of the Vadnais Heights Planning Commission to order at 7:00 p.m. on January 28, 2020.

ROLL CALL

Evan Cordes, Chairperson Present
Linda Bigelbach Absent
Edward Caillier Present
Brian Carnes Present
Curt Cooper Present
Martin Jokinen Present
Joseph Stumph Present
Jerry Moynagh, First Alternate Present
Terri Dresen, Second Alternate Present

Also present: Nolan Wall, Planning/Community Development Director; Jesse Farrell, Public Works Director/City Engineer; Jeff Melcoch, Cable Producer; and Councilmember Patricia Youker.

APPROVAL OF AGENDA

Upon motion by Commissioner Carnes, seconded by Commissioner Cooper, it was

“RESOLVED, to approve the January 28, 2020, Regular Meeting Agenda as amended, moving Item 6D forward before Item 6A.”

Ayes – 7  Nays – 0

The motion carried.

APPROVAL OF MINUTES

Upon motion by Commissioner Jokinen, seconded by Commissioner Stump, it was

“RESOLVED, to approve the minutes of the December 18, 2019, Regular Meeting as presented.”

Ayes – 7  Nays – 0

The motion carried.
OPEN TO THE PUBLIC

Chairperson Cordes opened the floor to the public at 7:06 p.m. for questions and comments on items not on the agenda.

As no one wished to address the Commission, Chairperson Cordes closed the meeting to the public at 7:06 p.m.

PUBLIC HEARINGS

Item D was heard at this point in the agenda.

D. Case 19-023: Lee Homes – Creekview Second Addition Preliminary/Final Plat and Easement/Street Vacation

Planning/Community Development Director Wall said the applicant was requesting to replat the Creekview Addition into Creekview 2nd Addition and vacate all existing drainage and utility/street easements. The requests require City approval prior to filing with Ramsey County. The applicant previously platted five single-family lots, including dedication of the Creekview Circle right-of-way and several easements in 2015. The two pre-existing dwellings (formerly at 3757 and 3777 Edgerton Street) have been demolished but no additional improvements have been made on the properties. The applicant no longer intends to construct the public improvements and is instead proposing to replat the five lots into three lots accessing Edgerton Street between Bear Avenue South and Koehler Road. As part of the replatting process, the existing drainage and utility/street easements need to be vacated and re-established appropriately on the new plat. Wall noted that staff recommend approval of the proposed preliminary and final plat and easement vacations based on findings of fact and subject to conditions as noted in staff’s report.

Chairperson Cordes opened the public hearing at 7:09 p.m.

Steve Guider, 3720 Edgerton Street, spoke about the five proposed lots and the future turnaround after development. He asked for confirmation that there would be no high-rise development, and then spoke about drainage concerns and potential flooding. Chairperson Cordes said the applicant would have to meet applicable codes whether single family was developed or not and said that the zoning is not changing.

As no one else wished to address the Commission, Chairperson Cordes closed the public hearing at 7:11 p.m.

Wall said the applicant wants to construct three single family homes in compliance with all applicable standards and that detailed grading plan review would occur during the building permit phase and that this action was just changing lot lines and the administrative review process would address Mr. Guider’s concerns regarding drainage and grading.
Chairperson Cordes confirmed the nearby homes would be addressed regarding potential flooding/drainage concerns.

Upon motion by Commissioner Cooper, seconded by Commissioner Caillier, it was 

“RESOLVED, to recommend approval of Case 19-023: Lee Homes – Creekview 2nd Addition Preliminary/Final Plat and Easement/Street Vacation based on the findings of fact that the request is compliant with the applicable City Code standards and consistent with the Comprehensive Plan.

Subject to the following conditions:

1. The final plat shall be filed by the applicant, at their cost, with the offices of the Ramsey County Recorder and/or Register of Titles, prior to any mortgages, liens, or similar interests.

2. A development agreement between the applicant, and all others with interests in the subject property, shall be entered into with the City, to be recorded at the applicant’s cost with the offices of the Ramsey County Recorder and/or Register of Titles, prior to issuance of a Building Permit.

3. A building permit shall be submitted for administrative review/approval, prior to commencement of any construction activities on the subject properties.

4. The applicant shall submit a stormwater management plan, prepared by a professional engineer, in compliance with all applicable standards to be reviewed and approved prior to the issuance of any building permits.

5. No permanent structures shall be allowed to be constructed within the dedicated easement areas.

6. Any vegetation or tree removal within the easement area along County Ditch No. 14 by the applicant or future property owners shall only be done with VLAWMO and/or City staff participation. VLAWMO and City staff shall have the right to remove vegetation for maintenance and erosion concerns within the easement area.

7. Existing vegetation proposed to be preserved shall be done so in compliance with the applicable requirements of Chapter 38, Article IV, Section 38-601(b)(11) of the City Code.

8. The proposed drainage and utility easement along the south side property boundary of Lot 1 shall be increased to ten feet wide to allow for unimpeded access to the County Ditch No. 14.

9. An eight-foot trail with a five-foot boulevard shall be constructed along Edgerton Street across Lots 1-3.

10. Compliance with the conditions included in the Director of Public Works/City Engineer’s memorandum, dated January 23, 2020.”

Ayes – 7 Nays – 0

The motion carried.
A. Case 19-020: JACON, LLC. - Site Plan Review and Variance at 3900 Labore Road

Planning/Community Development Director Wall said the applicant is requesting to construct a 1,125-square-foot office addition to the 2,700-square-foot existing building.

Wall noted that the applicant purchased the subject property in February 2019. To resolve a code enforcement issue, the City approved an interim use permit and site plan application in September 2019 to allow a temporary office trailer to remain on the subject property. A condition of approval stated that the property owner had to apply for the necessary zoning approvals to construct an addition to the existing building, which has now been fulfilled. If the requests in this case are denied, the interim use permit is terminated and the temporary office building has to be removed immediately.

Wall reviewed traffic, parking, pedestrian and vehicular ingress/egress, building location and height, screening and landscaping, lighting, and utilities/site drainage. He said the proposed addition was not compliant with the applicable front yard building setback standard and necessitates the variance request included as part of this case. The applicant is requesting a 14.5-foot variance from the required 30-foot building setback standard from a local street (Labore Road) in the Industrial District.

Commissioner Cooper asked about relocation of the well and sewer/water. Wall said there is an existing well on the site and that any relocation would be part of building permit review process as the applicant would be connecting to City sewer and water.

Commissioner Moynagh clarified the applicant was working from a temporary trailer and asked if this will be a permanent site for offices. Wall said the trailer was overall storage but the applicant would be officing out of the temporary trailer approved by a temporary interim use permit and thanked the applicant for their investment in this property.

Commissioner Cooper asked if the front of the proposed addition would fall in the same area that the front of facility was currently today. Wall said the plan is to have the addition slightly more forward. He also added that the roadway is rough shape and staff do not know when road improvements would be made but that users are mostly on one side of the street and many other roads in the City have a higher need of repair.

Public Works Director/City Engineer Farrell said the City is interested in upgrading the road but said the special assessments would be very large so a minimum maintenance road is currently planned and that reconsideration of a new road with assessments would be in the future. He noted the applicant is well qualified to do the work and would be submitting plans for erosion control.

Jason Jacobson, 3900 Labore Avenue, property owner, shared comments about the well being relocated and their request to have it remain in place and that they would uses it to wash trucks and save on water costs.

Commissioner Jokinen asked where the existing trailer will be relocated. Mr. Jacobson said the trailer was being leased and would be removed once the building is completed. Chairperson Cordes opened the public hearing at 7:14 p.m.
As no one wished to address the Commission, Chairperson Cordes closed the public hearing at 7:14 p.m.

Upon motion by Commissioner Carnes, seconded by Commissioner Cooper, it was

“RESOLVED, to recommend approval of the proposed site plan and variance requests, based on the following findings of fact with the eleven conditions noted:

1. The proposed use is permitted within the Industrial District and is compliant with the comprehensive plan.
2. The proposed use is compliant, or conditioned to be compliant as part of building permit process, with all other applicable City Code standards not addressed in the variance request.
3. The existing conditions and location of the existing building on the subject property present practical difficulties in constructing an addition without negatively impacting surrounding properties and the natural environment.
4. The proposed building addition will not negatively impact the surrounding area.

Subject to the following conditions:

1. A development agreement amendment between the property owner, and all others with interests in the subject property, shall be entered into with the City, to be recorded at the applicant’s cost with the offices of the Ramsey County Recorder and/or Register of Titles, prior to issuance of a building permit.
2. A building permit in compliance with all applicable code standards shall be submitted prior to commencement of any construction activities on the subject property, to be reviewed/approved administratively.
3. The building addition shall be completed by December 31, 2020 and the temporary office trailer removed immediately upon issuance of a certificate of occupancy.
4. A sign permit in compliance with all applicable code standards shall be submitted prior to any sign(s) being installed/relocated on the subject property, to be reviewed/approved administratively.
5. The applicant shall submit plans, to be prepared by a professional engineer, for extending water and sanitary sewer service through the subject property, to the extent practical.
6. The applicant shall submit a parking plan and a photometric lighting plan for the site for administrative review/approval, to be included in a subsequent development agreement.
7. The subject property and existing building shall be connected to public water and sanitary sewer, to the extent practical, and connections be extended as required by the City Engineer.
8. The existing well shall be abandoned in accordance with the applicable standards, rather than be relocated for future use, unless approved otherwise by the City Engineer.
9. Compliance with the conditions included in VLAWMO’s memorandum, dated 01/16/2020.
10. Compliance with the conditions included in the Fire Chief’s memorandum, dated 01/16/2020.
11. Compliance with the conditions included in the Director of Public Works/City Engineer memorandum, dated 01/23/2020.”

Ayes – 7  Nays – 0

The motion carried.

B. Case 19-021: Frank Frattalone – Frattalone’s Mondello Shores Preliminary Plat, Site Plan Review, Variances, and Street Vacation

Planning/Community Development Director Wall said the applicant is requesting to plat 42 single-family residential lots, to be known as Frattalone’s Mondello Shores, and vacate a portion of an existing street easement. The proposed preliminary plat seeks to create a 42-lot subdivision containing single-family detached dwellings with public utilities and roads on the approximately 14.39 acres of land. The proposed development is located in the far southwest corner of the City, north of Interstate 694, southeast of a railroad corridor, east of a wetland system in Little Canada, and west of Centerville Road. The subject property is zoned Residence Two (R-2) and is located within the Water Management Overlay District. The proposed development includes one existing dwelling and demolition of two others. In addition, the applicant is requesting that a portion of Centerville Road be vacated. He noted that an Xcel Energy transmission line runs through the southwest corner of the development site. The existing wetland system to the west within the City of Little Canada is also on property owned by the applicant and is planned to be utilized by the Watershed for a potential project to alleviate flooding issues on Twin Lake. A smaller wetland within the proposed development is proposed to be filled through the appropriate process.

Wall reviewed lot requirements, park dedication, wetlands, street easement vacation, and site plan review. He spoke about traffic impacts, parking, pedestrian and vehicular ingress/egress and reviewed the site drainage/storm sewer in detail. The proposed development includes storm sewer pipes under the new streets and the majority of the runoff will be routed to a filtration basin on north side of the site within Outlot B. The runoff will discharge into a forebay for pre-treatment prior to entering the filtration basin that outlets into the wetland. The proposed filtration basin will consist of plantings and soil mixture (sand and organics) with perforated drain tile. Ramsey-Washington Metro Watershed District (RWMWD) has permit authority over the proposed stormwater management system and is currently reviewing the proposed development. He outlined the applicant’s requested variances including front yard building setback from local street on Lot 9, Block 3, side yard building setback for a corner lot on Lot 9, Block 3, and non-riparian lot area and width standards within the shoreland area of the Water Management Overlay District.

Commissioner Dresen said there were many lots on septic in this area and asked if the ultimate goal is to have all of Centerville Road on City water and sewer. Wall said there are no water connections in Centerville Road and others north of the project limits could extend and connect at their own cost. He said sewer is internal to this development and therefore no requirements outside of Centerville Road south of Vadnais Road would be redone.
Commissioner Jokinen asked if a gravity-feed is acceptable. Public Works Director/City Engineer Farrell said sanitary sewer would connect to the Metropolitan Council interceptor and be upstream of the City meter.

Wall noted that staff recommend approval of the proposed requests based on findings of fact and conditions in the staff report.

Commissioner Cooper asked if the City of Little Canada needs to review this application. Wall said staff forwarded the application to Little Canada for comment and their concern is about water management issues as they relate to Twin Lake. The Watershed District is reviewing the application, adding the organization is looking out for both cities’ interests.

