

**WAYZATA PLANNING COMMISSION
MEETING MINUTES
JUNE 3, 2013**

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: Cooper, Crowder, Gonzalez, Iverson, Pearson, Ramy Jr., and Vanderheyden. Absent and excused: None. City Planner Gadow was also present.

Commissioner Vanderheyden made a motion, seconded by Commissioner Iverson, to approve the May 20, 2013, meeting minutes as presented. The motion passed 6/0/1 (Pearson).

AGENDA ITEM 2. Regular Agenda Public Hearing Item.

a. 681 Lake Street East – Caribou Coffee

i. Amendment to Outdoor Sidewalk Café CUP

City Planner Gadow stated Caribou Coffee, tenant of the property at 681 Lake Street E, is expanding its existing space by 800 square feet within the building and requesting approval of an amendment to an existing Conditional Use Permit (CUP) to expand the outdoor sidewalk café. It currently has four tables and sixteen chairs and the request is to expand it to seven tables, twenty-eight chairs, and four umbrellas. City Planner Gadow displayed slides of an aerial photo, schematic of the sidewalk café layout, noting the proposed tables and chairs would be located south of the existing sidewalk, maintaining a pedestrian pathway of 7 feet 6 inches on one side and almost 6 feet where the building faces. He also displayed a slide depicting the proposed chairs and tables.

Commissioner Crowder asked about the location of the tables/umbrellas. City Planner Gadow displayed a slide of the sidewalk café layout and described the proposed locations.

Commissioner Iverson stated it appears one table protrudes a little.

Commissioner Vanderheyden stated four tables have umbrellas and three do not so the layout slide is not entirely accurate. In addition, the tables are placed in a row. He asked if it was common for a CUP to be submitted after the equipment has been installed. City Planner Gadow stated Caribou has approval for four tables and sixteen chairs.

Commissioner Vanderheyden stated Caribou has had seven tables in place for at least two weeks. City Planner Gadow stated he will speak with the applicant about the placement of additional tables/chairs prior to approval.

Commissioner Ramy confirmed that seven tables are already in place. He stated he is concerned with the area for through pedestrians as there are bicycles and pet water bowls that create conflicting movements. Commissioner Ramy stated there is no room for a bicycle rack by the

1 tables and the closest rack is on Walker. He suggested signage indicate customers should not
2 lean bicycles against the tables.

3
4 Commissioner Crowder stated it is not practical to leave your bicycle in the current rack
5 location.

6
7 Chair Gonzalez stated Attachment B of the resolution, requirement 6, indicates that a bicycle
8 rack and dog tie up is a requirement. She asked if a decision was made as to the location of the
9 bicycle rack. City Planner Gadow stated he could not find specific direction on where the
10 bicycle racks were to be placed but additional guidance could be offered to the applicant on that
11 issue.

12
13 Chair Gonzalez stated the second Whereas in the resolution, requirement 2, indicates the
14 sidewalk patio area shall be appropriately demarked and subject to administrative review and
15 approval by City staff on an annual basis. She stated the City's ordinance requires a physical
16 segregation but when considering the last sidewalk café application, the City Council had
17 indicated it did not support bollards. Chair Gonzalez stated she attended a course for
18 professional planners last year and it was stated that if granting too many variances, you need to
19 consider whether the ordinance serves the purposes of the City. She stated on page 5 of the staff
20 report, Item D, indicates the Planning Commission may wish to recommend the variance.
21 However, it is her understanding that the Planning Commission makes a recommendation only
22 when there is a properly presented application for a variance.

23
24 City Planner Gadow stated the direction taken by the City Council on the previous sidewalk café
25 application will come before the Planning Commission for review and recommendation. He
26 stated if the City Council supports striking the provision/requirement for bollards it can be
27 considered whether to use the word "may" instead of "shall" so it can be considered on a case-
28 by-case basis and depending on site circumstances. City Planner Gadow stated the language
29 says "demarcation" but not "segregation" and if the City Council had wanted segregation, the
30 ordinance would have required bollards or similar means of segregation.

