

**MINUTES  
CITY OF COLUMBIA HEIGHTS  
PLANNING COMMISSION MEETING  
MAY 7, 2024**

The meeting was called to order at 6:06 pm by Chair Sahnou.

**CALL TO ORDER/ROLL CALL**

Commissioners present: Eric Sahnou, Tom Kaiser, Paul Moses, Laurel Deneen, Clara Wolfe, Ahmed Maameri, and John Gianoulis

Also present: Aaron Chirpich, Community Development Director; Andrew Boucher, City Planner; ~~Alicia Howe~~; Sarah LaVoie

**APPROVAL OF MINUTES**

**1. Approval Of April 2, 2024 Planning Commission Meeting Minutes**

*Motion by Sahnou, seconded by Deneen, to approve the minutes from the meeting of April 2, 2024. All ayes. MOTION PASSED.*

**PUBLIC HEARINGS**

**2. Interim Use Permit for a Seasonal Fireworks Sales Tent at 4001 Central Avenue**

Introduction: Boucher explained that Renaissance Fireworks, Inc. has applied for an interim use permit to allow the operation of a seasonal fireworks sales tent at 4001 Central Avenue NE. This application is identical to an interim use permit request approved by the City in May of last year which made a temporary allowance for the sale of fireworks upon the subject site. The temporary allowance of the activity was however, granted for and applied to the 2023 calendar year. Thus, the processing of a new interim use permit (for 2024) is necessary. The specific development standards for outdoor fireworks sales/display are provided in Section 9.107 (C) (22) of the City Code and are included as recommended conditions of approval for this permit. The configuration and orientation of the fireworks tent upon the subject site is illustrated on the attached property and tent location map.

Boucher reviewed the issues and analysis:

**COMPREHENSIVE PLAN**

The City's 2040 Comprehensive Plan designates the property for commercial use. The proposal for seasonal fireworks sales, a retail activity, is consistent with the intent of the City's Comprehensive Plan.

**ZONING ORDINANCE**

The subject property is zoned CBD, Central Business within which "seasonal fireworks sales" are listed as an interim use and therefore subject to interim use permit processing.

Properties located north and west of the site are likewise zoned Central Business. Properties

located to the east are zoned R-4, Multiple Family Residential while the site to the south of the subject property is zoned as a Planned Unit Development, which includes a mixture of multi-family residential, commercial, and institutional uses. in the Central Business Zoning District.

#### **FINDINGS OF FACT**

Section 9.104 (I) of the Zoning Ordinance outlines seven findings of fact that must be met in order for the City to grant an interim use permit. The findings are as follows:

- (a) The use is one of the interim uses listed for the zoning district in which the property is located, or is a substantially similar use, as determined by the Zoning Administrator.***

Fireworks tents are specifically listed as an interim use in the Central Business District, and are considered a retail sales activity, which is permitted.

- (b) The use is in harmony with the general purpose and intent of the Comprehensive Plan.***

The Comprehensive Plan designates the property for commercial use, including retail sales. The proposal is consistent with the intent of the City's Comprehensive Plan.

- (c) The use will not impose hazards or disturbing influences on neighboring properties.***

The proposed temporary use should not impose hazardous or disturbing influences on neighboring properties because of its proximity to Central Avenue. The proposed use has been and will be screened from adjacent residential uses by the surrounding commercial buildings.

- (d) The use will not substantially diminish the use of property in the immediate vicinity.***

The fireworks tent is not expected to diminish the use of the adjacent properties.

- (e) The use will be designed, constructed, operated and maintained in a manner that is compatible with the appearance of the existing or intended character of the surrounding area.***

The Fire Department will conduct an on-site inspection prior to any temporary sales. As a condition of interim use permit approval, all State and City requirements regarding fireworks sales must be met.

- (f) Adequate measures have been or will be taken to minimize traffic congestion on the public streets and to provide for appropriate on-site circulation of traffic.***

The traffic generated by the fireworks tent will not significantly increase the flow of traffic on the public streets. Additionally, the site is large enough to handle additional on-site traffic.

- (g) The use will not cause a negative cumulative effect on other uses in the immediate vicinity.***

The fireworks tent should not have a negative impact on other uses in the immediate vicinity, which are all zoned commercial.

Recommendation: Staff recommends that the Planning Commission approve the Interim Use Permit to allow the operation of a seasonal fireworks sales tent at 4001 Central Avenue, subject to the following conditions:

1. The fireworks sales tent, display area, access aisles, and surrounding area shall be reviewed by the Fire Department prior to operation. The applicant must contact the Fire Department to set up an inspection prior to any sales occurring on the property.
2. The sale of fireworks shall meet all requirements of Chapter 24 of the Fire Code and NFPA Chapter 1124.
3. The fireworks sales tent shall be accessory to a commercial use.
4. Fireworks sales tents located within the public right-of-way are prohibited.
5. All goods shall be displayed on a designated impervious surface area.
6. All goods shall be displayed in an orderly fashion, with access aisles provided as needed.
7. Music or amplified sounds shall not be audible from adjacent residential properties.
8. The fireworks sales tent shall not reduce the amount of off-street parking provided on-site below the level required for the principal use.
9. An appropriate transition area between the use and adjacent property shall be provided by landscaping, screening, or other site improvements consistent with the character of the neighborhood.
10. Signage shall be limited to two (2) professionally made signs, with a combined square footage not exceeding thirty-two (32) square feet. Signs related to the proposed retail activity shall be subject to sign permit processing.
11. Fireworks sales tents may be allowed for a maximum of ninety (90) days per calendar year.
12. Any electrical use associated with the temporary sales will require an electrical permit and is required to be inspected by the State Electrical Inspector.

Questions/Comments from Members:

Deneen asked if the seasonal fireworks sales were open until 10 pm in previous years and if they supplied excess lighting. Boucher replied that they did not include any lighting requirements in their conditional approval because it is a temporary seasonal use.

Wolfe stated that she has not seen any issues with this temporary sales in the past.

Moses asked how long they have been in our City. Boucher replied that they have been here for over 10-15 years.

Maameri asked if there have been any security issues in the past due to how busy the bar gets at night. Chirpich replied that the police and fire department reviews the development review.

Public Hearing Opened.

There were no public comments.

Public Hearing Closed.

*Motion by Kaiser, seconded by Maameri, to waive the reading of the draft Resolution 2024-PZ03, there being ample copies available to the public. All ayes. MOTION PASSED.*

*Motion by Kaiser, seconded by Deneen, to adopt Resolution 2024-PZ03, being a resolution approving an Interim Use Permit for a fireworks sales tent at 4001 Central Avenue NE, from June 17, 2024 until July 10, 2024 within the City of Columbia Heights, Minnesota, subject to certain conditions stated in the resolution. All ayes. MOTION PASSED.*

**3. Zoning Ordinance Amendment to amend 9.106 General Development Standards (M) Landscaping and Screening to include Tree Preservation and Planting Standards**

Introduction: Boucher explained that at the April Work Session, City Council discussed a potential amendment to City Code 9.106 General Development Standards in relation to amending Landscape and Screening Requirements to include Tree Preservation and Planting Standards and directed the City Planner and Urban Forester to prepare a zoning text amendment for the May 7, 2024 Planning Commission meeting. Tree preservation ordinances were examined by peer-reviewing other cities such as Fridley, New Hope, Shakopee, St. Anthony's Village, Maple Grove, and Minneapolis for key components. Fridley, St. Anthony's Village, and Minneapolis do not have tree preservation ordinances. Additionally, staff have consulted with the League of Minnesota Cities and the City Forester for their guidance on what a model ordinance should include.

