

**SHOREVIEW PLANNING COMMISSION
MEETING MINUTES**

September 27, 2011

CALL TO ORDER

Chair Feldsien called the meeting of the September 27, 2011 Shoreview Planning Commission meeting to order at 7:00 p.m.

ROLL CALL

The following members were present: Chair Feldsien; Commissioners Ferrington, Mons, Proud, Schumer, Solomonson and Wenner.

APPROVAL OF AGENDA

MOTION: by Commissioner Mons, seconded by Commissioner Schumer to approve the agenda as submitted.

VOTE: Ayes - 7 Nays - 0

APPROVAL OF MINUTES

MOTION: by Commissioner Mons, seconded Commissioner Wenner to approve the August 23, 2011 Planning Commission minutes as submitted.

Ayes - 5 Nays - 0 Abstain - 2 (Ferrington, Proud)

Commissioners Ferrington and Proud abstained, as they did not attend the August 23rd meeting.

REPORT ON CITY COUNCIL ACTIONS

Senior Planner Rob Warwick reported that at the September 6th City Council meeting, the variance and minor subdivision of Alyssa Delange and Jessica Jimenez were approved, as recommended by the Planning Commission.

At the September 19th City Council Meeting, the appeal of the Morse variances on Lois Drive was denied, so upholding the decision of the Planning Commission.

NEW BUSINESS

VARIANCE

FILE NO.: 2430-11-23
APPLICANT: SCOTT CHRISTENSEN
LOCATION: 466 HORSESHOE DRIVE

Presentation by Senior Planner Rob Warwick

This application is for a variance to construct a deck, 12 feet by 25 feet, on the south side of his house. The variance request is to reduce the south side setback from 5 feet to 3.2 feet. The deck would be aligned with the south side of the existing garage. The property is a substandard riparian lot with 50 feet of width, 150 feet deep, and approximately 7,500 square feet in area. It is located in an R-1, Detached Residential District and the Shoreland Overlay District for Lake Owasso.

The existing house and garage were built in 1991, with approval by the City for a number of variances, including a south side setback of 3.3 feet. A second story addition was approved and built in 2001, and complied with setback requirements. The proposed deck would be along the south side of the house and west of the attached garage at the elevation of the lower walk-out level. The east side setback for the deck would be 3.3 feet; the west side would be 3.2 feet. The east end surrounds a structural concrete column.

The application complies with City design standards, except for the side setback. The applicant states that the project uses the property in a reasonable manner. Restrictions are due to the unique circumstances of topography, foundation configuration and the setback of the existing house. The deck will add value to the property and neighborhood.

Staff agrees that a deck is a normal permitted accessory use and would not alter the character of the neighborhood. A 10-foot wide deck can be built without a variance, and staff believes that size would be sufficient to provide reasonable use of the property. Unique circumstances exist with topography sloping along the side of the garage and house and a wall built to retain the slope. The deck would be a complete utilization of the setback area, which staff believes is unnecessary.

Neighboring property owners were notified of the application. Two comments were received in support of the project. There was not response from the DNR.

Staff's recommendation is that a 10-foot deck width is reasonable and that staff is unable to provide findings for practical difficulties to justify the variance. Staff recommends denial of the variance request. However staff also recognizes that the deck would not encroach further than the garage on the side lot line and would have minimal visual impact. Resolution 11-60 has been prepared in the event the Commissioners make affirmative findings for practical difficulties. To

approve the variance request the Commission needs to add findings to the Resolution.

Commissioners clarified setback requirements. Chair Feldsien noted that the deck would only be accessed from outside.

Mr. Bill Elde, stated that he represents the owner of the property. Both neighbors support this application. The deck will have no railings but will be a platform deck close to the ground with only a couple of stairs.

Commissioner Ferrington clarified that the deck would only be used for recreation and not for storage.

Commissioner Schumer asked the reason for a 12-foot width, when no variance would be required for a 10-foot width. **Mr. Elde** explained that the owner believes the deck would fit in and look better between the side of the house and rock wall using a 12-foot dimension.

Commissioner Mons stated that it is difficult for him to believe the property owner is denied reasonable use with a 10-foot deck.

Commissioner Solomonson noted that the variance request is approximately the width of the concrete column. A 10-foot deck would be on the inside of the column instead of built around it. Also, there is no railing around the deck. If anyone were to fall, it could be onto the boulders of the wall. He also believes there is reasonable use with a 10-foot wide deck and would deny the variance.

