

**WAYZATA PLANNING COMMISSION  
MEETING MINUTES  
DECEMBER 1, 2014**

**AGENDA ITEM 1. Call to Order, Roll Call and Approval of Minutes.**

Chair Gonzalez called the meeting to order at 7:00 p.m.

Present at roll call were Commissioners: Vanderheyden, Pearson, Gonzalez, Gnos, Ramy, Tyacke, and Iverson. City Planner Gadow and City Attorney David Schelzel were also present.

Chair Gonzalez stated the minutes to be reviewed are from November 17, 2014.

City Attorney Schelzel stated on page 5, line 16 strike the word "very;" line 18 replace the word "review" with "outline;" and line 19 inset "consider and" before "approve."

City Planner Gadow stated on page 8, line 43 the recording had cut out. He asked Commissioner Vanderheyden and Commissioner Pearson to review the motion for accuracy.

Commissioner Vanderheyden stated the motion was correct. On page 6, line 34 replace the word "he" with "that."

Commissioner Tyacke stated on page 6, line 8 inset the word "would there;" line 22 replace the word "or" with "and."

Commissioner Vanderheyden made a motion, Seconded by Commissioner Ramy, to approve the November 17, 2014 minutes as amended. The motion carried unanimously.

**AGENDA ITEM 2. REGULAR AGENDA PUBLIC HEARING ITEMS:**

**a. 253 and 259 Lake Street East – Continental Property Group**

**i. Planned Unit Development (PUD) – Concept Plan for five (5) story tall mixed use retail and residential building**

**ii. Variance from thirty-five (35) feet/three (3) story building height limit in a PUD District**

City Planner Gadow stated Continental Property Group has submitted an application for a Planned Unit Development (PUD) – Concept Plan and a Variance from the 35-foot/3-story height requirements in a PUD District to redevelop 253 and 259 Lake Street East. He reviewed the Staff reports including property maps, project floor plans, elevations, and the Boatworks Development Agreement.

Commissioner Tyacke stated in the C4A District, the density standard for upper story housing is the R-5 District density standard for permitted uses and applying this standard would allow for a maximum of 53 upper story housing units. He asked what the density per acre would be if this project were approved.

1 Mr. Michael Mergens, EntrePartner Law Firm, PLLC, 4470 West 78 Street Circle, Suite 210,  
2 Bloomington, explained this proposed project was the result of several years of trying to find a  
3 viable project for a piece of property that is in need of redevelopment. He reviewed the efforts  
4 and various concepts that have been reviewed over the years to get to the current proposal. He  
5 stated the property is not currently financially viable without redevelopment and it is an under  
6 used parcel in the Central Business District.

7  
8 Mr. Chris Stockness, Managing Director at Shenehon Company, 88 South 10<sup>th</sup> Street, Suite 400,  
9 Minneapolis, consultant to the Applicant, reviewed the different development scenarios  
10 Continental Property Group had considered and reviewed.

11  
12 Mr. Mergens reviewed the history of the property and the hurdles they have with the property  
13 including poor soil, the water table, wetlands, and the easement requiring them to provide 85  
14 parking stalls to the Boatworks building.

15  
16 Commissioner Tyacke asked if Mr. Mergens had been involved with the 2005 PUD which  
17 permitted two (2) 3-story buildings.

18  
19 Mr. Mergens stated he is familiar with this plan but had not been involved with it. It has been  
20 determined that the approved proposal would not be financially feasible in today's market.

21  
22 Commissioner Tyacke asked how the construction costs were determined and if the Applicant  
23 had gotten any bids on this project.

24  
25 Mr. Mergens explained the construction estimate was based on a previous project similar to the  
26 one being proposed including inflation costs. The Applicant has not gotten any bids because  
27 they do not have an approved project at this time.

28  
29 Chair Gonzalez asked if the cost analysis included the price of the land.

30  
31 Mr. Mergens stated this analysis does include the land costs.

32  
33 Commissioner Tyacke asked if Mr. Mergens was familiar with the letter from the Boatworks  
34 attorney stating that there is a requirement that any PUD for this parcel must include 85 parking  
35 stalls for the Boatworks building.

36  
37 Mr. Mergens explained he was aware of this, and they intended to provide those parking stalls.

38  
39 Commissioner Ramy asked if it was possible to supply these parking stalls if the retail and  
40 residential parking requirements were met.