Boucher reviewed the issues and analysis:

**SUMMARY OF CURRENT STATUS:**

At the time, staff felt it was necessary to amend the existing ordinances to establish a process to include the City Forester in development review and adopt standards aligned with industry and agency best practices as well as reflecting the securities and letter of credit language that is seen across municipalities. The ordinance currently does not reflect the most up-to-date information, standards, or processes that ensure successfully mature tree canopies or preservation of the existing canopy.

The 6<sup>th</sup> U.S. Circuit Court of Appeals in *F.P. Development, LLC vs. Charter Township of Canton, Michigan* found that, Canton's ordinance classification of certain trees as "significant trees", created permitting requirements, restricted tree removal, and required mitigation for removal. A property owner that removed trees was required to either pay into a town fund or replant trees; the town enforced action against a developer that removed 159 trees and argued that, under the ordinance, the developer had to replant trees or pay the town approximately \$50,000. The 6<sup>th</sup> Circuit found that the ordinance violated the Fifth Amendment's "unconstitutional conditions" doctrine, if a permit is conditioned on the waiver of constitutional rights, then the local government permitting may be found unconstitutional.

Local governments may choose whether and how a permit applicant mitigates developmental impacts, but they must establish an “essential nexus and rough proportionality to those impacts” and “make some sort of individualized determination that the required mitigation is related both in nature and extent to the impact of the proposed development.”

### **ZONING ORDINANCE AMENDMENT**

By using the most recent versions of the ANSI A300 and ISA Best Management Practices for tree management during construction as well as the MN DNR “Pocket Guide to Planting Trees”, the amendment to City Code (9.106 General Development Standards) to include tree preservation language and planting standards in the Landscaping and Screening section reflects industry and agency standards and best practices. In this regard, the following Zoning Ordinance modifications are recommended by Staff with the full draft ordinance attached:

- 1) Amending 9.106 M to read as “*Tree Preservation and Planting Standards for Landscaping and Screening*” and including language recognizing the value and benefits to preserving and increasing tree canopy cover of Columbia Heights by protecting and preserving mature trees during construction and development.
- 2) Adopting ANSI A300 Part 5 – Management of Trees and Shrubs During Site Planning, Site Development, and Construction & ISA Best Management Practices – Managing Trees During Construction and apply these industry and agency standards, definitions, and best practices to all demolition, building permit applications, land alteration permits, public or private, that require a survey. A construction tree inventory plan and tree protection plan shall be reviewed, approved, and inspected by the City Forester and replacement policy calculations shall be subject to a size-based replacement policy.
- 3) Defining criteria for the removal of protected and removable trees; protected trees may be removed within the footprint of the building pad of a new or remodeled building, or within a 10’ radius of the footprint as well as within driveways and parking areas meeting all other City ordinances as well as establishing replacement requirements, exemptions, and the process for removing protected trees that are dead, diseased, or hazardous.
- 4) Establishing protected tree varieties, soil volume requirements, definitions and rules for calculating soil volume in Table 1, Table 2, and Appendix B, respectively.
- 5) Updating the letter of credit or other security language to reflect the estimated cost of landscaping and/or screening and including language stating that the property owner is responsible for continued maintenance of landscaping and screening materials to remain in compliance with the requirements of this section, plant material that shows signs of disease shall be **removed (NOTE TO STAFF: THE PACKET**

**REPORT ENDS HERE. IS SOMETHING MISSING?**

### STAFF REVIEW

The Public Works Department, Police Department, and Fire Department have been provided copies of the application materials and had no concerns amending the Landscaping and Screening requirements to include Tree Preservation and Planting Standards. The proposed zoning text amendment is subject to review by the City Attorney for the purposes of determining if the proposed ordinance establishes an essential nexus and rough proportionality between the impact of the development and the standard required by code; the ordinance must also document an individualized determination process after the standards are applied.

### FINDINGS OF FACT

Section 9.104 (F) of the Zoning Ordinance outlines certain findings of fact that must be met in order for the City to grant approval for a zoning amendment. The findings are as follows:

**(a) *The amendment is consistent with the comprehensive plan.***

The City's 2040 Comprehensive Plan identifies community resilience, climate adaptation, public health, equity, and sustainability as Emerging Topics. One of the key land use goals identified in the 2040 Comprehensive Plan includes enhancing community gateways, prioritizing landscaping and other forms of buffering between uses, and continuing the City's participation in Tree City USA.

**(b) *The amendment is in the public interest and is not solely for the benefit of a single property owner.***

A healthy, resilient and robust urban forest, tree canopy, and landscaping enhances the aesthetic, environmental, and economic well-being of the City by establishing buffers between non-compatible land uses, screen unsightly views, reduce noise and glare, minimize stormwater runoff as well as offer carbon sequestration, erosion mitigation, and reduction of the urban heat island effect.

**(c) *Where the amendment is to change the zoning classification of a particular property, the existing use of the property and the zoning classification of property within the general area of the property in question are compatible with the proposed zoning classification.***

The amendment is not to change the zoning classification of a particular property and the existing use is compatible with the general area of the property.

**(d) *Where the amendment is to change the zoning classification of a particular property, there has been a change in the character or trend of development in the general area of the property in question, which has taken place since such property was placed in its current zoning classification.***

The amendment is not to change the zoning classification of a particular property.

Recommendation: Staff recommends that the Planning Commission recommend the following to the City Council:

- A. Approval of the Zoning Ordinance Amendment which amends City Code 9.106 General Development Standards and establishes Tree Preservation and Planting Standards for Landscaping and Screening as presented.

Questions/Comments from Members:

Kasier noted that as he reviewed the packet, he was very impressed by how thorough Boucher and the City Forester have been in putting this together. It is one of the most positive things he has seen since joining the Planning Commission.

Gianoulis asked for clarification on the fines that are in place for someone who takes out a tree without respecting the proper process. Boucher stated that no fines have been considered, rather they would defer to the administrative action that is allowed in code. Chirpich also stated that he would not recommend a fine system, because there is still the ability of the violator to work with the City Forester to coordinate a planting with their staff.

Maameri asked if there is any difference for the implantation of this code for current development or new development. Boucher updated that it is for anything that requires a survey, either public or private projects.

Public Hearing Opened.

Derk Schmitz, 2336 45<sup>th</sup> Avenue NE, asked if there was a way to educate individual homeowners or new homeowners who are not aware of the benefits of the mature trees.