Commissioner Proud supported staff's recommendation to deny the variance. Reasonable use is present, and he believes the unique circumstances were created by the property owner.

Commissioner Ferrington stated that when the house was built, this deck could have been built to the requested specifications because at that time the variance was granted for a 3.2-foot side setback. It is not an encroachment on the OWH, and she believes it makes more sense for the deck to cover the area between a 10-foot deck and the rock wall, and neighbors do not object.

Commissioner Mons responded that it is not known if the previous Planning Commission would have approved a variance for the garage knowing there would be a deck of living space also. Also, neighborhood support is not considered in the Planning Commission decision. He does not want residents to think that neighborhood support will help an application.

Commissioner Wenner stated that he does not want to see an increase in use within the setback area along that property line. A 10-foot deck would be allowed and is reasonable.

MOTION: by Commissioner Mons, seconded by Commissioner Solomonson that the Planning Commission deny the variance request submitted by Scott Christensen for 466 Horseshoe drive to reduce the south side setback for a deck. Denial is

based on the following findings:

1. The property can be use in a reasonable manner as permitted by the Development Code. A 10-foot deck would conform to the required setback.
2. The location setback of the house are unique circumstances, but these circumstances do not compel the same setback for a 12-foot wide deck.

VOTE: Ayes - 6 Nays - 1 (Ferrington)

MINOR SUBDIVISION

FILE NO.: **2428-11-21**
APPLICANT: **TOR UNSTAD**
LOCATION: **5108 LEXINGTON AVENUE NORTH**

Presentation by Senior Planner Rob Warwick

This application is to subdivide the property into two lots. The property consists of 0.86 acre. One lot would contain the existing home; the second would be developed as a detached single-family residence. Both parcels would front on Kimberly Lane, which is an unimproved public street. Kimberly Lane has a right-of-way of 25 feet running east and west and a full 50-foot right-of-way on the segment running north and south. The street was dedicated in 1973 for the potential subdivision of nearby large lots. However, further development has not occurred.

The subject property is a corner lot that is 125 feet wide and 305 feet deep developed with a two-story home, attached garage and driveway. After subdivision, Parcel B with the existing improvement would be 125 feet wide and 179 feet deep; Parcel A would be 125 feet wide and 126 feet deep. The proposed lots conform with the R-1 Detached Residential District standards. The front of Parcel A will be the west lot line on Lexington Avenue.

The existing house complies with setback requirements once the subdivision takes place. The future house on Parcel A will be required to be 40 feet from the front lot line on Lexington, 30 feet from the rear lot line, 30 feet from the east lot line and 10 feet from the west lot line. This leaves a building pad of approximately 56 by 85 feet, or 4,760 square feet. Public utilities are available. Access to the two properties will be from Kimberly Lane.

Parcel A contains large oak and conifer trees. The impact of tree removal will be evaluated with building permit applications. Replacement is required at a ratio of 1:1. Tree removal will be addressed in the Development Agreement.

Property owners within 350 feet were notified of the application. One call was received with no objection. No written comments have been received. A permit is required from the Rice Creek Watershed District. Any work done in the right-of-way of Lexington Avenue must have required permits from Ramsey County.

Staff recommends approval with the requirement that Parcel A have access from Kimberly Lane and subject to the conditions included in the staff report.

Commissioner Solomonson asked if the zoning for the large properties to the north and south is RE (Residential Estate). Mr. Warwick stated that the property immediately south is in the R1 District. South of that property is a block of properties in the RE District. All properties to the north are in the R1 District.

Commissioner Mons asked for clarification regarding a private sewer system. Mr. Warwick explained that immediately north at 5128, there is a private sewer line that runs to the manhole further east, which drains into the sanitary sewer system. The house on Parcel B also has a private sewer line that runs to that sanitary manhole. The manhole is shallow and not deep enough to use gravity. This means that Parcel A will have to have its own private line with a sewage pump.

Commissioner Proud suggested that this development presents an opportune time for more right-of-way to be granted to the City to increase the 25-foot segment of Kimberly Lane. Mr. Warwick responded that right-of-way for the south leg of Kimberly Lane was granted with the Unstad development. Right-of-way for the north leg would be conveyed with further development of property to the north, which has not happened. The Public Works Department sees no reason to increase the right-of-way at this time given the lot characteristics.