31
32 Commissioner Vanderheyden stated one issue is the need to update the ordinance per Council
33 direction at its prior meeting. The second issue relates to this specific request and he is fine with
34 the request.

35
36 Commissioner Cooper stated if looking at other establishments (Muni, McCormick's, Sunsets)
37 they have segregated sidewalk cafés. City Planner Gadow stated segregation is required by
38 Statute because those establishments serve alcohol.

39
40 Commissioner Iverson stated she is okay with this application but concerned that Caribou placed
41 the additional tables/chairs prior to receiving approval. She stated she is unsure how that should
42 be handled. City Planner Gadow stated he will speak with the applicant tomorrow.

43
44 Commissioner Ramy stated the tables also stretch farther towards Walker and he found it to be
45 presumptions to place tables/chairs prematurely.

46

1 Commissioner Crowder stated he is concerned about allowing seven tables because they will
2 become spread out towards the east and fill space that other retailers may not support. He found
3 that seven tables are too many. Commissioner Crowder stated this site has dogs, children,
4 pedestrians with baby carriages, and bicyclists. He stated there are 15-20 bicycles on the
5 weekend and he may support five tables, but not seven tables.
6

7 Commissioner Vanderheyden agreed the current tables have stretched past the designated limit.
8 He asked, from an administrative watch point, how to keep it "between the white lines," the
9 building's edge.
10

11 City Planner Gadow stated there is then a need for demarcation of where the tables can be and
12 store management needs to be informed that in addition to keeping an eye on trash, they also
13 need to be sure the tables/chairs are placed inside the "box."
14

15 Commissioner Iverson doubted that would happen.
16

17 Commissioner Crowder stated he does not think management will keep that close of an eye on it
18 and knows that customers will spread out the tables so they are comfortable. He stated he knows
19 the City wants to be good to businesses, but the public has to be able to pass through
20 comfortably and safely.
21

22 Commissioner Vanderheyden stated there are two types of tables: heavy tables with a post; and,
23 lighter weight tables that can be easily moved. He suggested the heavier tables bookend the
24 lighter weight tables so they are not as easy to move.
25

26 Chair Gonzalez opened the public hearing at 7:17 p.m.
27

28 There being no comment, Chair Gonzalez closed the public hearing at 7:17 p.m.
29

30 City Planner Gadow stated the applicant's architect was unable to attend tonight's meeting due
31 to a death in the family so if there are questions or need for additional information, this
32 application can be considered at the next meeting.
33

34 Commissioner Cooper stated Ben & Jerry's, on a nice evening, is jammed with children and
35 adults and she feels the same with Caribou, that it is nice to see a gathering of people out
36 enjoying the City. She agreed it may be a little crowded but stated there will be additional
37 storefront area with the remodel. She stated they might be able to use six tables or move the
38 bicycle rack so it is visible from the area of the tables.
39

40 Commissioner Crowder stated there is no other place to locate the bicycle rack so it can be seen
41 from the tables, unless you block the handicapped part of the sidewalk. He stated seven tables
42 are too many and he would accept five.
43

44 Commissioner Ramy stated he is more concerned about properly delineating the area where the
45 tables are to be sequestered than requiring a certain number of tables.
46

1 Commissioner Iverson stated she has concern with keeping the tables where they are to be
2 located and that the tables are already in place prior to approval. She asked about securing the
3 tables into the sidewalk to keep them in place, as they do at Whole Foods. She agreed it is very
4 crowded, a safety concern, and the location of the tables will not be enforced.

5
6 Chair Gonzalez stated the tables cannot be secured into the public sidewalk.

7
8 Commissioner Cooper asked if the adjoining three businesses have ever complained about
9 Caribou's tables extending in front of their storefronts. City Planner Gadow stated he is not
10 aware of any such complaints and those three businesses were noticed when this was first
11 considered. Commissioner Cooper stated it appears those businesses have not complained and it
12 may bring more business into their shops.