Chirpich updated that education and providing literature is always something they are interested in. However, they do have to be careful of crossing into areas in regulating removal. He does not think they will pursue an ordinance regulating private activity outside of the development arena, because homeowners have their rights concerning their properties. He also stated that there is also no home for the time of sale ordinance for the same reasons.

Cheryl Lamont, 5007 Washington, stated she has noticed that lots of big trees have been coming down in Columbia Heights. When the new road was put in on 53<sup>rd</sup> Avenue, lots of big trees came down and she has not noticed anything being done to replace them. She also stated that Sullivan Lake is starting to look bald. She asked if any new trees will be planted.

Deneen noted that this ordinance and the term “developer friendly” will hopefully in the future guide the principle of replacement, that if a tree is taken down it will be replaced. This ordinance is striving to put something in place to hold people to as they invite more development into the City.

Boucher updated that when walking through Sullivan Lake, the City Forester stated that some of the trees are not trees that they want to encourage, such as cottonwoods.

Public Hearing Closed.

*Motion by Moses, seconded by Sahnou, to waive the reading of draft Ordinance Amendment No. 1696, there being ample copies available to the public. All ayes. MOTION PASSED.*

*Motion by Gianoulis, seconded by Maameri, to recommend that the Planning Commission give a positive recommendation on draft Ordinance Amendment No. 1696 to the City Council to approve draft Zoning Ordinance Amendment No. 1696 as presented. All ayes. MOTION PASSED.*

#### **4. Zoning Ordinance Amendment to amend 9.107 Specific Development Standards (16) Day Care Centers**

Introduction: Boucher explained that JDA Design Architects, Inc. representing Mohamed Abdulle has requested approval of a Zoning Ordinance Amendment to amend the Specific Development Standards in City Code 9.107 for Day Care Centers. The applicant is specifically proposing to modify (16)(c): a requirement for child day care centers to provide at least 75 sq. ft. of outdoor play area for each child under care to allow for the submission of a written plan to use an adjacent public park to satisfy this requirement subject to approval by the City Manager or their designee. The proposed text amendment would make the City Code less restrictive and bring local requirements into alignment with MN State Statute 9502.0425 (Physical Environment) which allows day cares to use public parks if the on-site play areas are not sufficient.

Staff have worked with the owner of 2201 37<sup>th</sup> Avenue NE, a block south of Prestemon Park, on a proposed child day care center building permit application through administrative review under the current code requirements providing a 2,700 sq. ft. on-site play area as well as on the proposed zoning text amendment which would allow the applicant to serve a greater number of children. The proposed zoning text amendment changes the child day care outdoor play area language to reflect the standards that allow adult day care facilities to use an adjacent park subject to approval of a written plan reviewed by the City Manager or their designee.

Family Day Cares as defined in City Code 9.103 Definitions as “a facility that provides care, protection, and supervision of children in a private residence for periods of less than 24 hours” or “Home Day Cares” as defined in City Code 9.107 Specific Development Standards are not included in the scope of this zoning text amendment as these have a different set of requirements and pertain to day care operations within residential houses.

Boucher reviewed the issues and analysis:

#### **SUMMARY OF CURRENT STATUS:**



Staff has determined that the proposal is identical to a similar zoning text amendment the City processed and approved in 2017 to allow adult day care facilities use of an adjacent public park to satisfy outdoor play area requirements after this development standard was expressed to be a barrier to entry for a perspective day care facility at the time. Staff recommended approval of the amendment so that an alternative approach to providing on-site outdoor space could be considered, which was approved by the City Council.

In review of the zoning text amendment application, staff examined existing day care facilities and their outdoor play areas, zoning districts that allow child and adult day care facilities as uses, and identifying parks that would be within the 1,500-foot distance from any commercially zoned properties to better understand the impact of the proposed zoning text amendment.

There are approximately 11 existing day care centers that this amendment would apply to, but each of these centers appears to provide on-site play areas or are on a site, such as a place of worship or school facility, that has those facilities readily available. Existing day care centers would be able to expand their operations if their occupancy is currently limited by the on-site play area, but this amendment would likely be more applicable to future day care centers.

The proposed zoning text amendment would be applicable to only City parks that have a commercially zoned property within 1,500 feet of them where a future child day care center could propose a written plan for review to use the park. These parks are:

- Edgemoor Park
- Gauvitte Park
- Huset Park
- Labelle Park
- Prestemon Park
- Sullivan Lake Park

The remaining parks are either outside the distance allowed for a day care to use the park or the parks do not have any commercial zones where a child day care center would be allowed. The property owners within 350 feet of each of these six parks were sent a Notice of Public Hearing regarding the zoning text amendment because staff determined it was appropriate, within the scope of the zoning text amendment, to give the public ample notice of the application and provide time for adequate public comment. Staff has received multiple written comments, phone calls, and in-person visits from residents at the writing of this report regarding the proposed zoning text amendment, these have been included as part of the public record. Any additional public comments received after this report is published will be read into the public record at the May 7, 2024 Planning Commission and included in the staff report as additional exhibits.

Staff also examined the city code requirements of Andover, Big Lake, Maple Grove, Minneapolis, Minnetonka, Richfield, Roseville, and Saint Paul to better understand how

cities are regulating day care facilities in relation to MN State Statute 9502.0425. Cities such as Andover, Richfield, and Roseville do not have specific development standards for day care centers and adhere to the State requirements. Big Lake, Maple Grove, and Saint Paul require play areas for day cares to be enclosed with a fence. Minneapolis allows for public parks to be used accessory to a child care center.

### **ZONING ORDINANCE AMENDMENT**

It is the opinion of staff that the proposed zoning text amendment, as presented, is consistent with the 2040 Comprehensive Plan and would bring City Code requirements in alignment with MN State Statute 9502.0425 governing the physical environments of day care facilities. The proposed text amendment is identical to a previous zoning ordinance amendment from 2017 that was approved by City Council and the requirement of an approved written plan will benefit providers as well as the City to ensure that public access of the parks is not compromised.

In this regard, the following Zoning Ordinance modification to City Code 9.107 Specific Development Standards is recommended by Staff and is highlighted in red:

1. The existing specific development standards for *Day Care Centers* shall be amended to include additional language for “child day care facilities” that specifies that if a subject property does not have sufficient outdoor play area on-site, then the property owner must submit a written proposal that demonstrates that recreational activities for adults under the facility’s care will be provided off-site subject to approval or denial by the City Manager or their designee.

(C) *Specific development standards.* The following uses are subject to specific development standards:

*(16) Day care center*

*(c) For child day care facilities, at least 75 square feet of outdoor play area shall be provided for each child under care. If there is not sufficient space for an outdoor play area on-site, then the property owner must submit a written proposal that demonstrates recreational activities for children under the facility’s care will be provided off-site within 1,500 feet of the facility.*

### **Staff Review**

The Public Works Department, Police Department, and Fire Department have been provided copies of the application materials and had no concerns regarding the amendment to allow child day care facilities to use a public park in lieu of an on-site play area. The City Attorney does not have any concerns regarding liability as these businesses are required to carry appropriate insurance to cover any potential damages. The City Building Official prepared a memorandum of understanding regarding the importance of accessible playground equipment at daycare facilities highlighting inclusivity, physical development, social interaction, legal compliance, and community engagement as reasons to consider maintaining

the existing code, this memo is included as an attachment.