Commissioner Moynagh asked if basements would be able to exist with the current water table. Wall said a lot of dirt work will need to be done but basements would be constructed after considering impacts to Vadnais Heights and surrounding cities, adding some would be look-out basements and others walk-out basements.

Commissioner Moynagh asked if a representative from the house on the corner with the garage is comfortable with the plan being proposed as he feels there could be the need for additional landscaping.

Tim Freeman, land surveyor/land planner representing the applicant, said several iterations of this project have occurred over the past 7 years. He then outlined deterrents to the site such as wetlands, railroad tracks, pipeline, etc. He spoke about potential flooding in this area and said that Frattalone has allowed the Watershed to use the property to keep the water level to where it should be. He said they continue to meet with the Watershed and others that live around the lake. The Watershed District set the elevation. He said they are okay with the conditions of approval raised by staff, other than the 5-foot wide sidewalk as are no other sidewalks in the area to connect to and that more hard surface means runoff impacts would increase. He said the streets being 32 feet wide were sufficient for parking, walking and biking.

Tony Frattalone, applicant, said his father is very invested in the City and plans to be here for the rest of his life. He said this project would provide a good future for this parcel.

Commissioner Jokinen asked about property to the north that is being farmed and asked if that will be phase 2 of the project. Mr. Frattalone said currently the area is his father’s home and is pasture land for raising cattle and that they are not proposing any changes for this area. Wall clarified the cul-de-sac was platted for future road connections to the north but not required and just sets it up for future development.

Commissioner Jokinen asked if filtration basin in Outlot B would be deployed. Wall said it depended on density and what could be developed and would be addressed when the property to the north developed.

Chairperson Cordes opened the public hearing at 8:03 p.m.
Stanton Martin, 289 Twin Lake Trail, shared concerns with flooding last year on his lot and increased flood impacts with a new development. He said he lost thousands of trees. He said that those responsible for inspecting the ditches did not inspect it (Ditch 16) and they said it has been abandoned which he disagrees with. He shared concerns about water conditions and flowage into Twin Lake and the pond. He said he wants to make sure that none of the water from the site washes into Twin Lake.

Chairperson Cordes called for a recess at 8:08 p.m. and reconvened at 8:12 p.m. He stated that due to a professional conflict of interest he would be recusing himself from discussion on this case and turned the meeting over to Commissioner Jokinen to Chair.

Cheryl LeClair Summer, 285 Twin Lake Trail, spoke about flooding concerns and the need to be cautious with regard to drainage. She said historically water ran north to south and she is concerned that this development might increase the level of drainage into the pond.

Bill Pomerleau, 3232 Centerville Road, asked about private wells and about Centerville Road improvements and if residents would be subject to new curb/street to address water runoff to meet City code.

As no one else wished to address the Commission, Commissioner Jokinen closed the public hearing at 8:18 p.m.

Public Works Director/City Engineer Farrell said staff met several times with the Watershed to address the drainage challenges and has been working closely with MnDOT and others for beltline resiliency. He spoke about water distribution systems and that any improvements would be required to anticipate those connections and ensure they were located on the correct side of the road. Farrell said staff has not seen a proposed haul route yet and while roads can handle the weight it will be a lot of material. He said this road is already a candidate for reconstruction and in terms of public utilities it might be a good idea to make those connections.

Mr. Frattalone spoke about the watermain trying to push the line to decrease damage to nearby properties and shared there would be no cost to the residents except for the connection for the water main line but they would responsible to connect their homes to the main line.

Commissioner Jokinen asked about drainage going into the retention basin from the development. Matt Woodruff, Larson Engineering, responded all new impervious areas for the roadways and future homes would drain into Outlot B area which is designated for infiltration system and while unsure of the exact amount it would meet all Watershed requirements.

Commissioner Moynagh clarified if no more new development occurred would there be no difference and no new water that would flow into the area then what currently flows in. Mr. Woodruff said that Watershed rules require that stormwater cannot leave the property and volume or rate cannot be increased from a property.
Commissioner Carnes asked if the roads get reconstructed would homeowners be forced to connect water/sewer to their homes. Farrell said for homes with access to the watermain they will need to work out details with the applicant about how that would be paid and if reconstructed the City would complete the system and extend water services to their property line. Carnes said if the City reconstructs Centerville Road would every property be asked to hook up to the new system. Farrell said they would encourage people to connect. Wall said City Code requires the connection be made prior to transfer or sale of a property.

Farrell asked for more information about the proposed volume control. Mr. Woodruff explained the type of stormwater system required by the Watershed District would be infiltration and stormwater collected would soak into the ground but native soils in the area are clay so drainage would not occur like they would like so they are proposing a filtration system to better work in this area. He spoke about volume control and said that the Watershed Districts requires that water has to stay on the property but that additional volume will be leaving the site and drain along an outlet underground. He said there is a meeting scheduled with engineers and the Watershed to review their stormwater design in detail to help mitigate potential flooding of property owners on Twin Lake.

Commissioner Dresen said she lives on this street at 3339 Centerville Road and said the applicant truly loves this neighborhood. She said she is not on a septic system and commented how while she will miss having the open land nearby, the applicant has a right to retire and sell and that it is important to address the watershed concerns.

Mr. Frattalone said they are working to address the concerns but noted the proposed system for grading plans for outlet to the lake has not been approved yet. He said the Watershed ordered plans and specs and construction but is still reviewing the plans.

Upon motion by Commissioner Carnes, seconded by Commissioner Stumph, it was

"RESOLVED, to recommend approval of the proposed preliminary plat, site plan, variance, and street vacation requests based on the following finding of fact:

1. The proposed development adds new housing stock to the community and is consistent with the surrounding character of the area and comprehensive plan.
2. The proposed improvements to Centerville Road and utility connections to existing properties provide public benefits.
3. The proposed preliminary plat creates lot that are compliant with the underlying R-2 District standards.
4. The existing non-conforming conditions on Lot 9, Block 3 of the proposed preliminary plat are not being expanded.
5. A small corner of Twin Lake is within the City of Vadnais Heights, which affects the proposed, otherwise compliant, lot sizes and is a unique circumstance that creates a practical difficulty for the applicant to maximize the development potential and address other constraints.

Subject to the following conditions with the exception of Condition 6 as sidewalks were not necessary for this area:


1. The final plat shall be filed by the applicant, at their cost, with the offices of the Ramsey County Recorder and/or Register of Titles, prior to any mortgages, liens, or similar interests.

2. A development agreement between the applicant, and all others with interests in the subject property, shall be entered into with the City, to be recorded at the applicant’s cost with the offices of the Ramsey County Recorder and/or Register of Titles, prior to issuance of any building permits.

3. Building and demolition permits shall be submitted for administrative review/approval, prior to commencement of any construction activities within the proposed development.

4. No permanent structures shall be allowed to be constructed within the dedicated easement areas.

5. Existing vegetation proposed to be preserved shall be done so in compliance with the applicable requirements of Chapter 38, Article IV, Section 38-601(b)(11) of the City Code.

6. The applicant shall construct five-foot-wide concrete sidewalk facilities within the dedicated right-of-way of the proposed development, with the exact location(s) and specifications to be determined as part of the development agreement.

7. The applicant shall work with the property owners of 3163 Centerville Road to identify areas for additional landscape plantings, on or near their property and outside of the right-of-way, to provide a buffer from the proposed street, to be addressed further as part of the development agreement.

8. Street lighting shall be required in accordance with the applicable City Code provisions and specifications, including, but not limited to Chapter 32, Article VI, Section 32-188 and Chapter 30, Article II, Division 2, Section 30-57, to be reviewed and approved by the City Engineer and addressed as part of the development agreement.

9. All required permits and approvals shall be obtained from the Metropolitan Council for the proposed sanitary sewer connection and copies provided to the City.

10. All required permits shall be obtained from the Ramsey-Washington Metro Watershed District and copies provided to the City.

11. All new streets and improvements to existing streets shall be compliant with the applicable City Code provisions and specifications, to be reviewed and approved by the City Engineer, and be inspected, at the applicant’s cost, prior to City acceptance.

12. The applicant shall consider dedicating a portion of land within the proposed development, or on a nearby property, for a public park facility to serve the new and existing neighborhoods.

13. Compliance with the conditions included in the Fire Chief’s memorandum, dated January 14, 2020.


15. Compliance with the conditions included in the Director of Public Works/City Engineer’s memorandum, dated January 23, 2020.”

Commissioner Moynihan confirmed the motion included subject to approval from the Watershed. Wall said Watershed approval is outlined in Condition 10.

Ayes – 7        Nays – 0
The motion carried.

C. Case 19-022: BWBR Architects – Planned Unit Development Amendment and Site Plan Review at 1490 East County Road E

Planning/Community Development Director Wall said that BWBR Architects, with consent of the property owner, is requesting a PUD amendment and site plan review to construct a new 81,760-square-foot indoor turf facility and 14,830-square-foot parking lot at the Vadnais Sports Center. The original PUD was approved in 2010. In April 2018, the former sports dome structure was damaged by heavy snow and partly demolished thereafter. Since then, Ramsey County has been considering several options for replacing the structure and has settled on the proposed design included in the application materials. If approved, construction would start in the spring of 2020 and be completed by late fall of 2020. Wall thanked Ramsey County for their partnership in rebuilding this structure as it was an important amenity to the community. Staff recommend approval based on findings of fact and subject to conditions.

Dustin Rehkamp, BWBR Architects, shared an updated rendering stating the multi-color greys will be a little different in that, due to cost considerations, there will be one single grey color and not multi-color as shown. He said it will still be a unique structure with precast walls of metal panels and be attractive to the area. He spoke about the parking lot on the west side that shows impervious pavers in order to retain water onsite.

Ryan Reis, Ramsey County, added his thanks to the City for being a good partner throughout this process, noting while the dome collapse was not something anticipated or funding identified, the City has been good to work with and he anticipates that partnership would continue with the Watershed as well.

Chairperson Cordes opened the public hearing at 8:48 p.m.

As no one wished to address the Commission, Chairperson Cordes closed the public hearing at 8:48 p.m.

Upon motion by Commissioner Cooper, seconded by Commissioner Caillier, it was “RESOLVED, to recommend Staff recommends approval of the proposed PUD amendment and site plan requests, based on the following findings of fact with conditions:

1. The proposed project reconstructs a community asset while also adding off-street parking to the benefit of the entire site.

2. The proposed project does not negatively impact any of the surrounding uses.

Subject to the following conditions:

1. A development agreement amendment between the property owner, and all others with interests in the subject property, shall be entered into with the City, to be recorded at the applicant’s cost with the offices of the Ramsey County Recorder and/or Register of Titles, prior to issuance of a building permit.
2. A building permit in compliance with all applicable code standards shall be submitted prior to commencement of any construction activities on the subject property, to be reviewed/approved administratively.

3. A sign permit in compliance with the approved plans included in a subsequent development agreement amendment shall be submitted prior to any sign(s) being installed on the subject property, to be reviewed/approved administratively.

4. The off-street parking lot and driveways shall be constructed and operated in compliance with the applicable code standards, to be reviewed/approved administratively as part of the building permit.

5. Retaining walls in excess of four (4) feet in height shall require engineering design, to be reviewed/approved administratively as part of the building permit.

6. Landscape and photometric lighting plans shall be submitted for inclusion in a subsequent development agreement amendment, to be reviewed/approved administratively.

7. All required permits shall be obtained from the Ramsey-Washington Metro Watershed District and copies provided to the City.

8. Compliance with the conditions included in the Fire Chief’s memorandum, dated 01/14/2020.

9. Compliance with the conditions included in the Director of Public Works/City Engineer memorandum, dated 01/23/2020.”

Ayes – 7  Nays – 0

The motion carried.

NEW BUSINESS

None.

OLD BUSINESS

None.

REPORTS

A. Council Liaison

Councilmember Patricia Youker had nothing to report at this time.

B. Planning Commissioners

Chairperson Cordes spoke about the need to contact staff prior to responding to proposed projects on social media in order to ensure the most accurate information and coordinate responses with staff.
C. **Staff**

Planning/Community Development Director Wall shared that the At Home apartment Comprehensive Plan amendment proposal was approved at the January 21 City Council meeting. He said the next step in the process, if the applicant proceeds, would be a final PUD process with rezoning and site plan review which would include a response to input received that would try to mitigate the Commission, Council’s and neighborhood’s concerns.

**NEXT MEETING**

Chairperson Cordes said the next Planning Commission meeting will be rescheduled due to the political caucuses. Planning/Community Development Director Wall said he would check with an applicant for that meeting and return to the Commission to determine a new date before a public hearing notice goes out for the potential project.

**ADJOURN MEETING**

Upon motion by Commissioner Carnes, seconded by Commissioner Stumph the meeting was adjourned at 8:52 p.m.