Mr. Tor Unstad, 5108 Lexington, Applicant, explained the private sewer system. The house at 5128 used to have a septic system. When he built his own house, there was no sewer. The elevation rises to an existing manhole at 5114 Lexington. He paid to have the sewer extended 75 feet west so he could access it by gravity from his own house. The owner at 5128 then decided to have a private lift station to pump into the same manhole. That is the reason for the private pump at 5128 and his private extension to the manhole.

MOTION: by Commissioner Mons, seconded by Commissioner Wenner to recommend the City Council approve the minor subdivision application submitted by Tor Unstad for 5108 Lexington Avenue, subject to the following conditions:

1. The minor subdivision shall be in accordance with the plans submitted, prepared by E. G. Rud and dated August 25, 2011.
2. The applicant shall pay a Public Recreation Use Dedication fee as required by Section 204.020 of the Development Regulations before the City will endorse deeds for recording. The fee will be 4% of the fair market value of the property, with credit given for the existing residence.
3. Public easements for drainage and utility shall be conveyed to the City as required by the Public Works Director. The applicant shall be responsible for providing legal descriptions for all required easements. Easements shall be conveyed before the City will endorse deeds for recording.

4. Municipal water and sanitary sewer service shall be provided to both lots.
5. Access for the future house on Parcel A shall be from Kimberly Lane only. Direct access onto Lexington Avenue is prohibited.
6. The subdivision and future construction on Parcel A is subject to the permitting requirements of the Rice Creek Watershed District (RCWD), and no City permits shall be issued prior to approvals by the RCWD.
7. The applicants shall enter into a Development Agreement with the City. This agreement shall be executed prior to the City's release of the deeds for recording.
8. Any work within the Lexington Avenue right-of-way is subject to the permitting authority of Ramsey County.
9. Tree removal requires replacement trees per City Code. City requirements for the tree removal and protection plan shall be detailed in the Development Agreement.
10. This approval shall expire after one year if the subdivision has not been recorded with Ramsey County.

This recommendation for approval of the Minor Subdivision is based on the following findings of fact:

1. The subdivision is consistent with the policies of the Comprehensive Plan and in compliance with the regulations of the Development Code.
2. The proposed lots conform to the adopted City standards for standard riparian lots.
3. Municipal water and sanitary sewer service are available for each proposed parcel.

VOTE: Ayes - 7 Nays - 0

VARIANCE/MINOR SUBDIVISION

FILE NO.: **2427-11-20**
APPLICANT: **SARAH SAMPSON FOR JEREEN RASMUSSEN**
LOCATION: **4877 NOTTINGHAM PLACE**

Presentation by Senior Planner Rob Warwick

This request is to subdivide a 0.84 acre site into two lots. Parcel A would include the existing house and detached garage. Parcel B would be for future development of a new single-family detached residence. A variance is requested to reduce the Parcel B lot depth from the required 125 feet to 108.44 feet.

In 1993, the City approved the vacation of right-of-way, and the same variance for lot depth and minor subdivision. With vacation of the right-of-way, Parcel B conforms to the width of other lots on Nottingham. Resolution 93-106 was recorded with Ramsey County by the City. However, Ms. Rasmussen was not aware of her responsibility to record the subdivision and the one-year approval period expired. In 1995, the detached garage south of the house was removed as a condition to the City's approval. A new garage was constructed north of the house.

Both lots comply with City R1 District standards with the exception of the lot depth on Parcel B.

The subdivision also complies with the City's development standards with the exception of the Parcel B lot depth. When this area was platted in 1948, there were no lot depth standards. Utility service stubs are not installed for Parcel B and will have to be provided. Drainage and utility easements of 10 feet to the front and rear and 5 feet to each side are required. Parcel A has two existing driveways. The one to the south was for the garage that was removed. It is staff's recommendation that the old driveway be removed as a condition of approval.

Staff believes the request is reasonable. Unique conditions exist from the history of development in this area. The request was previously authorized by the City, and lot standards have not been amended since the 1993 approval. The essential character of the neighborhood will not be changed with the creation of Parcel B.

Notice of the request was sent to property owners within 350 feet of the subject property. One call was received in support of the application. Two written comments have been received expressing concern with the loss of large lots. Staff recommends the variance be approved and that the subdivision request be forwarded to the City Council for approval, subject to the conditions listed in the staff report.

Commissioner Solomonson asked if it needs to be taken into account that the definition of a variance has changed since 1993. City Attorney Filla responded that the changes for considering variances now make it easier for the City to grant them.