**FINDINGS OF FACT**

Section 9.104 (F) of the Zoning Ordinance outlines certain findings of fact that must be met in order for the City to grant approval for a zoning amendment. The findings are as follows:

***(a) The amendment is consistent with the comprehensive plan.***

The City's 2040 Comprehensive Plan identifies establishing and maintaining a strong sense of community, strengthening the identity and image of the community as a desirable place to live, work, and play, and promoting the safety of residents and ensure a safe environment for pedestrians, bicyclists, and other vulnerable roadway users as some of the land use goals and policies.

***(b) The amendment is in the public interest and is not solely for the benefit of a single property owner.***

The amendment is in the public interest and not solely for the benefit of a single property owner as the property owner has demonstrated a willingness to comply with the current code requirements and this has been a barrier to entry for numerous perspective day care providers to the extent that a previous zoning text amendment was approved for adult day care facilities. The proposed amendment will allow for more child care capacity and remove a barrier to entry for future day care providers while also providing the City with greater understanding how public parks are being used.

***(c) Where the amendment is to change the zoning classification of a particular property, the existing use of the property and the zoning classification of property within the general area of the property in question are compatible with the proposed zoning classification.***

The amendment is not to change the zoning classification of a particular property and the existing use is compatible with the general area of the property.

***(d) Where the amendment is to change the zoning classification of a particular property, there has been a change in the character or trend of development in the general area of the property in question, which has taken place since such property was placed in its current zoning classification.***

The amendment is not to change the zoning classification of a particular property.

**Public Notification**

Staff received 5 written comments along with approximately a combined dozen phone calls and in-person visits inquiring about the zoning text amendment.

Steve Stromquist, 649 51<sup>st</sup> Avenue NE, had general questions about the applicant and property owner and more specific questions about taxes/licensing fees, whether the amendment applied citywide to all daycare providers, and if anyone had previously applied for a zoning text amendment.

Donna Conwell, 1001 41<sup>st</sup> Avenue NE, does not support the zoning text amendment.

Jen Kane, 250 44<sup>th</sup> Avenue NE, has concerns about the degree of park access the daycare children will have if there will be staff on-hand to prevent children from approaching fence lines or private property hours of use and predictable schedule, and how the applicant will mitigate their impact of the park's regular uses as far as how trash will be managed. Jen Kane also noted that a potential benefit could result in the park maintenance schedule being attended to with more diligence.

Randall P. Schmit, 3983 Arthur Street, does not support the zoning text amendment.

Renee Gowan, 542 Huset Parkway, has concerns about the additional burden placed on staff and budgets for park maintenance and trash removal, noted that she lives directly across from Huset Park where there is regular daily amounts of trash left on-site, and asks if there is money designated to daily clean up. Other concerns included staff supervision of children, maintaining full access to the park, and whether the Association will pay higher taxes for the centers.

Recommendation: Staff recommends that the Planning Commission recommend the following to the City Council:

- A. Approval of the Zoning Ordinance Amendment which amends City Code 9.107 Specific Development Standards for (16) Day Care Centers, allowing for the owner of a child day care center to submit a written plan, in lieu of providing an on-site play area, to use an adjacent public park for recreational activities subject to approval or denial by the City Manager or their designee.

Questions/Comments from Members:

Kaiser noted that he agrees with all of the public comments received. He stated this is one of the most concerning proposals he has seen since joining the Planning Commission. He stated that the City parks are not intended to assist individual businesses. Boucher elaborated that there is a provision in State Statute that this only applies specifically to daycares, not to any other business. Boucher also noted that the applicant is willing to move ahead under the current code requirements but is proposing to amend the current zoning text. For daycares that would forego the on-site play area, their State license would be contingent on them having access to that public park. This would give the City the ability to revoke their permission to use that park and the daycare would have to close unless they were able to provide an on-site play area.

Deneen asked if there is a limit to the number of daycares that can be opened. Boucher stated they would be requiring the written plan so that they can look at things at a case-by-case basis. Chirpich stated that there is not a cap or limit in place. Boucher added that another benefit of the written plan is to ensure that there is a staggering of when each daycare may be using a park to there is no overlap. Deneen asked if there has been any thought about expanding the Parks programming to direct those kids into a specific area for larger activities.

Sahnaw asked if staff has discussed what minimum requirements are necessary for the action plans for the daycares. Boucher stated that the hours of operation would be and the intensity of the children/groups of children that will be at the park. He also added that staff supervision would be required, and the daycare would also be required to leave the Park how they found it, take the trash out, etc.

Sahnaw stated he has a concern about a distance of 1,500 feet for unsupervised kids walking to school, pedestrians crossing streets, traffic, etc. that could create danger for the children. Boucher stated that the 1,500 feet is what the State allows, so this was done in alignment with the State requirements.

Kaiser stated that small businesses from across the country have suffered from ADA lawsuits, and he thinks that having something specific in their City Code that formalizes the arrangement between child daycare centers and public parks creates a liability concern. Chirpich added that the City Attorney responded to this specific question, and stated that there is not enough exposure to hold back from seriously considering this ordinance.

Deneen asked if there is staffing for maintenance who can address trash and other things that arise at the parks. Chirpich stated that they do have the staff to accommodate the anticipated additional use.

Moses asked if there will be more daycare providers present while they are in the park and traveling from the daycare to the park. He also asked if there is a new daycare built, will they be required to not have any outdoor space and only rely on the outdoor park or will there still be a minimum requirement per child, like the 75 square feet per child requirement that exists now. Boucher stated there is not a minimum staffing level that has been considered, but the total number of children and staff will be required to be included in the written plan, along with how they are planning on getting the children to the park. Boucher stated that the daycare sites could either provide an on-site play area per child, or not provide the on-site area if their site does not allow for it. He added that this ordinance could be used to expand a daycare center's capacity by using the public park.

Wolfe asked that if the occupancy for the daycare is larger than the size of the park, is there still a guideline for the daycare on how many kids can be there. Boucher stated that they would still be restricted based on what the State building code requires.

Chirpich added that there is a State licensing requirements for daycare facilities for the pupil to the attendant ratio in the facility that could be mirrored for the on-site supervision at the park.

Public Hearing Opened.

Degha Shabbeleh, 3827 Bakken Boulevard, stated that safety is the number one concern for daycares and she is shocked by the words used by the Commissioners when speaking about the

daycares and children. She asked the Commission to consider the daycare workers when making decisions and accept the draft that is before them.

Renee Gowan, 542 Huset Parkway NE, stated that she is in perfect agreement with Kaiser. She added that the Department of Human Services is looking to ratify new licensing standards in 2025, so she wonders why things are trying to be run through right now under standards from the 1980s and not waiting until the new standards are in place. She stated that public parks should not have private enterprises in them.