Respectfully submitted,

Cathy Sorensen, *TimeSaver Off Site Secretarial, Inc.*
Memorandum:

TO: Chair Cordes and Planning Commission Members

FROM: Nolan Wall, Planning/Community Development Director

DATE: February 24, 2020

SUBJECT: Planning Staff Report: Case 20-001
Comprehensive Plan Amendment, Rezoning, Planned Unit Development Amendment
Unaddressed Parcel at NE corner of Willow Lake Boulevard/International Drive
The Luther Company, LLLP: Luther Acura/Subaru Expansion

Description of the Request
The applicant is requesting the following actions to incorporate the undeveloped subject property into the existing automobile dealership:

1. Comprehensive Plan Amendment to re-guide from Industrial to Highway Commercial.
2. Rezoning from Industrial to Planned Unit Development (PUD).
3. Planned Unit Development Amendment.

Chapter 38, Article II, Section 38-36 allows amendments to the comprehensive plan to be considered for final approval by the Metropolitan Council. Chapter 38, Article II, Section 38-37 allows rezoning parcels of land for the purpose of meeting the land use needs of the residents of the city in conformance with the comprehensive plan. Chapter 38, Article III, Division 15, Section 38-485(h) allows amendments to an approved PUD, after Planning Commission and City Council review.

Discussion
The City is using its legislative authority when considering action on comprehensive plan amendments and has broad discretion; the only limitations are that actions must be constitutional, rational, and in some way related to protecting the health, safety and general welfare of the public.

The City is using its quasi-judicial authority when considering action on a zoning/subdivision request and has a relatively high level of discretion in approving PUDs. The City may impose reasonable requirements in a PUD not otherwise required if the City deems it necessary to promote the general health, safety and welfare of the community and surrounding area.

Action Timeline

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The application submittal package was received on January 28 and was determined to be complete on
February 5. In accordance with Minn. Stat. Sec. 15.99, the required 60-day action deadline is April 5.

**Development Summary**

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<tr>
<td>Wetlands:</td>
<td>None present on the subject property</td>
</tr>
</tbody>
</table>

**Background**

In 2015, the applicant received approval to re-guide and rezone portions of the existing dealership
properties to Highway Commercial and PUD, respectively, to facilitate another expansion project. The
undeveloped subject property was not included and is guided/zoned Industrial, which is inconsistent with
the adjacent dealership properties. In September 2019, the applicant received approval for an interim use
permit (IUP) and site plan to construct a parking lot expansion to the existing Acura/Subaru dealership
onto the subject property. At the time, the 2040 Comprehensive Plan had not yet been adopted and could
not be amended without restarting the already-completed adjacent review period. The applicant originally
intended to begin the parking lot expansion project last year, but construction has not commenced due to
delays on the Luther Cadillac project on the east side of U.S. Highway 61. A condition of approval for
the IUP was that the applicant submit the appropriate land use and zoning applications within nine months.

**Analysis**

The requests in this case include the following analysis:

**Comprehensive Plan Amendment**

The City Council adopted the 2040 Comprehensive Plan in November 2019. A component of the
Comprehensive Plan is the Future Land Use Map and the City cannot consider rezoning a parcel unless
the action is in conformance with the map. The subject property is guided Industrial and is proposed to
be incorporated into the adjacent automobile dealership that is guided Highway Commercial. Therefore,
the proposed parking lot expansion requires that the subject property is re-guided and rezoned to be
consistent with both the future land use and zoning designations, respectively. The proposed Highway
Commercial land use designation is as follows:

* A wide range of general retail businesses, vehicle sales, hospitality businesses and office buildings.
  * Uses are concentrated along U.S. Highway 61.

The comprehensive plan amendment application requires responses to the following questions, which are
also addressed in the attached written narrative from the applicant:

1. Explain if the applicant will have a development project readily available for the site.

Yes, construction will commence in 2020 and site plan approval has already been granted.
2. **Is the change consistent with the goals and objectives or other elements of the Comprehensive Plan?**

The proposed project is consistent with the following goals/policies of the 2040 Comprehensive Plan:
- Complete the build-out and build-up of the community by planning for growth that accommodates local goals, including housing choice, commercial-industrial growth and open space protection, all within the context of the regional planning framework (p. 39).
- Achieve new investment on sites where the existing land use is no longer consistent with the intent of the Comprehensive Plan in terms of use, economic viability or physical quality (p. 39).
- Maintain and enhance commercial/industrial property values (p. 70).
- Continue to improve facilities for walking and bicycling (p. 111).

The subject property is undeveloped and the proposed parking lot expansion project will increase the viability of the existing automobile dealership while encouraging investment in the community. The existing sidewalk along Willow Lake Boulevard is proposed to be extended to connect to International Drive, completing the missing segment on the north side of the road.

3. **Will the amendment create an adverse impact on public facilities and services that cannot be mitigated? (i.e., roads, sewers, water supply, drainage, schools, police, fire, and parks).**

Staff does not anticipate any adverse impacts on public facilities and services by the proposed project.

4. **Will development resulting from the amendment create an undue impact on surrounding properties?**

No, the proposed project is an extension of an adjacent use.

5. **Is the proposed development consistent with the physical character of the surrounding neighborhood? Would the development upgrade and improve its viability?**

Yes, the proposed project allows the adjacent use to expand and develops an undeveloped parcel.

6. **Will the amendment allow a more viable transition to the planned uses on adjacent properties than the current use?**

Yes, the proposed project is an extension of an adjacent use

7. **Will the amendment have a significant adverse impact on the natural environment including trees, slopes and groundwater? Could the impact be mitigated by improvements on the site or in the same vicinity?**

No, the proposed project has already received site plan approval.

8. **Has there been a change in City policies or neighborhood characteristics that would justify an amendment?**

Yes, the adjacent use has already expanded and the proposed project is another expansion.

9. **Does the amendment correct an error made in the original Comprehensive Plan?**

No, but it facilitates consistency amongst the adjacent uses.
10. Is there a community or regional need identified in the Comprehensive Plan for the proposed land use or service?

The proposed project improves an undeveloped parcel that increases the tax base and is consistent with other surrounding uses.

11. Does the amendment help the City meet its life-cycle and affordable housing objectives?

No, housing is not allowed by the current or proposed future land use designation.

12. Does the amendment adversely affect any landmarks or other historically significant structures or properties? Can the impacts be mitigated through relocation, commemoration, or dedication?

No landmarks or other historically significant structures are located on the subject property.

13. What are the differences in traffic generation from the current versus the proposed land use?

The subject property is currently undeveloped, generates no traffic, and will be used to store additional automobile inventory for the dealership. However, the proposed parking lot expansion will not create as much additional traffic as potential industrial uses that could be developed under the existing land use and zoning designations.

14. If applicable, is the proposed traffic in conformance with the I-35E Corridor Study?

Not applicable.

Agency Review
Metropolitan Council staff have preliminarily reviewed the amendment request in this case and have determined that it is eligible for a waiver from the 60-day notice requirements to affected/adjacent jurisdictions. As a result, if approved by the City, the application can be submitted directly to the Metropolitan Council for their consideration.

Rezoning
The rezoning application requires responses to the following questions, some of which are duplicative with the comprehensive plan amendment application:

1. State what the existing zoning classification is and what the proposed zoning classification is.

   • Existing: Industrial
   • Proposed: Highway Commercial

2. State what the surrounding properties are zoned.

   • North/South/West: Industrial
   • East/South: Highway Commercial
3. **Is the rezoning in conformance with the Comprehensive Plan Land Use Plan? If not, a Land Use Plan Amendment will be required.**

The requests in this case combine the proposed comprehensive plan amendment with the required rezoning to ensure conformance.

4. **Is proposal in conformance with the rest of the goals and policies identified in the City’s Comprehensive Plan? If yes, how so?**

Yes, see analysis above within the comprehensive plan amendment section.

5. **Is the proposal in compliance with the 35E Corridor Study, if applicable?**

Not applicable.

6. **How will the traffic generated from the existing zoning classification differ?**

See analysis above within the comprehensive plan amendment section.

7. **Does the proposed rezoning create any utility or drainage concerns?**

No, the site plan for the proposed project has already been approved, with conditions.

8. **Does the applicant have a development project readily available for the subject parcel of land? If so, please explain.**

Yes, construction will commence in 2020.

**Planned Unit Development Amendment**

According to Chapter 38, Article III, Division 15, Section 38-485(h) of the City Code concerning PUD amendments:

> **Method of amending an approval.**

(1) Minor changes in the location and placement of buildings or other elements of the final PUD plan may be authorized by the city council upon staff review.

(2) Changes in structural types, in the shape and arrangement of lots and blocks, in the allocation of open space, and all other changes which affect the overall design of the project shall be referred to the planning commission for report and recommendation, after which the city council shall hold a review and shall decide to either approve or deny the changes in the final PUD plan. If such changes are authorized, the applicant shall submit a revised final PUD plan showing the authorized changes.

In this case, (2) above applies since there is a proposed change to the allocation of open space and overall design of the project that requires Planning Commission review. Since the site plan has already been approved with the IUP, the proposed PUD amendment essentially memorializes that approval and incorporates the parking lot expansion into the overall PUD. As such, there is no additional review necessary.
Agency/Department Review
Due to the site plan already being approved by the City as part of the interim use permit, no additional staff review of the proposed requests in this case was necessary.

Public Hearing Notice
According to Chapter 38, Article II, Section 38-36 and Article III, Division 15, Section 38-485(e)(3) of the City Code, respectively, a public hearing notice must be published in the official newspaper and mailed to property owners within 350 feet of the subject property at least ten (10) days prior to the Planning Commission meeting. The required notice was published in the February 12 edition of the Vadnais Heights Press and mailed to surrounding property owners on February 14.

Recommended Commission Action
Staff recommends approval of the proposed comprehensive plan amendment, rezoning, and planned unit development amendment requests, based on the following findings of fact:

1. The proposed amendments and rezoning allow for expansion of an adjacent, existing use by bringing the undeveloped subject property into conformance with the entire development.
2. The site plan for the proposed parking lot expansion has already been reviewed and approved as part of a separate review process.

Subject to the condition that the proposed comprehensive plan amendment shall be reviewed and approved by the Metropolitan Council, in accordance with the required procedures.

Action Requested
Following the public hearing, the Planning Commission may consider the following actions:

1. Recommend approval of the proposed comprehensive plan amendment, rezoning, and planned unit development amendment requests, based on the findings of fact, with conditions.

   OR

2. Recommend denial of the proposed comprehensive plan amendment, rezoning, and planned unit development amendment requests, based on the findings of fact determined by the Planning Commission.

   OR

3. Table the requests and advise staff to extend the application review period an additional 60 days, in compliance with Minn. Stat. Sec. 15.99.

Attachment(s):
- Aerial site map
- 2040 Comprehensive Plan Land Use maps (2)
- Applications, including supporting materials
- Public Hearing Notice
Legend
- Vadnais Heights City Limits
- City/Township Boundaries
- Railroad
- Streams
- National Wetland Inventory
- Land Use Categories:
  - Low Density Residential
  - Medium Density Residential
  - High Density Residential
  - Manufactured Housing Park
  - Commercial
  - Industrial
  - Office-Business
  - Public, Institutional, and Utility
  - Park/Open Space
  - Open Water
  - Railway Corridor
  - Undeveloped

2040 Comprehensive Plan
City of Vadnais Heights, Minnesota

Existing Land Use (2017)

Source: MnGeo, City of Vadnais Heights, Ramsey County

December 2018
<table>
<thead>
<tr>
<th>TABLE OF CONTENTS</th>
<th></th>
</tr>
</thead>
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<tr>
<td>Introduction</td>
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<td>Comprehensive Plan Amendment</td>
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</tr>
<tr>
<td>Rezoning/Planned Unit Development Amendment</td>
<td>2</td>
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<tr>
<td>Summary</td>
<td>3</td>
</tr>
<tr>
<td>Contact Information</td>
<td>3</td>
</tr>
</tbody>
</table>
Introduction

On behalf of The Luther Company, LLLP, Landform is pleased to submit this application for a comprehensive plan amendment, rezoning and planned unit development amendment to incorporate the approved parking lot at PID 343022210025 into the existing planned unit development for the Luther Subaru and Acura dealerships. We are excited about the improvements proposed for this site.

Comprehensive Plan Amendment

We are requesting City approval for a comprehensive plan amendment to change the land use designation from Industrial to Commercial. The amendment will revise the land use designation to a designation consistent with the parking lot use. The land use change will make the use permitted and allow termination of the interim use permit for the property.

We have reviewed the request in accordance with MN law and City ordinance standards in Section 38-36 and find that the ordinance standards have been met. Specifically:

1. The amendment is consistent with the goals and objectives or other elements of the Plan.

The amendment is consistent with the goal of the plan to, “Reduce land use conflicts through redevelopment of blighted, vacant or underutilized properties, enhanced buffering or screening, and improved building and site design.” The amendment allows development of a vacant, underutilized parcel and provides enhanced screening and buffering.