Commissioner Mons stated that he would not be favorable to granting further variances for setbacks for the resulting building pad on Parcel B.

Ms. Sarah Sampson, Power of Attorney on behalf of her mother Jereen Rasmussen, stated that she is trying to help her mother to be able to obtain as much money as possible from the property.

MOTION: by Commissioner Mons, seconded by Commissioner Proud to adopt Resolution 11-68 approving the variance request for 4877 Nottingham Place and to recommend the City Council approve the minor subdivision, subject to the following conditions:

Variance

1. The project must be completed in accordance with the plans submitted as part of the Minor Subdivision/Variance applications.
2. This approval will expire after one year if the subdivision has not been recorded with Ramsey County.
3. This approval is subject to approval of the Minor Subdivision application by the City Council.
4. This approval is subject to a 5-day appeal period.

Minor Subdivision

1. The minor subdivision shall be in accordance with the plans submitted.
2. The applicant shall pay a Public Recreation Use Dedication fee as required by Section 204.020 of the Development Regulations prior to the City endorsing the deed for recording. The fee shall be based upon 5% of the current fair market value of the property, as determined by an appraisal or the sales price.
3. Public drainage and utility easements shall be dedicated to the City as required by the Public Works Director. The applicant shall be responsible for providing legal descriptions for all required easements. Easements shall be dedicated before the City will endorse the deed for recording.
4. Payment for City water and sanitary sewer availability to the new lot in the amount of \$3,848.20. Municipal water and sanitary sewer service shall be provided to the new lot.
5. The south driveway on Parcel A shall be removed and the area restored prior to endorsement of deeds by the City for recording with Ramsey County.
6. The applicant shall enter into a Development Agreement with the City. This agreement shall be executed prior to the City's release of the deed for recording.
7. A tree protection and replacement plan shall be submitted prior to issuance of a building permit for Parcel B. The approved plan shall be implemented prior to the commencement of work on the property and maintained during the period of construction. The protection plan shall include wood chips and protective fencing at the drip line of the retained trees.
8. An erosion control plan shall be submitted with the building permit application and implemented during the construction of the new residence.
9. A final site-grading plan shall be submitted and approved prior to issuance of a building permit.
10. This approval shall expire after one year if the subdivision has not been recorded with Ramsey County.

This approval is based on the following findings:

Variance

The property owner proposes to use the property in a reasonable manner not permitted by the Shoreview Development Regulations. The proposed subdivision of the 240 foot wide by 108.44 foot deep lot for a future detached single family dwelling is a reasonable use of this property.

The plight of the property owner is due to circumstances unique to the property not created by the property owner. Unique circumstances warrant the variance. The existing property was platted in 1948, and subject to a street vacation in 1993. The vacation increased the useable lot area that was not available for platting a lot in 1948. These conditions have not changed since the Shoreview Planning Commission adopted Resolution No. 93-106, approving this same variance in 1993

The variance, if granted, will not alter the essential character of the neighborhood. The resulting lot will have a 100-foot width, consistent with the pattern in the neighborhood, and so the character of the neighbor will not be altered by granting the variance.

Minor Subdivision

1. The subdivision is consistent with the policies of the Comprehensive Plan and in compliance with the regulations of the Development Code.
 2. The proposed lots conform to the adopted City standards for the R1 District.
- The subdivision is consistent with the policies of the Comprehensive Plan and in the

VOTE: Ayes - 7 Nays - 0

Chair Feldsien called a five-minute break and reconvened the meeting.

PUBLIC HEARING - PLANNED UNIT DEVELOPMENT - DEVELOPMENT STAGE/REZONING/PRELIMINARY PLAT/COMPREHENSIVE SIGN REVIEW

FILE NO.: 2429-11-22
APPLICANT: CITY & COUNTY CREDIT UNION
LOCATION: RED FOX ROAD & LEXINGTON AVENUE

City Attorney Filla stated that he has an affidavit indicating that proper notice has been given and the public hearing is in order.

Presentation by City Planner Kathleen Nordine

Four applications have been submitted: 1) rezone from Urban Underdeveloped (UND) to Planned Unit Development (PUD); 2) preliminary plat to subdivide the property into four parcels; 3) PUD Development Stage review; and 4) Comprehensive Sign Plan. The property consists of 6.6 acres. Adjacent land uses are commercial and Island Lake Golf Course owned by Ramsey County.