41  
42 Mr. Mergens stated there are 26 stalls required for retail and these would be day-orientated  
43 parking. There are 20 tandem stalls in the proposal, and the code requires 2 stalls per apartment.  
44 He does not believe every studio and one bedroom apartment should require 2 stalls so they  
45 would recommend a flex parking plan. He recognized that parking has been an issue but there is  
46 not as much of a demand to the west of Barry Avenue.

1  
2 Mr. Michael Krych, BKV Group, 222 North 2<sup>nd</sup> Street, Minneapolis, architect for the Applicant  
3 reviewed the application and what was being proposed including access, building layout, parking  
4 design, community spaces, and green space. He noted that the building height would be 61-feet  
5 8-inches not the 61-feet listed in the Staff Report.

6  
7 Chair Gonzalez asked who owned the access to Barry Avenue.

8  
9 Mr. Krych stated this was part of the 250 property and Continental Property Group has a  
10 purchase agreement for this property. He reviewed possible materials and the importance of  
11 using quality materials and blending into the community.

12  
13 Mr. Mergens stated the first step when looking at a variance request is how the proposal would  
14 fit with the Comprehensive Plan and if the project works with the overall goals of the City. Mr.  
15 Mergens stated that the proposed project directly meets the following goals in the  
16 Comprehensive Plan for the Central Business District: First Tier Goal 2.2 is to allow a mix of  
17 commercial and residential uses that strengthen the Central Business District as the shopping,  
18 employment, and entertainment destination of Wayzata; First Tier Goal 2.3 is to compliment the  
19 Central Business District and its strong sense of place through land use choices, urban design  
20 principles, traffic, parking, and architectural style; First Tier Goal 2.4 is to investigate strategies  
21 to increase retail vitality through the Central Business District; First Tier Goal 2.12 is to consider  
22 ways to assist with redevelopment when properties become a liability to the community; First  
23 Tier Goal 2.17 is to continue to evaluate ways to encourage a variety of housing options for  
24 upper story housing.

25  
26 Mr. Mergens stated there is not another project like this in Wayzata and it would meet the needs  
27 of the community's "snow birds" and young professionals, and that local patrons equals  
28 successful businesses. Mr. Mergens stated the property as it is today costs the owner  
29 approximately \$100,000 per year and this cannot be sustained.

30  
31 Mr. Mergens stated under the Code a height variance may be granted when there is an undue  
32 hardship that would result if the variance is denied due to the existence of special conditions and  
33 circumstances which are particular to the land, structure, or building involved and are not  
34 applicable to other land, structures, or buildings in the same district. Mr. Mergens stated the  
35 water table on this property is only a few feet below the grade and this prevents them from being  
36 able to provide substantial underground parking. Mr. Mergens stated this property is also  
37 limited by the wetlands on the north end of the property, and they are not able to make full use of  
38 the site. Mr. Mergens stated these create a unique set of circumstances for this property. Mr.  
39 Mergens stated the Code states that a variance cannot be granted solely on economics but this  
40 can be a consideration. Mr. Mergens stated he does not believe that he would be able to find a  
41 builder willing to construct underground parking or an insurance company willing to insure  
42 underground parking because of the litigation and flooding risks. Mr. Mergens stated they are  
43 requesting 5-stories which is what they would need to make the project work. Mr. Mergens  
44 stated this is not the maximum size this type of structure could be.

1 Mr. Krych reviewed the height study and the proposed height of the project compared to the  
2 other buildings along Lake Street and Barry Avenue.

3  
4 Commissioner Iverson asked what the cost per underground parking stall would be and how this  
5 compared to the national average.

6  
7 Mr. Mergens stated based on the water table and the additional pumping they would need to do,  
8 the cost would be estimated at \$30,000 per unit.

9  
10 Mr. Krych stated the national average is typically \$22,000-\$25,000. The water table would  
11 require a different type of foundation system that would add cost to the project.

12  
13 Commissioner Tyacke asked if they were requesting the height variance because of the wetland  
14 limitations.

15  
16 Mr. Mergens stated this was a factor in the request because they need to meet the parking  
17 requirements.

18  
19 Commissioner Tyacke asked if the height request included the outside structures, such as the  
20 elevator shaft towers on the roof.