2. The amendment does not create an adverse impact on public facilities and services that cannot be mitigated. Public facilities and services include roads, sewers, water supply, drainage, schools, police, fire and parks.

The amendment will not create an adverse impact on any public facilities. The site plan approved on September 3, 2019 meets all city standards and the amendment will not change that.

3. Development resulting from the amendment does not create an undue impact on surrounding properties. Such development should be consistent with the physical character of the surrounding neighborhood or would upgrade and improve its viability.

The amendment will allow development of the previously approved parking lot which is consistent with the physical character of the surrounding neighborhood. The development will improve an existing vacant lot.

4. The amendment allows a more viable transition to the planned uses on adjacent properties than the current land use.

The amendment shifts the boundary between the commercial and industrial areas to the west adjacent to International Drive. This still provides a good transition to the land uses adjacent to the property.

5. The amendment does not have a significant adverse impact on the natural environment including trees, slopes and groundwater, or the impact could be mitigated by improvements on the site or in the same vicinity.

The amendment will not have an adverse impact on the natural environment. The development will provide improvements to the property in the form of stormwater management and addition of 32 trees.
6. There is a change in City policies or neighborhood characteristics that would justify a change.

The amendment is consistent with the new city policies adopted as part of the 2040 Update.

7. The amendment corrects an error made in the original plan.

There was no error made in the original plan. The amendment was needed to allow a parking lot expansion for the Acura dealership. The amendment wasn’t able to be processed at the time because the 2040 update was being reviewed by the Metropolitan Council.

8. There is a community or regional need identified in the Plan for the proposed land use or service.

The amendment will improve the site and allow better operation for the Acura and Subaru dealerships which is consistent with the goal of the plan to, “Maintain and enhance commercial/industrial property values.”

9. The amendment helps the City meet its life-cycle and affordable housing objectives.

The amendment is from industrial to commercial and does not have a housing component.

10. The amendment does not adversely affect any landmarks or other historically significant structures or properties unless mitigated through relocation, commemoration or dedication.

The amendment is for a vacant parcel which does not have any landmarks or historical significance.

Rezoning/Planned Unit Development Amendment

We are requesting City approval for a rezoning and planned unit development to change the zoning designation from Industrial (I) to Planned Unit Development (PUD) and to incorporate the property into the existing planned unit development for the Luther Subaru Acura site. The rezoning and amendment will correct the zoning and allow termination of the interim use permit for the property.

We have reviewed the request in accordance with MN law and City ordinance standards in Section 38-44(f) and find that the ordinance standards have been met. Specifically:

1. The rezoning is consistent with the Comprehensive Plan Land Use Plan.

The rezoning will bring the zoning into conformance with the proposed comprehensive plan amendment to change the land use.

2. The rezoning is in conformance with the goals and policies identified in the Comprehensive Plan.

The rezoning is in conformance with the goals and policies of the plan to promote development and redevelopment of underutilized parcels which is consistent with the Zoning Ordinance.

3. If applicable, the rezoning is in compliance with the 35E corridor study.

Not applicable

4. The rezoning does not significantly contribute to the traffic generated.

The rezoning will not significantly change the anticipated traffic generation for the property.

5. The rezoning does not have a significant adverse impact on the slopes and groundwater, or the impact could be mitigated by improvements on the site or in the same vicinity.
The rezoning will not have an adverse impact on the natural environment. The development will provide improvements to the property in the form of stormwater management and the addition of 32 trees.

**Summary**

We respectfully request approval of the comprehensive plan amendment, rezoning and planned unit development amendment at PID 343022210025 to correct the land use and zoning for the property and incorporate the property into existing planned unit development.

**Contact Information**

This document was prepared by:

Kevin Shay  
Landform  
105 South Fifth Avenue, Suite 513  
Minneapolis, MN 55401

Any additional questions regarding this application can be directed to Steve Sabraski at ssabraski@landform.net or 612.638.0243.
COMPREHENSIVE PLAN AMENDMENT APPLICATION

The City of Vadnais Heights
800 East County Road E • Vadnais Heights, MN 55127
Phone: 651.204.6015 • Fax: 651.204.6100
www.cityvadnaisheights.com

Applicant: Linda McGinty on behalf of the Luther Company, LLLL

Address: 3701 Alabama Avenue S.

City: St. Louis Park State: MN Zip: 55416

Phone: 952 - 258 - 8814 Cell: - E-mail: Linda.McGinty@lutherauto.com

Fee Owner: The Luther Company, LLLL

Address: 3701 Alabama Avenue S.

City: St. Louis Park State: MN Zip: 55416

Phone: 952 - 258 - 8814 Cell: - E-mail: Linda.McGinty@lutherauto.com

Address or General Location of Property: 0 Willow Lake Boulevard, Corner of Willow Lake Boulevard and International Drive

Legal Description of Property (attach a separate sheet if necessary):
Lot 1 and 3, Block 1, Vadnais Business Park, Ramsey County, Minnesota

Acreage of Property: 2.0 acres

Present Land Use Designation: Industrial Present Zoning: I - Industrial

Present Use of Property: Approved for parking lot

Proposed Land Use Designation: Commercial Proposed Zoning (if rezoning): PUD

Proposed Use of Property: Parking lot

Explain or justify your need to amend the current land use designation:
Please see attached narrative.

Applicant’s Signature

Date 1/28/20

Property Owner’s Signature (if different from applicant)

Date 1/26/20

Updated 1/16/2019
REZONING APPLICATION
The City of Vadnais Heights
800 East County Road E • Vadnais Heights, MN 55127
Phone: 651.204.6015 • Fax: 651.204.6100
www.cityvadnaishights.com

Applicant: Linda McGinty on behalf of The Luther Company, LLLP
Address: 3701 Alabama Avenue S
City: St Louis Park State: MN Zip: 55416
Phone: 952-258-8814 Cell: - - - E-mail: Linda.McGinty@lutherauto.com

Fee Owner: The Luther Company, LLLP
Address: 3701 Alabama Avenue S.
City: St Louis Park State: MN Zip: 55416
Phone: 952-258-8814 Cell: - - - E-mail: Linda.McGinty@lutherauto.com

Address or General Location of Property: 0 Willow Lake Boulevard, Corner of Willow Lake Boulevard and International Drive

Legal Description of Property (attach a separate sheet if necessary):
Lot 1 and 3, Block 1, Vadnais Business Park, Ramsey County, Minnesota

Acreage of Property: 2.0 acres
Present Land Use Designation: Industrial Present Zoning: I - Industrial
Present Use of Property: Approved for parking lot
Proposed Land Use Designation: Commercial Proposed Zoning: PUD
Proposed Use of Property: Parking lot

Explain or justify your need to rezoning the subject property: Please see attached narrative

Applicant Signature: Linda McGinty
Date: 1/28/20

Property Owner Signature (if different from applicant) 
Date: 1/28/20
<table>
<thead>
<tr>
<th>APPLICATION TYPE:</th>
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<tbody>
<tr>
<td>□ CONCEPT</td>
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<tr>
<td>□ FINAL</td>
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<tr>
<td>✗ AMENDMENT</td>
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</table>

<table>
<thead>
<tr>
<th>Project/Development Name: Vadnais Heights Acura Parking Expansion</th>
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</thead>
<tbody>
<tr>
<td>Address or General Location of Property: 0 Willow Lake Boulevard</td>
</tr>
<tr>
<td>Legal Description of Property (attach separate sheet if necessary):</td>
</tr>
</tbody>
</table>

Lot 1 and 3, Block 1, Vadnais Business Park, Ramsey County, Minnesota

<table>
<thead>
<tr>
<th>Property Identification Number (PIN): 343022210025</th>
</tr>
</thead>
<tbody>
<tr>
<td>Zoning: Rezoning to PUD Future Land Use Designation: Amending land use to commercial</td>
</tr>
<tr>
<td>Proposed Use of Property: Parking lot</td>
</tr>
</tbody>
</table>

[Signatures]

Applicant Signature 

Date: 1/28/20

Property Owner Signature (if different from applicant) 

Date: 1/28/20
BACKGROUND INFORMATION SHOWN IS FROM SURVEY BY LANDFORM, MINNEAPOLIS, MN, ON FEBRUARY 5TH, 2019 EXPRESSLY FOR THIS PROJECT; CITY OF VADNAIS HEIGHTS, MN RECORD DRAWINGS; AND UTILITY SERVICE PROVIDERS. LANDFORM OFFERS NO WARRANTY, EXPRESSED OR WRITTEN, FOR INFORMATION PROVIDED BY OTHERS. EXISTING PROJECT CONDITIONS SHALL BE VERIFIED PRIOR TO BEGINNING CONSTRUCTION. ERRORS, INCONSISTENCIES, OR OMISSIONS DISCOVERED SHALL BE REPORTED TO THE ENGINEER IMMEDIATELY. GEOTECHNICAL BORING LOCATIONS ARE APPROXIMATE AND ARE BASED ON INFORMATION PROVIDED IN THE GEOTECHNICAL REPORT PREPARED BY TBD.
THE LUTHER COMPANY, L.L.P.

MINNETONKA, MN

Vadnais Heights

August 7, 2019

PROJECT NO. LUT19044

FILE NAME C201LUT044

DATE ISSUE / REVISION REVIEW

CONTACT ENGINEER FOR ANY PRIOR HISTORY

PROJECT ISSUCE / REVISION HISTORY

CERTIFICATION

LANDFORM® and Site to Finish® are registered service marks of Landform Professional Services, LLC.

If the signature, seal or four lines directly above are not visible, this sheet has been reproduced beyond intended readability and is no longer a valid document. Please contact the Engineer to request additional documents.

DIMENSIONS SHOWN ARE TO FACE OF CURB AND EXTERIOR FACE OF BUILDING UNLESS NOTED OTHERWISE.

DELINEATE PARKING STALLS WITH A 4-INCH WIDE WHITE PAINTED STRIPE. DELINEATE ACCESS AISLES WITH 4-INCH WIDE WHITE PAINTED STRIPES 18 INCHES ON CENTER AND AT 45 DEGREE ANGLE TO DIRECTION OF TRAVEL.

FOR CONSTRUCTION STAKING AND SURVEYING SERVICES CONTACT LANDFORM AT 612.252.9070.

1. GENERAL NOTES
2. PARKING SUMMARY
3. ZONING AND SETBACK SUMMARY
4. SITE PLAN NOTES

EXISTING PARKING:

<table>
<thead>
<tr>
<th>Parking Stalls Provided</th>
<th>Existing Parking Stalls</th>
<th>Parking Stalls Removed</th>
</tr>
</thead>
<tbody>
<tr>
<td>(8x18)</td>
<td>29</td>
<td>29</td>
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</tbody>
</table>

TOTAL SITE AREA = N/A

PROPOSED:

<table>
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<tr>
<th>Permeable Impervious</th>
<th>Impervious</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>64,796</td>
<td>21,823</td>
<td>86,619 S.F.</td>
</tr>
</tbody>
</table>

1.99 AC. 1.58 AC. 84.2% 1.49 0.50 100.0%

OBTAIN ALL NECESSARY PERMITS FOR CONSTRUCTION WITHIN, OR USE OF, PUBLIC RIGHT-OF-WAY.

THE DIGITAL FILE, WHICH CAN BE OBTAINED FROM THE ENGINEER, SHALL BE USED FOR STAKING. DISCREPANCIES BETWEEN THE DRAWINGS AND THE DIGITAL FILE SHALL BE REPORTED TO THE ENGINEER. THE BUILDING FOOTPRINT, AS SHOWN ON THESE DRAWINGS, AND THE DIGITAL FILE, SHALL BE COMPARED TO THE STRUCTURAL DRAWINGS PRIOR TO STAKING.

BUILDING LAYOUT ANGLES ARE PARALLEL WITH OR PERPENDICULAR TO THE PROPERTY LINE AT THE LOCATION INDICATED.

LEGEND

- GREEN SPACE (LANDSCAPE AREA)
- IMPERVIOUS
- PERVIOUS
- TOTAL

WILLOW LAKE BLVD

INTERNATIONAL DRIVE

25' PARKING SETBACK

20' PARKING SETBACK

55

55

10

WILLOW LAKE BLVD

INTERNATIONAL DRIVE

55

55

10

WILLOW LAKE BLVD

INTERNATIONAL DRIVE

64,796

21,823

86,619 S.F. 1.99 AC.
BUILDING SETBACK INFORMATION IS AS FOLLOWS:
FRONT YARD = 50 FT.
REAR = 50 FT.
SIDE (INT.) = 20 FT.
SIDE (STR.) = 50 FT.
RESIDENTIAL = 50 FT.