Rezoning

The proposal is to develop a mixed use retail center of 10,034 square feet in size with multi tenants; a specialty market of 14,000 square feet; and a commercial building of 3,800 square feet. This development would be done in phases with the initial phase beginning this fall. The PUD zoning, rather than C2, would allow flexibility from development standards in exchange for higher quality development. The benefit would be in sharing certain infrastructure for the entire development, which includes parking, lot areas, utilities and storm water management. The City Comprehensive Plan designates this site for commercial use. Therefore, this application is consistent. Surrounding land uses are commercial in nature so there would be no adverse impact to adjacent property.

Preliminary Plat

The property would be subdivided into four new parcels, which would comply with City

standards. The development would occur on three lots, and the fourth lot would be used for storm water ponding. An easement over an existing water main will need to be vacated, as the water main will be moved and a new easement required. A cul-de-sac terminus would be dedicated for the roadway.

PUD

Deviations from City Code that are being requested would be for proof of parking; setbacks along I-694 on Lots 1, 2, and 3; and a setback reduction on Lot 3 for a potential future drive-through facility. Should this drive-through canopy be built, a setback of 22 feet is proposed rather than the required 30 feet. There is wetland on Lot 3, which forces buildable area to the north. Therefore, staff believes this change is justified.

Parking would be built as needed in additional phases of development. The proposed structures on Lots 1 and 2 comply with City setback standards. A setback of 20 feet is required for all parking. A setback of 15 feet is proposed on Lot 1 and 5 feet on Lots 2 and 3. Staff believes this is reasonable due to the proximity to I-694.

Benefits that would be derived from the requested deviations include a coordinated development with shared infrastructure; architectural enhancements to the buildings; and use of sustainable practices to preserve open space on the east side, preserve and protect wetland and wooded areas, and use of water efficient facilities in the buildings.

The site slopes upward toward the east. More significant grading will be needed for storm water ponding. Overflow will be directed to the Mn/DOT right-of-way. A permit from Mn/DOT is required. Also an application for a permit from Rice Creek Watershed District has been submitted.

The retail center, Phase 1, is a one-story building facing Red Fox Road. The building complies with all design standards and incorporates sustainable practices of water conservation and indoor environmental quality.

A traffic study was done in 2010, which determined that current road improvements are adequate for the proposed development. However, during peak hours the intersection of Red Fox Road and Lexington is congested, and staff is requesting that the developer participate in further discussion of improvements to the roadway.

Comprehensive Sign Plan

The application is for two free-standing signs--a monument sign on Red Fox Road and a pylon sign on I-694. Both signs comply with City standards. Wall signs are proposed for the retail center and do comply with the City ordinance. The number of signs (16) proposed exceeds the maximum number permitted, as wall signs are requested for the rear of buildings facing I-694. The sign package is consistent with other double-frontage retail center properties. An existing billboard will be moved to the east and addressed in the Development Agreement.

Property owners within 350 feet were notified of the applications. No comments were received. The Lake Johanna Fire Department did submit comments. The Environmental Quality Committee (EQC) reviewed the proposal and also submitted comments. One concern is adequate snow storage. Also, some suggestions for future sidewalks and trails were given with future improvements to Red Fox Road.

Staff believes the applications comply with City standards and ordinances. The proposal is an efficient use of space and infrastructure with less land disturbance and preservation of more open space. A higher architectural design will be used. Additional retail services will be brought to the community, as well as employment opportunities. Staff is recommending approval subject to the conditions listed in the staff report.

Commissioner Mons stated that his concern is that with this development being built in phases, market conditions may change and it may not be possible to build the integrated development as presented. He asked how the developer can be held to the design presented. Ms. Nordine responded that Lots 1, 2, and 3 must adhere to the standards approved through the PUD. Any future change would mean a request to amend the PUD. In Phase 1, the developer is putting in the infrastructure to accommodate the future development of Lots 1 and 3. That includes a storm water system and utility work for sewer and water. The parking lot would be developed with access to Lots 1 and 3. Also, the Development Agreement will tie the developer to the proposal being made at this time.

Commissioner Mons stated that the uniform sign plan often is changed with corporate requirements. He would like to know to what extent uniform signage will be required both on Red Fox Road and along I-694. Another issue is traffic and having leverage to require the developer to make necessary road improvements. Ms. Nordine explained that the traffic study indicates that the uses proposed show the existing configuration of Red Fox Road to be adequate. The problem occurs with use by surrounding land uses. Not one developer can be held responsible for the traffic of all users. At this time it is not known what improvements are needed, and staff believes the developer can only be asked to participate in traffic discussions. Commissioner Mons stated that he is not sure further development should be approved that exacerbates the traffic situation. Already, vehicles wait two or three lights to get through.