13
14 Commissioner Pearson stated it sounds like the general source of concern is maintaining the
15 footprint and less about what is in the footprint. He stated given the general concerns, there is
16 need to delineate and enforce the footprint. That done, he does not have a strong opinion on the
17 number of tables they want to squeeze into the footprint.

18
19 Commissioner Vanderheyden stated enforcement is outside of the Planning Commission's
20 bounds, it is a City issue.

21
22 Commissioner Crowder stated if he knows from 25 years of experience that something will not
23 be enforced, he cannot ignore that.

24
25 City Planner Gadow stated he has acknowledged that this will have to be monitored and the City
26 take a more active role with enforcement.

27
28 Commissioner Crowder stated this is use of public space, the City has a tight budget, and a
29 private business will profit from use of public space so there should be an additional form of
30 compensation to the City beyond a permit fee.

31
32 Chair Gonzalez reviewed action steps for the Commission's consideration to develop findings of
33 fact based upon the staff report and any revisions the Commission wishes to make, direct staff to
34 prepare a Planning Report and Recommendation with appropriate findings for review and
35 adoption at the next Planning Commission meeting, or postpone consideration so the applicant's
36 architect or representative can be in attendance to answer questions and provide additional
37 information.

38
39 Commissioner Vanderheyden stated he is inclined to approve as recommended with findings of
40 fact.

41
42 Commissioner Pearson stated he would be inclined to agree since it is already June 3 and putting
43 off another two weeks uses part of the short summer season. However, since the City Council
44 will not hear this case until June 18, 2013 he would support tabling to the next meeting (two
45 weeks) so staff can develop findings of fact.

46

Chair Gonzalez asked if the City Council would hear it at their June 19, 2013 meeting. City Planner Gadow stated the City Council will receive the Planning Commission's minutes from June 3, 2013 and the finalized Planning Commission Report and Recommendation.

Commissioner Cooper stated she favors approving tonight and developing findings and fact.

Commissioner Iverson stated she would like to table for two weeks so staff can develop findings of fact, the applicant's architect can be in attendance to explain demarcation, and representatives of the other three businesses can be invited to provide comment on the use of their store front space. She stated during the interim she thinks Caribou should remove the tables.

Commissioner Ramey stated he supports tabling for two weeks so the applicant can explain how they will contain the tables and bicycles to assure the sidewalk remains open for pedestrian flow.

Commissioner Crowder stated in any event, he intends to vote no.

Chair Gonzalez stated support to postpone the recommendation for two weeks so staff can prepare findings of fact to recommend approval and the applicant's representative can attend to provide more information. She stated conditions offered tonight were to require demarcation and appropriate locations for the bicycle rack and dog tie up.

Commissioner Pearson made a motion, seconded by Commissioner Iverson, to direct staff to prepare a Planning Report and Recommendation with appropriate findings for approval of an amendment to an existing CUP for Caribou Coffee at 681 Lake Street E. to expand its outdoor sidewalk café from four tables and sixteen chairs to seven tables and twenty-eight chairs and four umbrellas subject to demarcation of table location, location of bicycle rack, dog tie up, and pots of landscaping.

The motion passed 4/3 (Cooper, Crowder, Vanderheyden)

b. 392 and 410 Ferndale Road South – Donald MacMillan

- i. Conditional Use Permit for Carriage House**
- ii. Conditional Use Permit for Structural Element Height**
- iii. Conditional Use Permit for Building Height**
- iv. Concurrent Preliminary / Final Lot Combination**

City Planner Gadow presented the application of Donald MacMillan and Indian Mound LLC, 392 and 410 Ferndale Road South, for a Conditional Use Permit (CUP) to build a new residence and carriage house, a CUP for a gabled roof peak above 40 feet, a CUP for chimneys above the 40-foot height limit in the R-1A District, and a lot combination subdivision to combine Lots 3 and 4 into one lot. It was noted the existing house was of an International Style by Italian architect Romaldo Giurgola, built in the 1960s, and was owned by Ken and Judy Dayton. After the Daytons, Ralph and Peggy Burnet owned the home from the mid-1990s until it was purchased by the applicant in 2012.