PARKING SETBACK INFORMATION IS AS FOLLOWS:
FRONT YARD = 25 FT.
SIDE (INT.) = 20 FT.
SIDE (STR.) = 25 FT.
RESIDENTIAL = 25 FT.

SIGN SETBACK INFORMATION IS AS FOLLOWS:
FRONT YARD =  NONE

LOT COVERAGE INFORMATION IS AS FOLLOWS:
LOT AREA MINIMUM = N/A
LOT WIDTH MINIMUM = N/A
TOTAL SITE AREA = N/A

IMPERVIOUS
TOTAL
PERVIOUS
EXISTING:
64,796 S.F. 1.49 AC.
21,823 S.F. 0.50 AC.
68,790 S.F. 1.58 AC.

PROPOSED:
86,619 S.F. 1.99 AC.
17,829 S.F. 0.41 AC.
68,790 S.F. 1.58 AC.

1. OBTAIN ALL NECESSARY PERMITS FOR CONSTRUCTION WITHIN, OR USE OF, PUBLIC RIGHT-OF-WAY.
2. THE DIGITAL FILE, WHICH CAN BE OBTAINED FROM THE ENGINEER, SHALL BE USED FOR STAKING. DISCREPANCIES BETWEEN THE DRAWINGS AND THE DIGITAL FILE SHALL BE REPORTED TO THE ENGINEER. THE BUILDING FOOTPRINT, AS SHOWN ON THESE DRAWINGS, AND THE DIGITAL FILE, SHALL BE COMPARED TO THE STRUCTURAL DRAWINGS PRIOR TO STAKING.
3. BUILDING LAYOUT ANGLES ARE PARALLEL WITH OR PERPENDICULAR TO THE PROPERTY LINE AT THE LOCATION INDICATED.
4. DIMENSIONS SHOWN ARE TO FACE OF CURB AND EXTERIOR FACE OF BUILDING UNLESS NOTED OTHERWISE.
5. DELINEATE PARKING STALLS WITH A 4-INCH WIDE WHITE PAINTED STRIPE. DELINEATE ACCESS AISLES WITH 4-INCH WIDE WHITE PAINTED STRIPES 18 INCHES ON CENTER AND AT 45 DEGREE ANGLE TO DIRECTION OF TRAVEL.
6. GENERAL NOTES

ZONING AND SETBACK SUMMARY

SITE PLAN NOTES

PROJECT NO. LUT19044
FILE NAME C201LUT044
PROJECT
ISSUE / REVISION HISTORY
CERTIFICATION
ROUGH GRADE BUILDING PAD TO 12 INCHES BELOW FINISHED FLOOR ELEVATION (FFE).

REMOVE SURFACE AND GROUND WATER FROM EXCAVATIONS. PROVIDE INITIAL LIFTS OF STABLE FOUNDATION MINED FROM LANDSCAPE AREAS FOR USE ON SITE AND REPLACED WITH EXCESS ORGANIC MATERIAL WITH PRIOR OWNER APPROVAL.

REMOVE TOPSOIL FROM GRADING AREAS AND STOCKPILE SUFFICIENT QUANTITY FOR REUSE. MATERIALS MAY BE REFER TO THE GEOTECHNICAL REPORT PREPARED BY TBD, FOR ADDITIONAL INFORMATION ON BACKFILL MATERIAL BACKFILL MATERIAL.

EXCAVATE PONDS EARLY IN THE CONSTRUCTION SEQUENCE. REMOVE SEDIMENT FROM PONDS PERIODICALLY AND LIMIT SOIL DISTURBANCE TO THE GRADING LIMITS SHOWN. SCHEDULE OPERATIONS TO MINIMIZE LENGTH OF INSTALL PERIMETER SEDIMENT CONTROLS PRIOR TO BEGINNING WORK AND MAINTAIN FOR DURATION OF CONSTRUCTION. REMOVE CONTROLS AFTER AREAS CONTRIBUTING RUNOFF ARE PERMANENTLY STABILIZED AND SITE IS COMPLETELY STABILIZED.

NOTE: ACCESSIBLE ROUTES SHALL HAVE A MAXIMUM CROSS SLOPE OF 2.00% AND A MAXIMUM RUNNING SLOPE OF 5.00%. INSTALL JOINTS AS SHOWN AND ALIGN ACROSS SIDEWALKS, CURBS, AND PAVEMENT, PAYING ATTENTION TO SPACING OF EXPANSION JOINTS. JOINT SPACING SHALL BE AS FOLLOWS: 3701 ALABAMA AVENUE SOUTH

TEL (952)258-8800 - FAX (952) 258-8900

CONTACT ENGINEER FOR ANY PRIOR HISTORY

AUGUST 7, 2019

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CERTIFICATION

MNDOT 2575 GENERAL PLACEMENT

MNDOT 3878 SOD 14,138 S.F.

SILT FENCE 425 FEET

ROCK OR BIO LOG 550 FEET

CONSTRUCTION LIMITS

GENERAL NOTES

b. BITUMINOUS PAVING (HEAVY DUTY)

SEED MNDOT 35-241 @ 36.5 LB/AC - MESIC PRAIRIE GENERAL 35.16 LBS.

PAVEMENT: 80 FEET MAX.; ADJACENT TO BUILDING FOUNDATIONS AND STOOPS.

8-INCH CONCRETE, 4000 PSI, 5%-8% AIR ENTRAINED, MAX. 4" SLUMP (MNDOT 2301)

4-INCH AGGREGATE BASE (MNDOT 3138, CLASS 5)

2.5-INCH BITUMINOUS BASE (MNDOT 2360)

TACK COAT (MNDOT 2357)

9-INCH AGGREGATE BASE (MNDOT 3138, CLASS 5)

2-INCH BITUMINOUS WEAR (MNDOT 2360)

TACK COAT (MNDOT 2357)

CONTACT LANDFORM  AT 612.252.9070. 1.

COORDINATE WITH ARCHITECTURAL FOR BUILDING STOOP LOCATIONS. SLOPES SHOWN ON ADJACENT WALKS AND OBTAIN SPECIFIED COMPACTION THROUGHOUT THE LIFT.

AN INDEPENDENT TESTING FIRM SHALL VERIFY THE REMOVAL OF ORGANIC AND UNSUITABLE SOILS, SOIL CORRECTION, AND COMPACTION AND PROVIDE PERIODIC REPORTS TO THE OWNER.

FOR CONSTRUCTION STAKING AND SURVEYING SERVICES CONTACT LANDFORM  AT 612.252.9070.1.

SPOT ELEVATIONS AT CURBLINES INDICATE FLOWLINES UNLESS NOTED OTHERWISE. SEE SHEET C4.1 FOR RIM

CURB TRANSITION BETWEEN B618 AND B412.

CURB TRANSITION BETWEEN B412 OR B618 AND RIBBON CURB. REFER TO DETAIL C7.3/5.

ITEM

ESTIMATED QUANTITIES

07 AUG 2019 DATE ISSUE / REVISION REVIEW

PROJECT NO.

FILE NAME

070C301LUT044

C301LUT044

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070C301LUT044

C301LUT044
NOTICE OF PUBLIC HEARING

NOTICE IS HEREBY GIVEN that the Vadnais Heights City Planning Commission will meet and conduct a public hearing on Monday, February 24, 2020 at 7:00 p.m. at City Hall, 800 E. County Road E, to consider applications submitted by Linda McGinty obo of Luther Companies LLLP, for a Comprehensive Plan Amendment, Rezoning, and Planned Unit Development Amendment, for the purpose of a parking lot expansion.

The legal descriptions of the properties involved are as follows: Lots 1 and 3, Block 1, Vadnais Business Park, Ramsey County, Minnesota.

The subject property is located at Willow Lake Boulevard and International Drive, Vadnais Heights.

Anyone wishing to be heard in regard to this matter will be given an opportunity at this time. The application is available for public review at City Hall during normal business hours. Questions or comments should be directed to Nolan Wall, Planning and Community Development Director, at 651-204-6027 or nolan.wall@cityvadnaishights.com.

FOR THE PLANNING COMMISSION OF THE CITY OF VADNAIS HEIGHTS

Kevin P. Watson
City Administrator

Dated: February 6, 2020

Mailed 2-5-20
Memorandum:

TO: Chair Cordes and Planning Commission Members

FROM: Nolan Wall, Planning/Community Development Director

DATE: February 24, 2020

SUBJECT: Annual Organizational Business

Recommended Commission Action
Staff recommends the Commission take action on the following items, as required by the City Code:

1. Elect/Appoint members to the following positions:
   A. Chairperson
   B. Vice Chairperson
   C. EDA Representative (2)

2. Accept the 2020 Expense Allowance.

Discussion
The current Commission appointments are as follows:

<table>
<thead>
<tr>
<th>Position</th>
<th>Commissioner</th>
</tr>
</thead>
<tbody>
<tr>
<td>Chairperson</td>
<td>Evan Cordes</td>
</tr>
<tr>
<td>Vice Chairperson</td>
<td>Martin Jokinen</td>
</tr>
<tr>
<td>EDA Representative</td>
<td>Curt Cooper</td>
</tr>
<tr>
<td>EDA Alternate Representative</td>
<td>Jerry Moynagh</td>
</tr>
</tbody>
</table>

Chairperson/Vice Chairperson
According to Chapter 2, Article IV, Division 2, Section 2-84(b) of the City Code:

The commission shall at its first meeting of each year, elect a vice chairperson who shall automatically become chairperson the following year in the event that a chairperson does not seek another term or has served the maximum term. No member shall serve more than two consecutive years as chairperson. The planning commission may, at its discretion, elect a secretary from their membership.

Commissioner Cordes served as Chairperson in 2019 and can be elected to another term. Commissioner Jokinen served as Vice Chairperson in 2019 and can be elected to another term. In addition, he could assume the role of Chairperson in 2021, if interested and elected, as has been past practice.
Economic Development Authority Representatives
The Vadnais Heights Economic Development Authority (EDA) is comprised of the following:

- City Council (all 5 members)
- Vadnais Heights Economic Development Corporation (1 representative)
- Planning Commission (1 representative/1 alternate)

The EDA meets on an as-needed basis. A representative and alternate representative need to be nominated and appointed by majority vote of the Planning Commission.

Expense Allowance
According to Chapter 2, Article IV, Division 2, Section 2-84(c) of the City Code:

Members shall receive an expense allowance of not more than $20.00 per month for the chairperson and secretary, if appointed, and not more than $15.00 per month for other members, including alternates. The amount of such allowance and the basis for its payment shall be determined by the commission members at the first meeting of the year. An additional expense allowance of $10.00 per month will be provided to members who attend additional meetings per month for representing the city at other meetings as requested.

Historically, the Planning Commission has passed a motion accepting the annual expense allowance at the first meeting of the year. Any recommended changes to the expenses would require a Code Amendment to be approved by the City Council.

Commission Duties and Rules
The Commission’s duties and rules are contained in Chapter 2, Article IV, Division 1 & 2, Sections 2-62 and 2-85, respectively, of the City Code; copies are attached for your review. In addition, an executive summary of the Minnesota Open Meeting Law and an article on ethics for commissioners are attached.

Attachments (3): City Code sections; MN Open Meeting Law Summary; Ethics article.
DIVISION 2. - PLANNING COMMISSION

Sec. 2-83. - Established; composition; quorum; member qualifications; ex-officio and alternate members.

(a) The city has established a city planning commission to consist of not more than seven members. Four members shall constitute a quorum. Each member of the planning commission shall be a resident of the city who does not hold any elective or appointive public office. Civil service employment does not constitute public office.

(b) The city engineer and the city planner shall be ex-officio members of the commission, but shall not be entitled to vote as such. All other regular employees and consultants of the city shall cooperate with the planning commission and make themselves available and attend meetings when requested to do so.

(c) The council may appoint no more than two alternates to the commission. Such alternates may attend and take part in the commission meeting but shall have no vote, provided that, if one or more regular members is absent for any meeting, then an alternate (in order of seniority if more than one is present) may sit with all the privileges of a member for that meeting only.

(Code 1999, §§ 211.010, 211.020)

Sec. 2-84. - Appointments, vacancies; organization; expenses; removal of members.

(a) Each member shall be appointed by the council for a term of three years; vacancies shall be filled for the remainder of an existing term. To acquaint the proposed member with the work of the planning commission and to avoid conflicts of interest, each proposed member shall submit a personal and occupational resume and be personally interviewed by the council liaison to the commission and city staff.

(b) The commission shall at its first meeting of each year, elect a vice chairperson who shall automatically become chairperson the following year in the event that a chairperson does not seek another term or has served the maximum term. No member shall serve more than two consecutive years as chairperson. The planning commission may, at its discretion, elect a secretary from their membership.