Commissioner Mons noted that no sign was posted on the property indicating that rezoning was being considered. He suggested a sign be posted and this matter be held over to the next meeting in case there is public comment. Ms. Nordine stated that there is no particular reason a sign was not posted, but the City has met all legal requirements.

Commissioner Solomonson expressed concern about the number of access points and asked how flow of traffic would be handled with truck deliveries, particularly to Lot 1. Mr. Warwick noted that Target is working with the Ramsey County Sheriff regarding trucks that park on their property. Ms. Nordine added that staff believes the access points to be reasonable and not in conflict with other traffic on Red Fox Road. It is anticipated that loading for the building on Lot 1 would be on the north side.

Commissioner Solomonson asked if the GOLF sign would be kept to indicate the golf course. Ms. Nordine stated that staff will work with Ramsey County to keep the sign.

Commissioner Proud agreed that a rezoning sign needs to be posted for public comment and would request the matter be held over. He asked if there will be competition for parking among tenants or if there would be assigned parking. Ms. Nordine stated that the developer will work out with tenants whether a certain number of spaces need to be assigned, and parking will be addressed in the Development Agreement. Additionally, Commissioner Proud stated that Mn/DOT is strict about storm water runoff, and he believes approval would be premature prior to Mn/DOT approval. In regard to traffic, he would like to see the developer be required to collaborate with other businesses on Red Fox Road to reach a solution that the City deems appropriate. He would not be able to approve this plan, unless there is a road plan that meets needs. Also, he would want to be sure there is consistency with signs.

Commissioner Ferrington asked if, with the extremely heavy recent rain storms, calculations have been done to adequately accommodate storm water drainage. Any flooding onto I-694 could be a safety issue. Ms. Nordine stated that storm water calculations have been completed and are being reviewed by the Public Works Department, Rice Creek Watershed District and Mn/DOT.

Chair Feldsien opened the public hearing.

Mr. Dave Carland, Stonehenge USA, Applicant, 18258 Minnetonka Boulevard, Deephaven, introduced Randy Rauwerdink who was also with him. He stated that he respects the need for input, but legal requirements have been met and he would not want to see this matter held over. It would mean telling prospective tenants that the project would not begin until spring and they would not be open in the spring but rather next fall.

In regard to signage, there is a vested interest to attract tenants, but it is also important to have an attractive development. There is always a retailer who wants a logo sign. He believes that the City and his firm have the tools to allow some color and yet achieve consistency. He encouraged Commissioners to look at a recent development his firm did in Eagan that shows a consistent sign plan. The signage along I-694 is critical because retailers perceive this location as behind Target and set back from Lexington. As for parking, retail centers work best without exclusivity of parking. There may be a couple of front spaces marked 10-minute parking for takeout only. Beyond City parking regulations, retailers also look for locations with compatible tenants in regard to parking.

Stonehenge is purchasing the property from City & County Credit Union. The most easterly site is being retained by the credit union for a possible branch location. Once the infrastructure is in place, there will not be much opportunity for any development other than what has been approved with the proposed plan. It is difficult to respond to traffic. It is clear Stonehenge will have to work with the City to be sure Red Fox Road provides good access.

Mr. Rauwerdink indicated the truck entrances and drives for the retail center and future market.

He also indicated the setback area and green area to the north that will be adequate for snow storage. There will be heavy landscaping against the wetland so there will be no opportunity to push snow into the wetland. He described the building materials and 4-foot sign band that will extend across the building for all tenants. Rice Creek Watershed District has reviewed the proposal and will be taking up the matter at its meeting the next day. Calculations for storm water has been thoroughly analyzed. The site consists of heavy clay and so not a lot of opportunity for infiltration. There has been preliminary discussion with Mn/DOT, which will be followed up. Overflow from the storm water pond after development will be less than what currently exists, which is what Mn/DOT requires.

Commissioner Proud stated that before taking action on this application, he would want to see: 1) a commitment to signage that meets City expectations; 2) comprehensive road solutions with all users participating; and examples of other sites developed by Stonehenge.

Commissioner Mons suggested the signage part of the proposal be laid over separate from approvals of the rest of the applications. **Mr. Carland** stated that Stonehenge has negotiated with staff a defined sign plan with criteria that is detailed about what can and cannot be done for signage.