21  
22 Mr. Krych stated those type of structures are typically not included in the height calculations.  
23 The 61-feet 8-inches is the measurement to the top of the roofing.

24  
25 City Planner Gadow stated the Zoning Ordinance in Wayzata has a height restriction for  
26 mechanical equipment of no more than 5-feet above the maximum height for the Zoning District.  
27 To go above this height a Conditional Use Permit would be required.

28  
29 Commissioner Ramy clarified the Presbyterian Homes project had more than 13-acres, so under  
30 the provisions of the PUD ordinance, the building height was negotiated with the City and did  
31 not require a variance.

32  
33 City Planner Gadow stated the height for that project had been negotiated with the City Council,  
34 and a Zoning Ordinance change had been approved prior to that review that allowed for a  
35 negotiated height and set the 13-acre requirement.

36  
37 Commissioner Vanderheyden stated he appreciated the thoroughness put into the project packet,  
38 brining density and energy to the west end of Wayzata, the combined use of retail and residential  
39 rather than office space, and the size and financial risk the Applicant was proposing. He asked  
40 why the property tax dispute documents had been included in the submitted materials.

41  
42 Mr. Mergens stated this was included as background information for the Commission to  
43 understand where the developer had started and how they came to this proposal.

44  
45 Commissioner Vanderheyden asked if the Commission should consider the financials of the  
46 project when looking at this request.

1  
2 City Planner Gadow explained the request at this time is for approval of the PUD Concept Plan  
3 and the height variance. There are specific criteria in the Zoning Ordinance that the Planning  
4 Commission has to apply when reviewing these requests, but the financial information is not one  
5 of those criteria, though it is useful and relevant background information.  
6

7 Commissioner Vanderheyden expressed concerns about the mass of the building being large in  
8 relation to the surrounding neighborhood. He stated it has been mentioned that parking would be  
9 charged separately within the property, and he would suggest this be included in rental charges  
10 so that residents are not utilizing the on street parking that is utilized by surrounding businesses.  
11

12 Commissioner Iverson asked what the rent would be for the apartments.  
13

14 Chair Gonzalez opened the public hearing at 8:40 p.m.  
15

16 Ms. Helen Morrison, 135 Benton Avenue, Wayzata, asked what the difference was in the ground  
17 that required additional pilings and if Presbyterian Homes had underground parking.  
18

19 City Planner Gadow stated Presbyterian Homes does have underground parking.  
20

21 Mr. Bill McLaughlin, 234 Edgewood, Wayzata, asked the Commission to look at the height not  
22 just from the street and lake but also from the view of the homes behind because this has not  
23 been reviewed. He also asked the Commission to consider what would be good for the City in  
24 the long-term because approving this proposal would set a precedent.  
25

26 Mr. Paul Yamashita, 296 Grace Point Court, Wayzata, expressed concerns about the scale of the  
27 project and stated that it would be out of character for the City.  
28

29 Mr. Scott Graham, 205 Barry Avenue, stated he would like to see the building look more  
30 attractive and fit in the City. He expressed concerns about the traffic impacts this would create.  
31 He stated the proposed building would block the view some residents have of the lake, and he  
32 would not be able to hear the boats on the water. As a business owner he can appreciate and  
33 understand the Applicant's challenges, but as a property owner this would affect his quality of  
34 life.  
35

36 Mr. Mark Sparza, 205 Barry Avenue, Wayzata, stated the view from Barry Avenue was not  
37 included in the height study and this building would have a significant impact on the views. This  
38 request would also set a precedent, and he asked that the Commission consider this.  
39

40 Mr. Bill Burrows, 205 Barry Avenue, Wayzata, stated the proposal is an attractive modern  
41 building that would look great in Washington D.C. or Los Angeles but not in Wayzata. It is too  
42 big and out of context. There is a maximum building height for a reason and he would like to  
43 see this enforced. He stated that in order to be economically feasible, you should not need to go  
44 to 5-stories.  
45

46 Chair Gonzalez closed the public hearing at 8:54 p.m.

1  
2 In response to Commissioner Tyacke's early question, City Planner Gadow stated the density per  
3 acre calculation in the R5 District would allow for 1-unit per 2000-square feet of lot area, and  
4 this would be about 21-units per acre for this parcel.

5  
6 Commissioner Tyacke stated the proposed density for this project would be about 60-units per  
7 acre.