(c) Members shall receive an expense allowance of not more than $20.00 per month for the chairperson and secretary, if appointed, and not more than $15.00 per month for other members, including alternates. The amount of such allowance and the basis for its payment shall be determined by the commission members at the first meeting of the year. An additional expense allowance of $10.00 per month will be provided to members who attend additional meetings per month for representing the city at other meetings as requested.

(d) Any members may be removed from office by the council for cause duly found.
Sec. 2-85. - Duties and authority.

(a) The planning commission shall have the following duties and authority:

   (1) Recommend updates to the city's comprehensive plan as required by the Metropolitan Council;

   (2) Periodically review and recommend modifications, if any, to the city's zoning and subdivision codes;

   (3) Propose, draft or recommend overall or partial plans for the future physical development and improvement of the city, including all matters relating to zoning and planning as cities are authorized and empowered to undertake pursuant to state law;

   (4) Consider all plats submitted by private property owners, and all plans and proposals for development of private or public property within the city;

   (5) Study, plan, recommend and promote public transportation and transportation alternatives and opportunities within the city including appointing representatives to study commissions;

   (6) Review and propose regulations to protect the natural environment and characteristics of the city such as lakes/ponds, wetlands, woodlands, steep slopes and other environmental concerns;

   (7) Promote life-cycle housing within the city and recommend methods to obtain such housing;

   (8) Serve as the board of zoning adjustment and appeals, in the following capacities:

       a. Hear and decide appeals where it is alleged that there is an error in any order, requirement, decision, or determination made by an administrative officer in the enforcement of this division.

       b. Hear requests for variances from the requirements of this division and make recommendations to the city council.

       c. Advise the council on any and all matters referred to it by the council.

(b) All action of the planning commission shall be in the nature of recommendations to the council, and the commission shall have no final authority with reference to any matters except as the council may delegate authority to it.

(Code 1999, § 211.040)

Sec. 2-86. - Meetings, minutes and reports.
All regular and special meetings of the planning commission shall be open to the public, and such monthly regular and special meetings shall be at the times that the membership determines. Meeting minutes shall be provided by the commission and the commission shall report semi-annually its activities and recommendations to the council and such other reports as requested by the council.

(Code 1999, § 211.050)

Sec. 2-87. - Expenditures.

The council shall provide, out of available funds, for the ordinary and necessary expenses, including training of the planning commission.

(Code 1999, § 211.060)

Sec. 2-88. - Staff liaison.

The city planning/development director shall be the lead staff liaison to the planning commission. Annually, by a prescribed date, the staff liaison shall submit a budget request to the city finance director for the operation needs of the commission for the ensuing year. The staff liaison shall assist the council liaison to the commission with communication and information as requested.

(Code 1999, §§ 212.010—212.040)
Minnesota Open Meeting Law

The Minnesota Open Meeting Law requires that meetings of governmental bodies generally be open to the public. This information brief discusses the groups and types of meetings covered by the open meeting law, and then reviews the requirements of and exceptions to the law and the penalties for its violation.

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Executive Summary

The Minnesota Open Meeting Law was originally enacted in Laws 1957, chapter 773, section 1. It is now codified in Minnesota Statutes, chapter 13D. The Minnesota Supreme Court has articulated three purposes of the open meeting law:

- To prohibit actions being taken at a secret meeting where it is impossible for the interested public to become fully informed about a public board’s decisions or to detect improper influences
- To assure the public’s right to be informed
- To afford the public an opportunity to present its views to the public body

“These purposes are deeply rooted in the fundamental proposition that a well-informed populace is essential to the vitality of our democratic form of government.” Courts interpret the law liberally and in favor of openness.

Entities covered by the law. The law applies to state and local multimember governmental bodies, including committees and subcommittees, and nonprofits created by political subdivisions. A separate law applies to the legislature.

Situations where the law applies. A meeting is a “meeting” for purposes of the law when a quorum or more of the governmental body is gathered—in person or by electronic means, whether or not action is taken or contemplated. The open meeting law does not address whether the governmental body must keep or publish meeting minutes, hold a meeting for a particular purpose, or allow members of the public to address the body. For any particular governmental body, there may be other laws or charter provisions that address those topics.

What constitutes an open meeting. A meeting is open when proper notice was given in advance of the meeting, the public may attend and observe, and relevant materials are available to the public.

Exceptions to the law. A meeting may be closed based on a limited attorney-client privilege, and for the purposes of labor negotiations, employee evaluations, and discussion of security issues and property transactions. The law does not apply to a governmental body exercising quasi-judicial functions.

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1 Prior Lake American v. Mader, 642 N.W.2d 729, 735 (Minn. 2002) (en banc) (citing St. Cloud Newspapers, Inc. v. District 742 Community Schools, 332 N.W.2d 1, 4 (Minn. 1983)). While the courts consistently say that the open meeting law is to afford the public an opportunity to present its views to the public body, there is no general right for members of the public to speak at a meeting. Some statutes, and perhaps some home rule charters, specify that a hearing on a particular matter must be held at which anyone who wishes to address the public body may do so. See, e.g., Minn. Stat. § 117.0412, subd. 2.

2 Prior Lake American, 642 N.W.2d at 735.
Violations of the law. While actions taken at a meeting held in violation of the law are still valid, the law provides for penalties and potentially removal from office.

Where to get advice. A governmental entity can seek advice from its attorney, the Minnesota Attorney General, or the Commissioner of Administration. An individual may seek advice from a private attorney or the Commissioner of Administration.

Groups and Meetings Governed by the Open Meeting Law

The law applies to all levels of state and local government.

The open meeting law applies to:

- a state agency, board, commission, or department when it is required or permitted by law to transact public business in a meeting;
- the governing body of any school district, unorganized territory, county, city, town, or other public body;
- a committee, subcommittee, board, department, or commission of a public body subject to the law; and
- the governing body or a committee of a statewide or local public pension plan.  

“Public body” is not defined but the Minnesota Supreme Court has stated that “[i]n common understanding, ‘public body’ is possibly the broadest expression for the category of governmental entities that perform functions for the public benefit.”

In determining whether the open meeting law applies to a particular entity, one should look at all of the entity’s characteristics. For example, in a 1998 case, the Minnesota Supreme Court held that because the statute authorizing creation of a municipal power agency authorized an agency to conduct its affairs as a private corporation, it could hold closed meetings. The court held so notwithstanding the statute that provides for municipal power agencies to be political subdivisions of the state.

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3 Minn. Stat. § 13D.01, subd. 1.

4 Star Tribune Co. v. University of Minnesota Board of Regents, 683 N.W.2d 274, 280-282 (Minn. 2004) (en banc).

5 Southern Minn. Mun. Power Agency v. Boyne, 578 N.W.2d 362, 364 (Minn. 1998) (en banc) (citing Minn. Stat. § 453.54, subd. 21, and discussing the factors that distinguish a public corporation from a private corporation).

6 Minn. Stat. § 453.53, subd. 1, para. (b), cl. (1) (The agency agreement shall state: “(1) That the municipal power agency is created and incorporated . . . as a municipal corporation and a political subdivision of the state, to exercise thereunder a part of the sovereign powers of the state;”'}).
The law generally applies to nonprofit corporations created by governmental entities.

The list of groups covered by the open meeting law does not refer to nonprofit corporations created by a governmental entity. However, the law creating a specific public nonprofit corporation may specify that it is subject to the open meeting law. In addition, any corporation created by a political subdivision before May 31, 1997, is clearly subject to the open meeting law.

Gatherings of less than a quorum of a public body are not subject to the law; a “meeting” is held when the group is capable of exercising decision-making powers.

The Minnesota Supreme Court has held that the open meeting law applies only to a quorum or more of members of the governing body or a committee, subcommittee, board, department, or commission of the governing body. Serial meetings in groups of less than a quorum held in order to avoid open meeting law requirements may also be found to be a violation, depending on the facts of the case.

A public body subject to the law should be cautious about using e-mail to communicate with other members of the body. Although the statute does not specifically address the use of e-mail, it is likely that the court would analyze use of e-mail in the same way as it has telephone conversations and letters. That is, private communication about official business through telephone conversations or letters by a quorum of a public body subject to the law would violate the law. Serial communication through telephone conversations or letters by less than a quorum with the intent to avoid a public hearing or to come to an agreement on an issue relating to official business could also violate the law. In a 1993 case, the Minnesota Court of Appeals held that the open meeting law was not violated when two of five city council members attended private mediation sessions related to city business. The court determined that the two council

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7 E.g., Minn. Stat. §§ 62Q.03, subd. 6 (Minnesota Risk Adjustment Association); 85B.02, subd. 6 (Lake Superior Center Authority); 116O.03, subd. 5 (Enterprise Minnesota, Inc.); 116V.01, subd. 10 (Agricultural Utilization Research Institute); 116S.02, subs. 6 and 7 (Minnesota Business Finance, Inc.); 124D.385, subd. 4 (Minnesota Commission on National and Community Service may create a nonprofit but it is subject to the open meeting law); and 128C.22 (State High School League).

8 Minn. Stat. § 465.719, subd. 9.


10 Id. at 518; see also Mankato Free Press Co. v. City of North Mankato, 563 N.W.2d 291, 295 (Minn. App. 1997). On remand to the district court for a factual finding on whether the city used serial interviews to avoid the open meeting law, the trial court found, and the court of appeals affirmed, that the serial meetings were not held to avoid the law. Mankato Free Press Co. v. City of North Mankato, No. C9-98-677, 1998 WL 865714 (Minn. App. 1998) (unpublished opinion), review denied (Minn. Feb. 24, 1999).

11 Moberg, 336 N.W.2d at 518. The Commissioner of Administration stated in a July 9, 2008, opinion that an e-mail sent to all members of a city council by the city manager was effectively “printed material” that should be available to members of the public and also suggested that the legislature revise the statute to recognize the use of electronic and other types of communications. Minn. Dept. of Admin. Advisory Op. 08-015. A September 8, 2009, opinion by the commissioner states that the exchange of e-mails by staff and members of the Metro Gang Strike Force Advisory Board violated the open meeting law because it was not just a matter of a quorum receiving information, but a quorum of the body discussing and then giving the staff person direction on the action to take.
members did not constitute a committee or subcommittee of the council because the group was not capable of exercising decision-making powers.12

The law applies to informational meetings.

The Minnesota Supreme Court has held that the open meeting law applies to all gatherings of members of a governing body, whether or not action is taken or contemplated. This means that a gathering of members of a public body for an informational seminar on matters currently facing the body or that might come before the body must be conducted openly.13 However, there are some exceptions. A 1975 attorney general opinion stated that city council attendance at a League of Minnesota Cities training program for city officials did not violate the open meeting law if the members did not discuss specific municipal business.14 In 2010, the statute governing the Lessard-Sams Outdoor Heritage Council was amended to allow members of the council to travel together to visit sites and learn about projects without it being a violation of the law as long as the members do not decide, or agree to decide, matters under the council’s jurisdiction.15

The law does not cover chance or social gatherings.

The open meeting law does not apply to chance or social gatherings of members of a public body.16 However, a quorum of a public body may not, as a group, discuss or receive information on official business in any setting under the guise of a private social gathering.17

The law does not apply to certain types of advisory groups.

The Minnesota Court of Appeals has held that the open meeting law does not apply to certain types of advisory groups.18 In that case, a presidential search advisory committee to the University of Minnesota Board of Regents was held not to be a committee of the governing body for purposes of the open meeting law. In reaching its holding, the court pointed out that no regents were on the search committee and that the committee had no power to set policy or make a final decision. It is not clear if a court would reach the same result if members of the governing body were also on the advisory committee. Depending on the number of members of the governing body involved and on the form or extent of the delegation of authority from the governing body to the members, a court might consider the advisory committee to be a committee of the governing body.

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12 Sovereign v. Dunn, 498 N.W.2d 62 (Minn. App. 1993), review denied (Minn. May 28, 1993).
13 St. Cloud Newspapers, Inc., 332 N.W.2d 1.
15 Minn. Stat. § 97A.056, subd. 5, para. (b), provides “Travel to and from scheduled and publicly noticed site visits by council members for the purposes of receiving information is not a violation of paragraph (a). Any decision or agreement to make a decision during the travel is a violation of paragraph (a).”
16 St. Cloud Newspapers, Inc., 332 N.W.2d at 7.
17 Moberg, 336 N.W.2d at 518.
A separate law applies to the legislature.

In 1990, the legislature passed a law separate from the open meeting law that requires all legislative meetings be open to the public.\(^{19}\) The law applies to House and Senate floor sessions and to meetings of committees, subcommittees, conference committees, and legislative commissions. For purposes of this law, a meeting occurs when a quorum is present and action is taken regarding a matter within the jurisdiction of the group. Similarly, a meeting of the Legislative-Citizen Commission on Minnesota Resources occurs when a quorum is present and action is taken.\(^{20}\) Each house of the legislature must adopt rules to implement these requirements. Remedies provided under these rules are the exclusive means of enforcing this law.