Bill Bethel, 542 Huset Parkway NE, stated he disagrees that it is not in the interest of the public but rather in the interest of a single business owner. He added that it will prevent regular users from using the parks. He stated that this vote seems premature and they should wait to see what the State says.

Dorothy Brannon, 1622 West Innsbruck Parkway, stated she had a daycare in Columbia Heights for 24 years, she would take her children to parks occasionally, and she does not have any opposition to that. She stated that she has an opposition for daycares to use the parks for their own business.

David Lu, 5198 Central Avenue, he stated he is not against anyone doing daycare business in Columbia Heights, but they are opposed to changing or aiding the City park for daycare business use. He brought up safety concerns and told a story about one of his employees who got injured at a park on his lunch break by a child who was playing at the park. He stated that these businesses must have the capability to have their own playground, and if they do not have the capability, then they should have a different business.

Jackie McGinn, 600 Sullivan Drive, she stated the parks have a lot of water and lakes and she is concerned that there is not enough supervision for children, the restroom facilities, and the coyotes that are in the area.

Sherry Lamont, 5007 Washington, stated she walks at Sullivan Lake every day and picks up lots of trash from children. She warned to be careful when you open up the park for businesses. She added that there is lots of liability when discussing the possibility of this ordinance.

Kay Mayer, 1115 42<sup>nd</sup> Avenue NE, stated she discussed lawsuits possibilities related to dogs who may be at parks. She stated that she and her husband had been harassed by children and parents while walking in the park.

Layla Shahai, 4606 Polk Street NE, stated all concerns spoken about today can be mitigated through administrative policies and procedures, and that fear should not inhibit this policy from going through. She added that the top legal expert in Columbia Heights, the City Attorney, has no concerns with this amendment.

Derk Schmitz, 2336 45<sup>th</sup> Avenue NE, asked if the 1,500 feet is the walking path to the border of the park or to the playground. Chirpich stated that the distance is measured as the crow flies. Schmitz

also asked about the restroom facilities and if there are any rules on a specific number of occupants at a certain time.

Muhammad Abdul, 2201 37<sup>th</sup> Avenue NE, an applicant, stated he has listened to all the concerns and will have a plan in place to mitigate all risks associated with this amendment.

David Lu, 5198 Central Avenue, returned to the podium and updated that there are 13 daycare businesses in the area.

Chirpich addressed the recurring themes brought up by the public. The commercial use of these parks takes place on a daily basis and is nothing new to the City's parks system. The City Attorney has checked this amendment, but they plan to explore if the plan and program would include the release of liability. He added that this would benefit any daycare in the community in various locations throughout the city, not just the applicant.

Public Hearing Closed.

Moses stated that the decisions made are to benefit their future generations. He agreed this is for the children and their futures.

Deneen added that most daycares do have outdoor play sites, so they will not be bringing their children to these parks on a daily basis. This amendment will benefit those smaller daycares who do not have those play areas already on-site.

Sahnaw asked if there is a memo where the building official has approved this amendment. He updated that his 5 comments do not suggest this amendment. Boucher stated there would need to be a revision of the proposed zoning amendment.

*Motion by Moses, seconded by Deneen, to waive the reading of draft Ordinance Amendment No. 1697, there being ample copies available to the public. All ayes. MOTION PASSED.*

*Motion by Moses, seconded by Gianoulis, to recommend that the Planning Commission give a positive recommendation on draft Ordinance Amendment No. 1697 to the City Council to approve draft Zoning Ordinance Amendment No. 1697 as presented. Split vote: 4 Ayes, 2 Nays, 1 Recusal. MOTION PASSED. Ayes: (Moses), (Wolfe), (Gianoulis), and (Deneen). Nays: (Kaiser) and (Sahnaw). Recusal: (Maameri).*

**5. Minor Subdivision for 5085 Central Avenue NE**

Introduction: Boucher explained that The Architects Partnership, LTD on behalf of Chase Bank and La Casita has requested approval of a Minor Subdivision proposing to split a portion of the La Casita parking lot into two separate parcels and in preparation of construction of a new 3,365 square foot banking facility with a drive-thru ATM on the proposed parcel located at 5085 Central Avenue NE (between 51<sup>st</sup> Avenue/CT NE and Central Avenue NE).

The applicant is proposing to subdivide the existing 1.67 acre parcel and remove 52 of the 135 parking spaces on-site to create two separate lots, the La Casita parcel would be 1.18 acres and the Chase Bank parcel (5075 Central Avenue) would be 0.48 acres. The subject site is located at the northern end of the municipal boundary along Central Avenue and the surrounding adjacent properties are all zoned for Commercial use through the General Business District; further to the south, east, and west of those commercial properties are pockets of multi-family, duplexes, and single-family residential zoning adjacent to Central Avenue. The subject site is zoned, General Business District, and the use as a financial institution with a drive-thru ATM is permitted use in the district subject to Specific Development Standards 9.107 (18) for a drive-up facility.

The proposed subdivision would reduce the required parking for the restaurant to 83 parking spaces which is below the minimum requirements of 91 parking spaces for the restaurant, a deficit of 8 spaces. A total of 20 parking spaces are required for the financial institution, one (1) per 300 gross floor area and up to nine (9) employees at any one time; the applicant is proposing 14 parking spaces creating a combined deficit of 14 spaces. A shared parking agreement is a necessary condition of approval subject to approval by the City Attorney and filed with the Anoka County Recorder's Office within 60 days after approval of the shared parking use to ensure that both uses have compliant parking. As conditioned, the proposed minor subdivision meets subdivision regulations in accordance with City Code.

Boucher reviewed the issues and analysis:

#### **COMPREHENSIVE PLAN**

The City's 2040 Comprehensive Plan guides the subject site, as well as properties to the north, south, east and west for "commercial land use" with "medium density and low density residential" further to the south and east of the commercial parcels. The Plan describes the "commercial" designation as follows:

*The Commercial land use designation is primarily located along major transportation corridors and includes a variety of retail uses, services, and office uses.*

The subject site also lies within "Opportunity Area #2B" of the Comprehensive Plan which overlays the segment of the Central Avenue from 37<sup>th</sup> Avenue NE to the Fridley Border, specifically between Central Avenue NE and 49<sup>th</sup> Avenue NE. In this regard, the Plan identifies the area as having development potential for future commercial use. Some of the guiding principles for redevelopment include commercial uses with appropriate parking and pedestrian accesses to Central Avenue and emphasizing on businesses that provide goods or services that appeal to the community at large as well as the adjacent neighborhoods. This area is described as having an emphasis on providing sidewalks, four season landscaping, and lighting.



## MINOR SUBDIVISION ISSUES AND ANALYSIS

**Lot Requirements.** According to Section 9.110(C) of the Zoning Ordinance, lots within the GB District must have a minimum lot area of 6,000 sq. ft. and a minimum lot width of 40 feet. Presently, the La Casita parcel (5085 Central Avenue) measures 72,834 sq. ft. with a width of 245 feet. As a result of the proposed minor subdivision, the La Casita would retain 51,834 sq. ft. (1.18 acres) and an additional lot would be created measuring 21,000 sq. ft. (.48 acres) and a width of 210 feet. Both proposed lots meet the minimum lot area and width requirements of the General Business (GB) District.