Commissioner Proud stated that the consistency he would like to see with signs along I-694 can be seen along I-35E near Maryland Avenue. The size and color of the signs is totally consistent.

Commissioner Solomonson stated that he is ready to act on the proposal and that the sign criteria stipulated by staff is adequate. Also, he does not see how tabling one meeting is going to change the traffic study.

Commissioner Wenner agreed with Commissioner Solomonson that the level of concern is not enough to hold this application over to another meeting.

Mr. Jay Scott, Exxon Mobile, corner of Red Fox Road and Lexington Avenue, acknowledged the traffic congestion at peak hours. A retail center will only make it worse. He would not want to hold up the project, but he would like the traffic situation thoroughly studied and addressed.

MOTION: by Commissioner Mons, seconded by Commissioner Proud to close the public hearing.

Discussion:

VOTE: Ayes - 7 Nays - 0

MOTION: by Commissioner Mons, seconded by Commissioner Wenner to recommend to the City Council approval of development applications submitted by DPS Shoreview LLC for a phased mixed use retail development and including the conditions listed under rezoning and preliminary plat and the first three Findings

of Fact but excluding approval of the section describing the Comprehensive Sign Plan and excluding the fourth Finding of Fact. Further consideration will be given to the Finding of Fact regarding the Comprehensive Sign Plan at the Planning Commission's October 25, 2011 meeting to be sure the finding is being met.

Rezoning

1. This approval rezones the property from UND, Urban Underdeveloped, to PUD, Planned Unit Development with an underlying zone of C-2, General Commercial.
2. Rezoning is not effective until approvals are received for the Final Plat, PUD - Final Stage and development agreements executed.

Preliminary Plat

1. A public use dedication fee shall be submitted as required by ordinance prior to release of the final plat by the City.
2. The final plat shall include drainage and utility easements along the property lines and over wetland and ponding areas, including the wetland buffer. Drainage and utility easements along the roadways shall be 10' wide and along the side lot lines these easements shall be 5' wide and as required by the Public Works Director. Easements shall be vacated as needed.
3. Private agreements shall be secured between the parcels in the subdivision regarding joint driveway, parking, stormwater, utility and maintenance agreements. Said agreements shall be submitted to the City Attorney for review and approval prior to the City's release of the Final Plat.
4. The Developer shall create an Association for all property owners in this plat. The Association documents (articles of incorporation, bylaws, rules and regulations, replacement reserve study and covenants) shall be reviewed and approved by the City Attorney prior to recording and shall address the use/maintenance of all shared infrastructure including driveways, parking areas, stormwater infrastructure and other utilities.
5. Executed and recorded copies of the required agreements and association documents shall be submitted to the City prior to the issuance of a building permit.
6. The Final Plat shall be submitted to the City for approval with the Final Stage PUD application.

Planned Unit Development – Development Stage

1. This approval permits the development of these parcels with a mixed-use retail center consisting of a grocery/retail center approximately 27,700 square feet in size, a 4,500 square foot commercial/bank/retail building and a 4,500 square foot commercial/retail or restaurant.
2. Private agreements shall be secured between the parcels in the PUD regarding joint driveway, parking, stormwater, utility and maintenance agreements. Said agreements shall be submitted to the City Attorney for review and approval prior to the City's review of the Final Stage PUD plans and Final Plat.
3. The items identified in the memo from the Assistant City Engineer/Public Works Director shall be addressed prior to the City's review of the Final Stage PUD plans and Final Plat.
4. Approval of the final grading, drainage, utility, and erosion control plans by the Public Works Director, prior to submittal to the City of applications for Final Plat and PUD – Final Stage. Final plans shall identify site construction limits and the treatment of work (i.e. driveways, parking areas, grading, etc.) at the periphery of these construction limits.