8  
9 In response to Commissioner Iverson's earlier questions, Mr. Mergens stated the rents for the  
10 proposed apartments would be: studio \$1200-\$1300/month; 1 bedroom \$1500-\$1850; 1 bedroom  
11 + Den \$2100-\$2400; 2 bedroom \$2400-\$2800; and 2 bedroom + Den \$3000-\$3400.

12  
13 Commissioner Ramy stated the Comprehensive Plan First Tier Goal 2.4 is to investigate  
14 strategies to increase the retail vitality throughout the Central Business District and the proposal  
15 is only 3.2% retail.

16  
17 City Planner Gadow stated that goals in the Comprehensive Plan are general guidance for City  
18 policy, and the City wants to increase the number of businesses' that are able to sustain  
19 themselves.

20  
21 Commissioner Tyacke expressed concerns with the density. He stated that Table 3.4 in the  
22 Comprehensive Plan shows the net density worksheet for what might be developed in the City  
23 and for downtown mixed use it shows a density of 30.5-units per acre. He state that this project  
24 is double this amount. He stated he was also concerned about the height, traffic and upsetting  
25 the balance between multi-family and single-family housing in the City.

26  
27 Commissioner Iverson stated she does not believe Wayzata needed more residents that were  
28 gone in the winter months. This is when commercial spaces need the traffic. She was also  
29 concerned about the mass and traffic of this project. She would prefer to see a more affordable  
30 housing unit put in. The Comprehensive Plan points out Wayzata's small town character and  
31 this is being lost. She does not believe this plan fits where the City wants to go long-term.

32  
33 Commissioner Ramy stated there is a hardship but this is likely caused by the scope of the  
34 project. He is concerned about the parking and the height of the building.

35  
36 Chair Gonzalez stated the previous approved PUD for this property was economically feasible at  
37 the time it was approved. The role of the Planning Commission is not to make policy but to look  
38 at the proposal, the Comprehensive Plan, the Ordinances and State Statutes and make a  
39 recommendation. She sees what the applicant is asking for as a policy question. The City  
40 Council had made a policy change with the Presbyterian Homes project that did not set a  
41 precedent for 5-story buildings. The PUD Ordinance is clear that unless the site is 13-acres or  
42 more the applicant could not have a building higher than 3-stories. She stated this application is  
43 also being driven by economic considerations, and under State Statute and the Code this cannot  
44 play a principle role. She said the Applicant was aware of the parking agreement prior to  
45 purchasing 259 Lake Street. She does not believe the Commission would be justified in  
46 recommending a deviation from the Code. She said there are three (3) things people complain

1 about in Wayzata: density, the height of buildings, and traffic. Bringing more “snow birds” to  
2 the City would do nothing to help retail merchants. She would not support a recommendation to  
3 approve the variance because it does not meet the requirements of the Comprehensive Plan or the  
4 Variance Statute and Code.

5  
6 Commissioner Vanderheyden made a motion, Seconded by Commissioner Pearson to Direct  
7 Staff to prepare a Planning Commission Report and Recommendation for Denial, with  
8 appropriate findings based on public comment and Planning Commission discussions, reflecting  
9 a recommendation of denial on the Application for review and adoption at the next Planning  
10 Commission meeting. The motion carried unanimously.

11  
12 Chair Gonzalez stated this item would be presented to the City Council for further consideration.

13  
14 The Planning Commission recessed at 9:14 p.m.

15  
16 The Planning Commission reconvened at 9:17 p.m.

17  
18 **AGENDA ITEM 3. Other Items.**

19  
20 **a. Review and adoption of Planning Commission Report and Recommendation on**  
21 **Concurrent Preliminary/Final Plat and PUD for 165 and 213 Central Avenue North**  
22 **and 1015 Cross Street**

23 City Planner Gadow presented the recommendation and conditions. He explained the City  
24 Council would review this Application at their December 2, 2014 meeting. The Planning  
25 Commission had requested the landscape plan be reviewed for accuracy and the Fence  
26 Ordinance be reviewed for compliance.

27  
28 Ms. Jennifer Haskamp, 246 South Albert Street, Suite 2A, St. Paul, stated they were currently  
29 working on updating the landscape plan and tree survey. The Cross Street parcel had not been  
30 resurveyed and included in the original application and this was currently being done as well as  
31 adding the additional trees.