**Setbacks.** The proposed minor subdivision will result in changes to the setbacks as La Casita had corner lot setback requirements which are now applicable to the proposed lot. The General Business district parking and structure setbacks were presented.

The proposed minor subdivision configuration with setbacks for La Casita and Chase Bank were presented.

Both parcels will have building and parking lot setbacks that conform with 9.110 Commercial Districts (C) Lot dimension, height, and bulk requirements. The lot area, setback, height and lot coverage proposed satisfy these requirements.

**Easements.** Easements for drainage and utilities are required to be shown and cover any new drainage way or utility on the subject properties. No easements are being proposed to be vacated. As a condition of approval, the applicant is responsible for filing and recording any proposed easement with Anoka County Recorder's Office. As a condition of approval, a cross access easement for vehicular movement is required to be filed and recorded to provide access perpetually for all current and future owners.

The mutual nonexclusive driveway easement recorded in Doc. No. 664049 guarantees that both properties have access to right-of-way service, the City Attorney confirming that the recorded easement provides both parcels adequate access to the right-of-way.

**Recording.** As a condition of minor subdivision approval, the applicant will be responsible for the filing the approved subdivision with the Anoka County Recorder's Office. If the minor subdivision is not filed with the Anoka County recorder's Office within one year of the date of City Council approval, it will become invalid.

## FINDINGS OF FACT

Section 9.104 (K) of the Zoning Code outlines specific conditions for the City Council to approve a minor subdivision. They are as follows:

***1. The proposed subdivision of land will not result in more than three lots.***

The proposed subdivision will result in two conforming lots as conditioned.

**2. The proposed subdivision of land does not involve the vacation of existing easements.**

No vacation of existing easements will occur because of the minor subdivision.

**3. All lots to be created by the proposed subdivision conform to lot area and width requirements established for the zoning district in which the property is located.**

Both newly created lots will conform to the lot width and lot area requirements of the applicable GB zoning designation.

**4. The proposed subdivision does not require the dedication of public rights-of-way for the purpose of gaining access to the property.**

The proposed subdivision does not require the dedication of public rights-of-way for the purpose of gaining access to the property.

**5. The property has not previously been divided through the minor subdivision provisions of this article.**

The subject property has not previously been subdivided via a minor subdivision process.

**6. The proposed subdivision does not hinder the conveyance of land.**

The proposed subdivision will not hinder the conveyance of land.

**7. The proposed subdivision does not hinder the making of assessments or the keeping of records related to assessments.**

The proposed subdivision is not expected to hinder the making of assessments or the keeping of records related to assessments.

**8. The proposed subdivision meets all the design standards specified in Section 9.116.**

As a condition of minor subdivision approval, all applicable design standards of Section 9.116 of the Zoning ordinance must be satisfied.

**STAFF REVIEW**

The Public Works Department, Police Department, and Fire Department have been provided copies of the application materials and the comments from each respective department are attached, if applicable.

In review of the application materials, Public Works/Engineering provided their department's requirements and comments on the proposed plat in a memo dated April 17, 2024, which is referenced as a condition of approval. General comments and plat requirements include:

1. Scheduling a pre-construction conference prior to any land alteration activities beginning;
2. Showing proposed drainage and utility easements over any new drainage way/utility;
3. All stormwater best management practices (BMPs) shall have designated drainage and utility easements recorded with the Plat or as a separate document at Anoka County.

Public Works and Engineering reviewed the erosion control plan and SWPPP as part of the

submitted plan sets and had additional comments and requirements that are included in the attached memo, dated April 17, 2024 and added as conditions of approval for both the minor subdivision and site plan review.

Recommendation: Staff recommends that the Planning Commission recommend the following to the City Council:

- A. Approval of the Minor Subdivision of property located at 5085 Central Avenue NE (PID: 25-30-24-22- 0065) into two separate parcels subject to the following conditions of approval:
  1. A shared parking agreement between La Casita and Chase Bank shall be proposed and subject to approval by the City Attorney and filed with the Anoka County Recorder's Office within 60 days after approval of the shared parking use to ensure that both uses have compliant parking.
  2. The applicant shall be responsible for filing the approved subdivision with the Anoka County Recorder's Office. The approved minor subdivision shall become invalid if the subdivision is not filed with the Anoka County Recorder's Office within one year of the date of City Council approval.
  3. The applicant shall adhere to the requirements and comments provided by the City Public Works and Engineering Departments in a memo dated April 17, 2024. The applicant is responsible for filing and recording any proposed easements with Anoka County Recorder's Office.
  4. A cross access easement for vehicular movement is required to be filed and recorded with Anoka County Recorder's Office to provide access perpetually for all current and future owners.

Questions/Comments from Members:

Wolfe asked if the parking agreement satisfies the parking requirements for occupancy for the lesser parking spots for La Casita. Boucher explained that because the hours of operation for the bank and restaurant are different, their peak parking hours would not overlap.

Deneen asked if there are any strategies in place to mitigate construction impacts that arise. Boucher stated they would be working with the Engineering Department to figure out the best way to go about the parking spots.

Moses asked if there have been any comments from neighboring businesses. Boucher updated that he did not receive any public comments.

Public Hearing Opened.

There were no public comments.

Public Hearing Closed.

*Motion by Sahnou, seconded by Deneen, to waive the reading of draft Resolution 2024-036, a Minor Subdivision for 5085 Central Avenue NE, there being ample copies available to the public. All ayes. MOTION PASSED.*

*Motion by Deneen, seconded by Moses, to recommend the Planning Commission give a positive recommendation to draft Resolution 2024-036, a Minor Subdivision for 5085 Central Avenue NE, and recommend City Council approve draft Resolution 2024-036 as presented and subject to the conditions of approval listed in the draft resolution. All ayes. MOTION PASSED.*

## **6. Site Plan Review for 5085 Central Avenue NE**

Introduction: Boucher explained that The Architects Partnership, LTD on behalf of Chase Bank and La Casita has requested approval of a Site Plan Review proposing to establish a new 3,365 square foot banking facility with a drive-thru ATM located at the newly created parcel from a portion of 5085 Central Avenue NE (between 51<sup>st</sup> Avenue/CT NE and Central Avenue NE). The Site Plan Review will be contingent upon the successful application of a Minor Subdivision as a condition of approval since the subdivision will have to be approved by the City Council apart from the Site Plan Review, which only requires Planning Commission approval.

The applicant is proposing to subdivide the existing 1.67 acre parcel and remove 52 of the 135 parking spaces on-site to create two separate lots, the La Casita parcel would be 1.18 acres and the Chase Bank parcel (5075 Central Avenue) would be 0.48 acres. The subject site is located at the northern end of the municipal boundary along Central Avenue and the surrounding adjacent properties are all zoned for Commercial use through the General Business District; further to the south, east, and west of those commercial properties are pockets of multi-family, duplexes, and single-family residential zoning adjacent to Central Avenue.