5. The applicant shall obtain permits from Rice Creek Watershed District, Minnesota Department of Transportation prior to the City's issuance of a grading permit or building permit.
6. The applicant shall create a Property Owners' Association for the project. The applicant and all subsequent property owners shall be a party to the Association required as part of this plat. The Property Owners' Association documents (articles of incorporation, bylaws, rules and regulations, replacement reserve study and covenants) shall be reviewed and approved by the City Attorney prior to recording and shall include the following:
 - a. The Property Owners' Association shall maintain landscaping/screening and maintenance shall be consistent with the approved landscaping plan, stormwater management infrastructure and parking.
 - b. Membership in the Property Owners' Association must be mandatory for each property owner and any successive buyer of all units. The dues for such membership must be established to adequately meet the expenses of maintenance and fulfillment of all responsibilities of the Association as set forth in this agreement.
7. The applicant is required to enter into a Site Development Agreement and Erosion Control Agreement with the City. Said agreements shall be executed prior to the issuance of any permits for this project. The Development Agreement shall address:
 - a. Construction management and nuisances that may occur during the construction process.
 - b. Phasing of the development
 - c. Landscape maintenance
 - d. Tree preservation and replacement
 - e. Wetland buffer protection
 - f. Billboard signage
8. This approval shall expire after two months if the Planned Unit Development - Final Stage application has not been submitted for City review and approval, as per Section 203.060 (C)(6).
9. The items identified in the memo from the Assistant City Engineer/Public Works Director must be addressed prior to the City's review of the Final Stage PUD plans and Final Plat.
10. The applicant shall continue to work with the property owner and City regarding the removal/relocation of the billboard.

Comprehensive Sign Plan

1. The signs shall comply with the plans submitted for the Comprehensive Sign Plan application. Any significant change will require review by the Planning Commission and City Council.
2. The applicant shall obtain a sign permit prior to the installation or refacing of any signs on the property.

3. Any temporary signs must be affixed to the principal building. Temporary business signs must be associated with a temporary promotional sale and shall be in place for a maximum of 7 days. No more than two temporary business signs are permitted per year (excludes window signs). A permit shall be obtained prior to installing any temporary signs.

This recommendation is based on the following findings of fact:

1. The proposed land use is consistent with the designated commercial land use in the Comprehensive Plan.
2. The proposal complies with the City's rezoning criteria.
3. The proposal complies with the City's criteria for Planned Unit Developments. Flexibility from the City's Development Code results in a higher quality development that provides benefits through the more efficient use of infrastructure, less land disturbance and retain some open space. The proposal will benefit the City as a whole by providing additional retail services and employment opportunities.
4. The proposed deviations from the City's Sign Code are reasonable based on the commercial land use, site location and characteristics.

Commissioner Solomonson offered an amendment, seconded by Commissioner Ferrington for the motion be approved as submitted, including approval of the Comprehensive Sign Plan and fourth Finding of Fact regarding the sign plan.

ROLL CALL ON THE AMENDMENT:

Ayes: Schumer, Ferrington, Solomonson, Feldsien
Nays: Proud, Mons, Wenner

Motion on the amendment approved.

Discussion on full motion:

Commissioner Proud spoke against the motion because even though legal requirements have been met, there is a lack of public notice regarding signage posted on the property. He also does not believe the sign or traffic concerns have been satisfactorily addressed. Also, all storm water issues have not been addressed.

Commissioner Solomonson suggested a sign be posted on the property prior to consideration of this application by the City Council.

ROLL CALL ON FULL MOTION AS AMENDED:

Ayes: Ferrington, Solomonson, Feldsien
Nays: Wenner, Mons, Proud, Schumer

The motion failed.

Commissioner Mons acknowledged the amount of time the developer has spent working with staff on this project. However, he expressed frustration that the Planning Commission has had little opportunity to have input. He would like to see the City process improved in this regard.

Commissioner Schumer stated that he does not have a problem with the sign plan, but he also is concerned that a sign was not posted on the property advising the public of consideration for rezoning. He believes the storm water issues are under control.

MOTION: by Commissioner Mons, seconded by Commissioner Solomonson to recall the vote on the motion as amended.

Discussion:

Commissioner Proud stated that his support to vote for the recall vote does not indicate his support for the motion.

VOTE TO RECALL: Ayes - 7 Nays - 0

Commissioner Mons stated that he would reluctantly support the amended motion, noting his prior comments.

RECALL VOTE ON AMENDED MOTION:

ROLL CALL: Ayes: Ferrington, Solomonson, Mons, Schumer, Feldsien
Nays: Wenner, Proud

MISCELLANEOUS

Council Meetings

Chair Feldsien and Commissioner Schumer are scheduled to attend the October 3rd and October 17th City Council meetings.

ADJOURNMENT

MOTION: by Commissioner Mons, seconded by Commissioner Solomonson to adjourn the September 27, 2011, Planning Commission meeting at 9:56 p.m.

ROLL CALL: Ayes - 7 Nays - 0

ATTEST:

Kathleen Nordine
City Planner