32  
33 City Planner Gadow stated the Zoning Ordinance allows for manmade fences not to exceed 6-  
34 feet in height and consisting completely of solid material at or behind the rear building line as  
35 established by the primary structure. This fence would be landscaped as well.

36  
37 Commissioner Tyacke suggested adding the following conditions and findings: Hennepin  
38 County had reviewed the traffic patterns and access and they offered no comment; specify that  
39 the trail access is for pedestrian use only; and any screening that is done for Lot 6 also needs to  
40 be done to Lot 5.

41  
42 Commissioner Vanderheyden stated on page 10, Section 3.2.b.ii specifies the applicant has to  
43 own the land at the time of approval and this is not likely to occur.

44  
45 Ms. Haskamp stated the properties would not be closed on by the time of approval but the way  
46 the application is written it does encompass all owners of the property involved as applicants.

1  
2 Commissioner Vanderheyden stated Item 4.1.e limits the Applicant to the home designs that had  
3 been presented. He suggested not limiting this because the Planning Commission would be  
4 reviewing these before they applied for building permits.

5  
6 City Planner Gadow stated this particular item states the applicant has the ability to build what  
7 had been presented with minor modifications but if there were substantial modifications then the  
8 Planning Commission would have to approve it.

9  
10 Ms. Haskamp stated they had presented six (6) plans but the community did not like one of them  
11 so this has been pulled from the options potential buyers would have.

12  
13 City Attorney Schelzel suggested modifying Item 4.1.e to replace the word “and” with “or.”

14  
15 Chair Gonzalez suggested changing the word “residents” to “buyer” in Item 4.1.e.

16  
17 Commissioner Tyacke made a motion, Seconded by Commissioner Vanderheyden to approve the  
18 Planning Commission Report and Recommendation for Approval as drafted by staff and  
19 amended by the suggested modifications made by Commissioner Tyacke , Attorney Schelzel and  
20 Chair Gonzalez. The motion carried 5-ayes and 2 nays (Gonzalez, Iverson)

21  
22 **b. Review and adoption of Planning Commission Report and Recommendation on**  
23 **Concurrent/Final Plat for 151 Westwood Lane**

24 City Planner Gadow reviewed the recommendation and conditions.

25  
26 Commissioner Iverson stated she would like to make sure Item 4.1.c is clear that a State  
27 Archeologist must be present on site at the time of digging.

28  
29 City Planner Gadow clarified they did not require the State Archeologist but a qualified  
30 archeologist must be on site or have a qualified archeologist do an archeological study of the  
31 property prior to starting.

32  
33 Commissioner Tyacke stated he does not agree with Item 6 in the draft Report and  
34 Recommendation, and this is why he would not recommend approval of this application.

35  
36 Commissioner Pearson made a motion, Seconded by Commissioner Vanderheyden to approve  
37 the Staff Report and Recommendation for approval as drafted. The motion carried 4-ayes and 3  
38 nays (Gonzalez, Tyacke, and Iverson).

39  
40 Commissioner Tyacke stated the testimony of the neighbors was such that the subdivision  
41 proposed was not reflective of the surrounding lots or the character of the neighborhood.

42  
43 **c. Review of Development Activities**

44  
45 City Planner Gadow stated the December 15 Commission agenda would include consideration of  
46 the PUD for 240 Minnetonka Avenue, a lot combination for two (2) non-conforming single-

1 family lots and the approval of a final Planning Report and Recommendation for denial of the  
2 253 and 259 Lake Street project.

3  
4 City Planner Gadow reviewed the Planning Commission items that had been discussed by the  
5 City Council including the discussions regarding the telecom towers and the East Corridor  
6 Landscape Plan.

7  
8 Commissioner Iverson stated she would attend the next Heritage Preservation Board meeting.

9  
10 **d. Other Items**

11 There were no other items.

12  
13 **AGENDA ITEM 4. Adjournment.**

14 There being no further business, Commissioner Vanderheyden made a motion, seconded by  
15 Commissioner Pearson, to adjourn the meeting. The motion passed unanimously.

16  
17 The meeting was adjourned at 9:41 p.m.

18  
19 Respectfully submitted,

20  
21 Tina Borg  
22 *TimeSaver Off Site Secretarial, Inc.*