**Requirements of the Open Meeting Law**

The primary requirement of the open meeting law is that meetings be open to the public.

The law also requires that votes in open meetings be recorded in a journal and that the journal be open to the public. The vote of each member must be recorded on appropriations of money, except for payments of judgments and claims and amounts fixed by statute.\(^{21}\) A straw ballot to narrow the list of candidates for city administrator and not made public was held to be a secret vote in violation of the open meeting law, particularly in light of the fact that the straw vote was acted on and given the same effect as an official act.\(^ {22}\)

Open meetings must be held in a public place within the borders of the public body.\(^ {23}\)

Meetings may be held by interactive television if specified conditions are met to ensure openness and accessibility for those who wish to attend.\(^ {24}\) The Commissioner of Administration issued an

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\(^{19}\) Minn. Stat. § 3.055.

\(^{20}\) Minn. Stat. § 116P.08, subd. 5, “(a) Meetings of the commission, committees or subcommittees of the commission, technical advisory committees, and peer review panels must be open to the public. The commission shall attempt to meet throughout various regions of the state during each biennium. For purposes of this subdivision, a meeting occurs when a quorum is present and action is taken regarding a matter within the jurisdiction of the commission, a committee or subcommittee of the commission, a technical advisory committee, or a peer review panel.

(b) For legislative members of the commission, enforcement of this subdivision is governed by section 3.055, subdivision 2. For nonlegislative members of the commission, enforcement of this subdivision is governed by section 13D.06, subdivisions 1 and 2.” (emphasis added).

\(^{21}\) Minn. Stat. § 13D.01, subsd. 4 and 5.

\(^{22}\) Mankato Free Press Co., 563 N.W.2d at 295-96. In contrast, the Commissioner of Administration issued an advisory opinion finding that a secret straw ballot taken and its results described and discussed at the same meeting as the ballot was not a violation. Minn. Dept. of Admin. Advisory Op. 10-011.

\(^{23}\) Quast v. Knutson, 276 Minn. 340, 341, 150 N.W.2d 199, 200 (1967) (school board meeting held 20 miles outside the jurisdiction of the school board at a private office did not comply with open meeting law; consolidation proceedings were fatally defective because the resolution by which the proceedings were initiated was not adopted at a public meeting as required by law).

\(^{24}\) Minn. Stat. § 13D.02. See also Minn. Stat. § 471.59, subd. 2 (joint powers board for educational purposes).
opinion in 2013 that attending a meeting using a web-based technology like Skype is like attending by interactive TV and is allowed as long as the requirements for attending by interactive TV are met.25

A state entity may hold meetings by telephone or other electronic means as long as specified conditions are met to ensure openness and accessibility for those who wish to attend. In addition, a meeting of any public body (state or local) may be conducted by telephone or other electronic means if a health pandemic or other emergency makes meeting in person impractical or imprudent and all of the same conditions as for other meetings held by telephone or other electronic means are met, unless unfeasible due to the pandemic or emergency.

In general, those conditions include the following:

- All members of the body can hear one another and can hear all discussion and testimony.
- Members of the public at the regular meeting location can hear all discussion, testimony, and votes.
- At least one member of the body (or, in the case of a health pandemic or other emergency, the chief legal counsel or chief administrative officer) is present at the regular meeting location. (If using interactive TV under section 13D.02—as opposed to telephone or other electronic means—there is the additional condition that each location be open and accessible to the public.)
- All votes are conducted by roll call.
- The public body must allow a person to monitor the meeting electronically from another location. The body may require the person to pay for any documented additional costs the body incurs as a result of the additional connection.
- The public body must give notice of the regular meeting location, of the fact that some members may participate by telephone or other electronic means, and of the right of the public to monitor the meeting from another location. In addition, the public body must post the notice on its website at least ten days before any regular meeting.26


26 Minn. Stat. §§ 13D.015 (state entities); 13D.02; 13D.021 (state or local entities in the case of health pandemic, other emergency). Various statutes for specific public bodies also allow for meetings by interactive television, telephone, or other electronic means: Minn. Stat. §§ 13D.02, subd. 5 (school boards with audio and visual link); 35.0661 (Board of Animal Health during restricted travel for animal health reasons); 41A.0235 (Minnesota Agricultural and Economic Development Board); 41B.026 (Rural Finance Agency); 116L.03, subd. 8 (Minnesota Jobs Skills Partnership Board); 116L.665, subd. 2a (Governor’s Workforce Development Council); 116M.15, subd. 5 (Urban Initiative Board); 116T.02, subd. 6 (Northern Technology Initiative, Inc.); 116U.25 (Explore Minnesota Tourism Council); 123A.16, subd. 1 (education district boards); 129C.105 (Board of the Perpich Center for Arts Education); 248.10 (Rehabilitation Council for the Blind); 256.482, subd. 5b (Minnesota State Council on Disability); 256.975, subd. 2a. (Minnesota Board on Aging); 256C.28, subd. 7 (Commission of Deaf, DeafBlind and Hard-of-Hearing Minnesotans); 268A.02, subd. 3 (State Rehabilitation Council and Statewide Independent Living Council); 326B.32, subd. 7 (Board of Electricity); 326B.435, subd. 7 (Board of Plumbing); 462A.041 (Minnesota Housing Finance Agency).
The law requires public bodies to give notice of their meetings.

In 1974, the Minnesota Supreme Court held that failure to give notice of a meeting is a violation of the open meeting law. The court has also held that it is a violation of the open meeting law to conduct business before the time publicly announced for a meeting.

In 1987, the legislature spelled out the notice requirements in statute for regular, special, emergency, and closed meetings. Public bodies must do the following:

- Keep schedules of regular meetings on file at their offices
- Post notice of special meetings (meetings held at a time or place different for regular meetings) on their principal bulletin board. The public body must also either mail notice to people who have requested such mailings, or publish notice in the official newspaper, at least three days before the meetings
- Make good faith efforts to notify news media that have filed written requests (with telephone numbers) for notice of emergency meetings (special meetings called because of circumstances that require immediate consideration)

The same notice requirements apply to closed meetings.

A state agency may post its regular meeting schedule on the agency’s website or keep it on file in the agency’s primary office. In addition, absent any other specific law governing notice by a state agency, an agency can satisfy the notice publication requirements by publishing notice in the State Register or posting it on the agency’s website.

The law requires relevant materials to be publicly available.

The open meeting law requires that for open meetings, at least one copy of any printed material prepared by the public body and distributed or available to all members of the public body also be available in the meeting room for inspection by the public. This requirement does not apply to materials that are classified as other than public under the Government Data Practices Act.

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28 *Merz v. Leitch*, 342 N.W.2d 141, 145 (Minn. 1984) (en banc).

29 Minn. Stat. § 13D.04, subd. 1.

30 Minn. Stat. § 13D.04, subd. 2; *Rupp v. Mayasich*, 533 N.W.2d 893 (Minn. App. 1995) (bulletin board must be reasonably accessible to the public). A February 3, 2004, advisory opinion by the Commissioner of Administration stated that a public body’s actions at a special meeting are limited to those topics included in the notice of special meeting. Minn. Dept. of Admin. Advisory Op. 04-004.

31 Minn. Stat. § 13D.04, subd. 3.

32 Minn. Stat. § 13D.04, subd. 5.

33 Minn. Stat. § 13D.04, subd. 6.

34 Minn. Stat. § 13D.01, subd. 6.
Exceptions to the Open Meeting Law

A closed meeting, except one closed under the attorney-client privilege, must be electronically recorded at the expense of the public body. Unless otherwise provided by law, the recordings must be preserved for at least three years after the date of the meeting.35

The law does not apply to state agency disciplinary hearings.

The open meeting law does not apply to any state agency, board, or commission when exercising quasi-judicial functions involving disciplinary hearings.36

Certain meetings involving employee evaluation or discipline must be closed.

A public body must close meetings for preliminary consideration of allegations or charges against an individual subject to its authority.37 If the members of the public body conclude that discipline may be warranted as a result of those charges, further meetings or hearings relating to the charges must be open. Meetings must also be open at the request of the individual who is the subject of the meeting.

Statutes other than the open meeting law may permit or require closed meetings for certain local governmental bodies to conduct specific kinds of disciplinary hearings. For example, school board hearings held to discharge or demote a teacher are private unless the affected teacher wants a public hearing.38

A public body may close a meeting to evaluate the performance of an individual who is subject to its authority.39 Before closing a meeting, the public body must identify the individual to be evaluated. The public body must summarize the conclusions of the evaluation at its next open meeting. An evaluation meeting must be open at the request of the subject of the meeting.

A meeting must be closed if an individual’s medical records governed by Minnesota Statutes, sections 144.291 to 144.298, are discussed.40

A meeting may be closed to discuss labor negotiations.

The open meeting law permits a public body to hold a closed meeting to discuss strategy and proposals for labor negotiations conducted under the Public Employment Labor Relations Act.41

35 Minn. Stat. § 13D.05, subd. 1.
36 Minn. Stat. § 13D.01, subd. 2.
37 Minn. Stat. § 13D.05, subd. 2.
38 Minn. Stat. § 122A.41, subd. 9.
39 Minn. Stat. § 13D.05, subd. 3.
40 Minn. Stat. § 13D.05, subd. 2.
41 Minn. Stat. § 13D.03, subd. 1.
The statute specifies procedures for tape-recording of these meetings, and for the recordings to become public when negotiations are completed. Another law permits the Commissioner of the Bureau of Mediation Services to close negotiations and mediation sessions between public employers and public employees. These negotiations are public meetings, unless the commissioner closes them.

The law permits closed meetings based on a limited attorney-client privilege.

In 1976, the Minnesota Supreme Court held that there is a limited exception, based on the attorney-client privilege, for meetings to discuss strategy for threatened or pending litigation. In 1990, the legislature added the attorney-client exception to the open meeting law. Although the statute is not limited, the court has since held that the scope of the exception remains limited in relation to the open meeting law.

The attorney-client privilege exception does not apply to a mere request for general legal advice. Nor does it apply when a governing body seeks to discuss with its attorney the strengths and weaknesses of a proposed legislative enactment (like a city ordinance) that may lead to future lawsuits because that can be viewed as general legal advice. Furthermore, discussion of proposed legislation is just the sort of discussion that should be public.

In order to close a meeting under the attorney-client privilege exception, the governing body must give a particularized statement describing the subject to be discussed. A general statement that the meeting is being closed to discuss pending or threatened litigation is not sufficient.

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42 Minn. Stat. § 13D.03, subd. 2.
43 Minn. Stat. § 179A.14, subd. 3.
44 Minneapolis Star & Tribune Co. v. Housing & Redevelopment Auth., 310 Minn. 313, 324, 251 N.W.2d 620, 626 (1976).
45 Minn. Stat. § 13D.05, subd. 3.
46 Star Tribune v. Board of Ed., Special School Dist. No. 1, 507 N.W.2d 869 (Minn. App. 1993) review denied (Minn. Dec. 22, 1993). The court of appeals did not accept the argument that the statutory exception encompassed the full attorney-client privilege because that would result in the exception swallowing the rule in favor of open meetings. In 2002, the Minnesota Supreme Court restated that the attorney-client privilege exception only applies when the purposes for the exception outweigh the purposes of the open meeting law. In that case, the city council was threatened with a lawsuit if it did not grant a request. The court found that the threat of a lawsuit did not warrant closing the meeting. Prior Lake American v. Mader, 642 N.W.2d 729 (Minn. 2002) (en banc). Cf. Brainerd Daily Dispatch v. Dehen, 693 N.W.2d 435 (Minn. App. 2005) (applying analysis of Star Tribune and Prior Lake American, finding threats were sufficiently specific and imminent that confidential consultation with legal counsel appointed by city’s insurer to discuss defense strategy or reconciliation to address a threatened lawsuit justified closing the meeting).
47 Star Tribune, 507 N.W.2d at 872.
48 The Free Press v. County of Blue Earth, 677 N.W.2d 471 (Minn. App. 2004).
A meeting may be closed to address certain security issues.

If disclosure of the information discussed would pose a danger to public safety or compromise security procedures or responses, a meeting may be closed to:

- receive security briefings and reports,
- discuss issues related to security systems,
- discuss emergency response procedures, and
- discuss security deficiencies in or recommendations regarding public services, infrastructure, and facilities.

Before closing a meeting, the public body must refer to the facilities, systems, procedures, services, or infrastructures to be considered during the closed meeting. A closed meeting must be tape-recorded at the expense of the governing body, and the recording must be preserved for at least four years.