The subject site is zoned, General Business District, and the use as a financial institution with a drive-thru ATM is permitted use in the district subject to Specific Development Standards 9.107 (18) for a drive-up facility. The proposed site plan demonstrates compliance with those standards as it is accessory to the financial institution use and served by a major collected or higher functional classification of roadway.

The proposed subdivision and site plan would reduce the required parking for the restaurant to 83 parking spaces which is below the minimum requirements of 91 parking spaces for the restaurant, a deficit of 8 spaces. A total of 20 parking spaces are required for the financial institution, one (1) per 300 gross floor area and up to nine (9) employees at any one time; the applicant is proposing 14 parking spaces creating a combined deficit of 14 spaces. A shared parking agreement is a necessary condition of approval subject to approval by the City Attorney and filed with the Anoka County Recorder's Office within 60 days after approval of the shared parking use to ensure that both uses have compliant parking. As conditioned, the proposed minor subdivision and site plan shall accommodate

vehicle access and stacking, performance standards, and subdivision regulations in accordance with City Code.

Boucher reviewed the issues and analysis:

### **COMPREHENSIVE PLAN**

The City's 2040 Comprehensive Plan guides the subject site, as well as properties to the north, south, east and west for "commercial land use" with "medium density and low density residential" further to the south and east of the commercial parcels. The Plan describes the "commercial" designation as follows:

*The Commercial land use designation is primarily located along major transportation corridors and includes a variety of retail uses, services, and office uses.*

The subject site also lies within "Opportunity Area #2B" of the Comprehensive Plan which overlays the segment of the Central Avenue from 37<sup>th</sup> Avenue NE to the Fridley Border, specifically between Central Avenue NE and 49<sup>th</sup> Avenue NE. In this regard, the Plan identifies the area as having development potential for future commercial use. Some of the guiding principles for redevelopment include commercial uses with appropriate parking and pedestrian accesses to Central Avenue and emphasizing on businesses that provide goods or services that appeal to the community at large as well as the adjacent neighborhoods. This area is described as having an emphasis on providing sidewalks, four season landscaping, and lighting.

### **SITE PLAN REVIEW**

#### **1. Access**

Access to the site is proposed from the southeast via 51<sup>st</sup> Court NE, a 50-foot wide public right of way, and a 27.3 foot existing driveway with directional marking proposed splitting a 24 foot drive aisle between the properties and marking the eastern egress as Do Not Enter for one-way traffic. There is a recorded nonexclusive mutual easement appurtenant, no. 664049.0 for driveway purposes, both vehicular and pedestrian, over the property that will provide access to both parcels from 51<sup>st</sup> Court NE. As a condition of approval, a cross access easement for vehicular movement is required to be filed and recorded to provide access perpetually for all current and future owners.

As shown on the submitted site plan, a row of 90-degree off-street parking stalls are located in the western corner of the site, along Central Avenue NE. In this regard, access to such row of parking is provided via a 24 foot divided aisle between the La Casita and Chase Bank structures, with the remaining spots located on the eastern side of the property.

#### **2. Off-Street Parking**

Supply Requirements. The submitted site plan illustrates a total of 14 off-street parking

stalls. The Zoning Ordinance requires 1 space per 300 sq. ft., gross floor area plus 6 stacking spaces for the one drive-through lane. The Zoning Ordinance also specifies that that employee parking is only required when the parking requirements are based on employee counts, as such, the parking requirements for financial institutions are determined by gross floor area/stacking spaces and not employee counts.

The proposed subdivision and site plan would reduce the amount of required parking for the restaurant to 83 parking spaces which is below the minimum requirements of 91 parking spaces for the restaurant, a deficit of eight (8) spaces. A total of 11 parking spaces are required for the financial institution, one (1) per 300 gross floor area; the applicant is proposing 14 parking spaces, a surplus of three (3) spaces creating a combined deficit of 5 spaces. Appropriately, two off-street parking spaces on the site has been designated as a disability stall (in accordance with the American Disability Act).

A shared parking agreement and transportation management plan are necessary conditions of approval and shall be subject to approval by the City Attorney and filed with the Anoka County Recorder's Office within 60 days after approval of the shared parking use to ensure that both uses have compliant parking. As conditioned, the proposed minor subdivision and site plan shall accommodate vehicle access and stacking, performance standards, and subdivision regulations in accordance with City Code.

Dimensional Requirements. The proposed off-street parking stalls meet the minimum dimensional requirements of the Ordinance (9 feet in width and 20 feet in depth, 18 feet for stalls which abut curbs) and the provided 24 foot-wide drive aisle is the minimum width required by the Ordinance.

Building and Parking Area Setbacks. Within GB zoning districts, the following parking area setbacks as imposed were presented.

The proposed minor subdivision and site plan configuration would result in with the setbacks for La Casita and Chase Bank were presented.

Both parcels will have building and parking lot setbacks that conform with 9.110 Commercial Districts (C) Lot dimension, height, and bulk requirements. The lot area, setback, height and lot coverage proposed satisfy these requirements.

### **3. Business Hours**

It is understood that the financial institution is proposing traditional business hours of operation, Monday through Friday from 9 AM – 6 PM and Saturday from 9AM – 2 PM, with a 24 hour drive-thru ATM. The operating hours are anticipated to have peak demands occurring opposite the peak demands of the restaurant.

### **4. Trash**

A trash enclosure is shown on the site plan on the eastern side of the property alongside a

portion of the parking lot and in the architectural renderings as being 6 feet, 6 inches from the slab and surrounded by at least three sides with screening walls that are similar to the construction material used on the banking facility. The open side of the enclosure shall not face any public street or the front yard of any adjacent property.

#### **5. Signage**

The applicant has not submitted drawings for on-site signage. Signs are required to have a building permit and are subject to review for compliance by City Staff. As a condition of approval, all signage shall be reviewed by the City for approval.

#### **6. Fire Access**

The fire lane shall be marked with yellow curb paint and signage that states “No Parking – Fire Lane”. As a condition of approval, this will be required to remain.

#### **7. Pedestrian and Bicycle Access**

The site has existing pedestrian access along the western side of the property in alignment with Central Avenue, the applicant is proposing sidewalk from the edge of the right-of-way connection as well as crosswalk areas across the parking lot to connect the parking area to the building and the City’s sidewalk system so pedestrians may access the site. It does not appear that the site provides access or parking of bicycles. The 2040 Comprehensive Plan land use goals state that sites should have pedestrian and bicycle access. Pedestrian access is satisfied, but the site should incorporate a bicycle parking area to satisfy this goal. Staff is recommending that a bicycle rack capable of accommodating four bicycles be a condition of approval.

#### **8. Exterior Lighting**

The applicant has provided a lighting plan and specifications for the proposed lighting fixtures satisfying the requirements of 9.106 General Development Standards (K) and addresses potential security concerns from Public Safety.

#### **9. Loading Area**

The applicant is not proposing any discernable loading areas and the code requirements for off-street loading spaces apply to non-residential uses receiving or distributing materials or merchandise by trucks or similar vehicles and has a gross floor area of 5,000 sq. ft. or more are not applicable to this proposal, the loading area requirements are satisfied per 9.106 General Development Standards (L) (12).

#### **10. Landscaping and Screening**

The landscaping and screening requirements described in 9.106 General Development Standards (M) includes submission of a landscaping plan showing location, size, quantity, and species of all existing and proposed plant materials subject to design standards and considerations reviewed by the Urban Forester. The applicant is proposing maintaining the two trees along 51<sup>st</sup> Court NE and two along Central, adding the required two trees along 51<sup>st</sup> Court NE, and adding landscaping in a five-foot-wide strip along the street and sidewalk as

well as providing landscaping along the parking lot and frontage containing native bee lawn seed and low maintenance turf seed. The combination of items described above meets the requirements of 9.106 General Development Standards (M). All rooftop or mechanical equipment shall be screened in a manner that minimizes the visual impact on adjacent properties and from public streets as a condition of approval.

### **11. Building Design**

The proposed site is considered part of the Highway District in the City Design Guidelines and is subject to the standards and requirements of that design district. The proposed site plan demonstrates compliance with the design objectives of the Highway District, the building is set back from the street behind a parking lot and along a frontage road. The architectural renderings and site plan, as conditioned, show compliance with building configuration, façade and roof treatments, window and door openings, building equipment, drive-through facilities, landscaping and parking meet the design guidelines. Any proposed signage will be subject to the design standards as a condition of approval.

### **12. Sustainability**

The applicant narrative details several project components that they state will contribute to sustainability practices including tree preservation and using native seed plantings, LED lighting, future use of solar panels, and LEED Silver certification as well as a reduction of overall impervious surface area by approximately 2,000 sq. ft.

### **13. Neighborhood Notification**

As required, neighborhood notification of the minor subdivision and site plan review applications have been provided to property owners within 350 feet of the subject property.

At the time of this report, City Staff has received no comments.

### **14. Staff Review**

The Public Works Department, Police Department, and Fire Department have been provided copies of the application materials. The Police Department was satisfied with the proposed site plan and had no concerns. The Fire Department had a few comments regarding the fire lane, keybox, and other fire related items that are conditions of approval.

In review of the application materials, Public Works/Engineering provided their department's requirements and comments on the proposed plat and site plan in a memo dated April 17, 2024. General comments and plat requirements include:

1. Scheduling a pre-construction conference prior to any land alteration activities beginning;
2. Showing proposed drainage and utility easements over any new drainage way/utility;
3. All stormwater best management practices (BMPs) shall have designated drainage and utility easements recorded with the Plat or as a separate document at Anoka County.

Public Works and Engineering reviewed the erosion control plan and SWPPP as part of the submitted plan sets and had additional comments and requirements that are included in the



attached memo, dated April 17, 2024 and added as conditions of approval for both the minor subdivision and site plan review.

These recommendations have been included in the minor subdivision and site plan approval language as conditions of approval.

**FINDINGS OF FACT**

Section 9.104 (N) of the Zoning Ordinance outlines certain findings of fact that must be met in order for the City to approve a site plan review. The findings are as follows:

**(a) *The site plan conforms to all applicable requirements of this article.***

Upon approval of both the Minor Subdivision and Site Plan Review, as conditioned, the proposed site plan will conform to all applicable requirements of the General Business (GB) District as well as City Code 9.106 General Development Standards.

**(b) *The site plan is consistent with the applicable provisions of the City's comprehensive plan.***

The use and site plan is consistent with the applicable provisions of the City's comprehensive plan.

**(c) *The site plan is consistent with any applicable area plan.***

With conditions imposed to ensure compatibility, the site plan will be consistent with the applicable Design Guidelines of the Highway District.

**(d) *The site plan minimizes any adverse impacts on property in the immediate vicinity and the public right-of-way.***

As conditioned, the site plan minimizes any adverse impacts on property in the immediate vicinity and the public right-of-way.

Recommendation: Staff recommends the following to the Planning Commission:

- A. Approval of the Site Plan Review for property located at 5085 Central Avenue (PID: 25-30-24-22-0065) subject to the following conditions:
  1. The Site Plan Review is contingent upon approval of the Minor Subdivision per Resolution No. 2024-036.
  2. The building and site plans adhere to the building and site plans dated April 1, 2024 as conditioned.
  3. The applicant shall adhere to the requirements and comments provided by the City Public Works and Engineering Departments in a memo dated April 17, 2024. The applicant is responsible for filing and recording any proposed easements with Anoka County Recorder's Office.
  4. A cross access easement for vehicular movement is required to be filed and recorded with Anoka County Recorder's Office to provide access perpetually for all current and future owners.

5. A shared parking agreement and transportation management plan are necessary conditions of approval and shall be subject to approval by the City Attorney and filed with the Anoka County Recorder's Office within 60 days after approval of the shared parking use to ensure that both uses have compliant parking.
6. The applicant is required to maintain a 20 foot fire lane and shall be striped with "No Parking – Fire Lane".
7. All rooftop or mechanical equipment shall be screened in a manner that minimizes the visual impact on adjacent properties and from public streets as a condition of approval.
8. The building and site shall be meet all requirements found in the Fire Code and the Building Code.
9. All new site signage shall require sign permits.
10. The open side of the enclosure shall not face any public street or the front yard of any adjacent property.
11. Provide a bicycle rack capable of accommodating four bicycles.
12. The applicant is required to receive final approval by the Fire Department or Authority Having Jurisdiction for the location of the keybox, fire alarm panel, fire annunciator, and FDC connection.
13. All required State and local codes, permits, licenses, and inspections will be met and in full compliance.

Questions/Comments from Members:

Maameri asked if there has been research done on the average influx of cars to a bank to see if the turn lane will be sufficient or if traffic will be redirected to the stoplight. Boucher turned it over to the applicant to discuss what has been done engineering-wise to address the traffic.

Timothy R. Meseck, The Architects, LTD, stated the bank has a very low turnover and will be operating in the off hours of the restaurant, so there should not be any traffic concerns.

Public Hearing Opened.

There were no public comments.

Public Hearing Closed.

*Motion by Moses, seconded by Kaiser, to waive the reading of the draft Resolution 2024-037, a Site Plan Review for 5075 Central Avenue NE, there being ample copies available to the public. All ayes. MOTION PASSED.*

*Motion by Maameri, seconded by Gianoulis, to recommend the Planning Commission approve draft Resolution 2024-037, a Site Plan Review for 5075 Central Avenue NE, as presented and subject to the conditions of approval listed in the draft resolution. All ayes. MOTION PASSED.*


**OTHER BUSINESS**

No other business to discuss.

**ADJOURNMENT**

*Chair Wolfe adjourned the meeting at 8:44 pm.*

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Sarah LaVoie", is written over a solid red horizontal line. The signature is cursive and fluid.

---

~~Alicia Howe~~ Sarah LaVoie, Administrative Assistant