Financial issues related to security matters must be discussed and all related financial decisions must be made at an open meeting.49

A meeting may be closed to discuss certain issues relating to government property sales or purchases.

A public body may close a meeting to:

- determine the asking price for real or personal property to be sold by the government entity;
- review confidential or nonpublic appraisal data; and
- develop or consider offers or counteroffers for the purchase or sale of real or personal property.

Before holding a closed meeting, the public body must identify on the record the particular property that is the subject of the closed meeting. The proceedings must be tape-recorded at the expense of the public body. The recording must be preserved for eight years after the date of the meeting and made available to the public after all property discussed at the meeting has been purchased or sold or the governing body has abandoned the purchase or sale. The property that is the subject of the closed meeting must be specifically identified on the tape. A list of members and all other persons present at the closed meeting must be made available to the public after the closed meeting. If an action is brought claiming that public business other than discussions allowed under this exception was transacted at a closed meeting held during the time when the tape is not available to the public, the court would review the recording of the meeting in camera.

49 Minn. Stat. § 13D.05, subd. 3.
and either dismiss the action if the court finds no violation, or permit use of the recording at trial (subject to protective orders) if the court finds there is a violation.\textsuperscript{50}

An agreement reached that is based on an offer considered at a closed meeting is contingent on approval of the public body at an open meeting. The actual purchase or sale must be approved at an open meeting after the notice period required by statute or the governing body’s internal procedures, and the purchase price or sale price is public data.\textsuperscript{51}

\textbf{There is a narrow exception for certain meetings of public hospital boards.}

Boards of public hospitals and certain health organizations may close meetings to discuss competitive market activities and contracts.\textsuperscript{52}

\textbf{On-site inspections by town board members are not subject to the law.}

The law does not apply to a gathering of town board members to perform on-site inspections, if the town has no employees or other staff able to perform the inspections and the town board is acting essentially in a staff capacity. The town board must make good faith efforts to provide notice of the inspections to the media that have filed a written request, including a telephone number, for notice. Notice must be by telephone or by any other method used to notify the members of the public body.\textsuperscript{53}

\textbf{The law does not apply to meetings of the Commissioner of Corrections.}\textsuperscript{54}

\textbf{The law specifies how it relates to the Government Data Practices Act.}

Except as specifically provided, public meetings may not be closed to discuss data that are not public data under the Government Data Practices Act.\textsuperscript{55} Data that are not public may be discussed at an open meeting without liability, if the matter discussed is within the public body’s authority and if it is reasonably necessary to conduct the business before the public body.\textsuperscript{56}

A portion of a meeting must be closed if the following data are discussed:

\begin{itemize}
  \item Data that would identify alleged victims or reporters of criminal sexual conduct, domestic abuse, or maltreatment of minors or vulnerable adults
\end{itemize}

\textsuperscript{50} Minn. Stat. § 13D.05, subd. 3, referring to § 13D.03, subd. 3.

\textsuperscript{51} Minn. Stat. § 13D.05, subd. 3. Property appraisal data covered by this law is described in Minnesota Statutes, section 13.44, subdivision 3.

\textsuperscript{52} Minn. Stat. § 144.581, subds. 4 and 5.

\textsuperscript{53} Minn. Stat. § 366.01, subd. 11.

\textsuperscript{54} Minn. Stat. § 13D.01, subd. 2. This exception does not make sense. Until 1982, the exception was for meetings of the Corrections Board—a multimember body. A 1983 instruction directed the revisor of statutes to change “Corrections Board” to “Commissioner of Corrections” throughout the statutes. \textit{Laws 1983, ch. 274 § 18.}

\textsuperscript{55} Minn. Stat. § 13D.05, subd. 1.

\textsuperscript{56} Minn. Stat. §§ 13.03, subd. 11; 13.05, subd. 4; and 13D.05, subd. 1.
• Active investigative data collected by a law enforcement agency, or internal affairs data relating to alleged misconduct by law enforcement personnel

• Certain types of educational, health, medical, welfare, or mental health data that are not public data

The legislature has addressed social media.

In 2014, the legislature added a provision relating to use of social media. “The use of social media by members of a public body does not violate this chapter so long as the social media use is limited to exchanges with all members of the general public. For purposes of this section, e-mail is not considered a type of social media.” “Social media” is not defined.

Penalties

The open meeting law provides a civil penalty of up to $300 for intentional violation. A person who is found to have intentionally violated the law in three or more legal actions involving the same governmental body forfeits the right to serve on that body for a time equal to the term the person was serving. The Minnesota Supreme Court has held that this removal provision is constitutional as to removal of elected officials only if the conduct constitutes malfeasance or nonfeasance and provided that the violations occurred after the person had a reasonable amount of time to learn the responsibilities of office.

A public body may not pay a civil penalty on behalf of a person who violated the law. However, a public body may pay any costs, disbursements, or attorney fees incurred by or awarded against a member of the body in an action under the open meeting law if the member was found not guilty of a violation.

A court may award reasonable costs, disbursements, and reasonable attorney fees of up to $13,000 to any party in an action under the open meeting law. However, the following conditions apply:

• A court may award costs and attorney fees to a defendant only if it finds that the action was frivolous and without merit

• A court may award monetary penalties or attorney fees against a member of a public body only if the court finds there was an intent to violate the open meeting law

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57 Minn. Stat. § 13D.05, subd. 2.
59 Minn. Stat. § 13D.06, subd. 1.
60 Minn. Stat. § 13D.06, subd. 3; Claude v. Collins, 518 N.W.2d 836, 843 (Minn. 1994); see also Brown v. Cannon Falls Township, 723 N.W.2d 31, 41-44 (Minn. App. 2006) (discussing the statutory history and that since 1994 the statute has required three or more legal actions).
The court must award reasonable attorney fees to a prevailing plaintiff if the public body was also the subject of a prior written opinion issued by the Commissioner of Administration, and the court finds that the opinion is directly related to the cause of action being litigated and that the public body did not follow the opinion.62

The appropriate mechanism to enforce the open meeting law is to bring an action in district court seeking injunctive relief or damages. The statute does not provide for a declaratory judgment action.63

The Minnesota Supreme Court has held that actions taken at a meeting held in violation of the open meeting law are not invalid or rescindable.64

Advice

Public bodies subject to the open meeting law may seek advice on the application of the law and how to comply with it from three sources:

- The governmental entity’s attorney
- The attorney general65
- The Commissioner of Administration66

An individual may seek advice from two sources:

- The individual’s attorney
- The Commissioner of Administration67

An individual who disagrees with the manner in which members of a governing body perform their duties under the open meeting law may request the Commissioner of Administration to give a written opinion on the governing body’s compliance with the law.

A governing body or person requesting an opinion of the Commissioner of Administration must pay a $200 fee if the commissioner issues an opinion.

62 Minn. Stat. § 13D.06, subd. 4.
64 Sullivan v. Credit River Township, 299 Minn. 170, 176-177, 217 N.W.2d 502, 507 (Minn. 1974).
65 Under Minnesota Statutes, section 8.06, the attorney general is the attorney for all state officers and boards or commissions created by law. Under Minnesota Statutes, section 8.07, the attorney general, on request from an attorney for a county, city, town, public pension fund, school board, or unorganized area, gives written opinions on matters of public importance.
67 Id.; see www.ipad.state.mn.us/opinions/index.html for access to prior opinions of the Commissioner of Administration or to find out how to request an opinion.
The commissioner may decide not to issue an opinion. If the commissioner decides not to issue an opinion, the commissioner must notify the requester within five days of receipt of the request. If the commissioner decides to issue an opinion, it must be done within 20 days of the request (with a 30-day extension possible for good cause and notice to the requester). The governing body must be allowed to explain how it performs its duties under the law.

Opinions of the Commissioner of Administration are not binding, but a court must give the opinions deference. However, a governing body that follows an opinion is not liable for fines, attorney’s fees or any other penalty, or forfeiture of office.

_For more information about open meetings and other issues related to the government, visit the government operations area of our website, [www.house.mn/hrd/](http://www.house.mn/hrd/)._
Do the Right Thing: Ethics for Commissioners

U.S. SUPREME COURT
Justice Potter Stewart (1915–1985) remarked that "ethics is knowing the difference between what you have a right to do and what is right to do." This maxim is especially relevant for planning and land-use commissioners who are in positions of substantial authority and are privy to information often not held by others. Commissioners know what they have a right to do, but how can they decide what is right to do?

Whom do you serve?
First and foremost, elected and appointed public officials must determine to whom they owe an obligation. This is no easy task for a commissioner—it is to the chair of the commission or to the chief elected official? If you are elected, is your main obligation to the people who elected you or to the political party that nominated you? Do you consider all the citizens of the community to be those you serve, or does your constituency extend to those outside your political jurisdiction who might benefit from what you may do, such as in preserving open space and historic resources, or providing affordable housing so that they might have an opportunity to live in your community?

All those who are involved in land-use decision making must ultimately ask themselves the question of whether they have a moral and ethical obligation to an even larger constituency, one that spans time. In short, they must consider the possibility that they owe an obligation in their decision making of today to further the interests of generations not yet born; as when we protect a sole-source aquifer, a ridgeway, or a sacred place from destruction.

Where do you find guidance?
Once you have resolved the question of who you serve, then you can begin the task of determining how you must conduct yourself. Fortunately, the American Planning Association provides us its Ethical Principles and Planning, available at planning.org/ethics/ethicalprinciples.htm. It is intended as a guide for ethical conduct to all involved in planning, recognizing that "the planning process exists to serve the public interest." Guidelines, though, are only that. They are suggestive of how one should conduct oneself; they are not rules of conduct, meaning there is no penalty if you do not follow them. Guidelines often may serve more to stimulate discussion and further deliberation of what is right and wrong, and what is good and bad.

APA has many other resources on ethics. Commissioners may find it useful and stimulating to set aside some time at their meetings, on a regular basis, perhaps a few times a year, to review the Ethical Principles in Planning and to discuss some of the hypotheticals and problem sets available in the literature. The Texas Chapter of APA has a chapter on "Ethics and the Planning Commissioner" written by Carol Barrett, FAICP, as part of A Guide to Urban Planning and Texas Communities (2013), available at tinyurl.com/glahh6oe. Discussing the principles, considering hypotheticals, and developing your commission's own rules of conduct will help to improve the "issue spotting" capabilities of all commissioners such that they will be able to more readily identify an ethical issue when it arises, hopefully in time to avoid an error or unnecessary delay, perhaps, in the very midst of proceedings.

The Ethical Principles in Planning has three sections, the first two of which are relevant to commissioners and a third focused on practicing planners. The headings of the sections pertinent to commissioners are self-explanatory:

Section one's seven numbered paragraphs encompass a broad variety of considerations including making available "full, clear and accurate information on planning issues" and clarifying community goals.

The 13 paragraphs in section two address such issues as broadly defining "personal interest," not seeking gifts or favors, protecting confidential information, and respecting the rights of all participants.

If an ethics training sessions addressed just one or two of these considerations at a sitting, and worked to flesh out what they mean in terms of practice, there would be sufficient discussion for 10 to 20 meetings.

Municipalities may also have ethical codes that may be mandated by state law. Commissioners should be familiar with those codes and ask their city manager or their legal counsel for a briefing. Some states, such as Pennsylvania, will provide free ethics training.
on request. Regardless, your commission may want to develop its own rules of conduct after careful consideration.

Finally, it is essential to communicate with your peers and others, while being mindful of confidentiality issues, when you as a commissioner feel challenged by an ethical issue. Maybe they will have experienced it before. Perhaps they will see a nuance you missed by being too close to the issue yourself. And sometimes, a decision should be made not by you, but by someone with higher authority.

How can you look within yourself?

Two simple ways of testing your conduct to see if it is ethical can go a long way in resolving otherwise ambiguous situations.

First, consider the “light of day” test: How would you feel about your conduct if your peers and others whom you respect knew all from the front page of the local newspaper or a Facebook post? Try this the next time you feel uncomfortable about what you might do. You’ll be surprised at how easy it is to see a clear decision.

The second test is the ancient moral maxim that is so fundamental it is considered to be at the very core of human nature. It can be traced to the time of the Egyptian Middle Kingdom (2000–1700 BC) and the god, Maat, who said “Now this is the command: do to the doer to make him do.” It is the Golden Rule, found in virtually every religious and ethical tradition. Commissioners who put themselves in the shoes of others will often gain a perspective they couldn’t see before, when they were focused solely on their roles as commissioners.

Now who would have thought that with all the literature, rules, codes, guidelines, statutory requirements, judicial decisions, and other materials available to us in the ethics arena, that we would return to the rules we learned as children? Simply put: Ethics is at once simple and exceedingly difficult.

—Dwight Menzies, FACP

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