City Planner Gadow stated the applicant is sensitive to the historic and architectural character of the existing structure and is researching the possibility of relocating it to another site if a willing

1 party is interested. If approved, the applicant would continue to live in the existing house as
2 construction occurs on Lot 4, prior to removal of the existing house and construction of the new
3 carriage house on Lot 4.

4
5 City Planner Gadow displayed and described slides of the existing property survey, proposed site
6 plan with new residence and garage/auto court area on Lot 4 and a carriage house on Lot 3, site
7 demolition plan, stormwater management plan, existing drainage, proposed drainage with site
8 modifications and pervious paver system for the auto court area, cross section for grading,
9 building plans/elevations, landscape plan including two sets of retaining walls. It was noted that
10 due to the extensive grading being proposed, he recommends City Council review the grading
11 plan. He stated the Minnehaha Creek Watershed District reviewed the submittals and indicated
12 permits would be required for several items but they had no concerns with this application.

13
14 City Planner Gadow presented staff's plan analysis of code standards compared to what is
15 proposed, noting CUPs were required for building height, chimney height, and carriage house, in
16 addition to a lot combination.

17
18 City Planner Gadow advised of action steps for the Commission's consideration to develop
19 findings of fact based upon the staff report and any revisions the Commission wishes to make or
20 to direct staff to prepare a Planning Report and Recommendation with appropriate findings for
21 review and adoption at the next Planning Commission meeting.

22
23 Commissioner Vanderheyden asked if there would be gas or wood burning fireplaces and the
24 reason for the 50 foot tall chimneys.

25
26 Dan Nepp, TEA₂ Architects Principal, representing the applicant, stated the chimney heights
27 were an architectural element of the structure and would be two feet above the roofline.

28
29 Commissioner Vanderheyden asked if you are moving a million cubic feet, what is the plus or
30 minus on an average job relating to accuracy.

31
32 Kevin Gardner, Pierce Pini Engineering representing the applicant, stated it is probably better
33 than 90%.

34
35 Commissioner Crowder asked if the curling lines depicted on the landscaping diagram represents
36 a number of feet.

37
38 Charlie Witzke, TEA₂ Architects Project Manager, stated the lines represent a distance of two
39 feet.

40
41 Commissioner Ramy asked whether the dirt being excavated will be removed from the site or
42 used elsewhere on the site.

43
44 Mr. Gardner stated the majority will be hauled off site.
45

1 Commissioner Ramy stated he would estimate it to be between 700 and 800 truckloads of dirt,
2 raising concern with the impact to the City's streets. City Planner Gadow stated staff has
3 addressed that issue and if this were to move forward, the City may consider requiring a bond
4 should there be street damage related to this project.

5
6 Commissioner Iverson asked about contingency plans in the event there is a wet season and what
7 could happen with the dirt to keep it from eroding. Mr. Gardner stated Erosion and Sediment
8 Control Plans will be required and a Storm Water Pollution Plan is required by the State of
9 Minnesota since the project is over one acre in size.

10
11 Chair Gonzalez asked about the height of the building, noting regrading the site cannot be used
12 to gain additional height. Mr. Witzke stated height is set by the low floor elevation and the dirt
13 will not be mounded to create an artificial platform. City Planner Gadow stated the applicant's
14 consultants used the City's methodology to determine height.

15
16 Chair Gonzalez stated she is concerned about the movement of this large amount of dirt having
17 experienced a similar project in her neighborhood.

18
19 City Planner Gadow stated the City received no comment from neighbors who were noticed
20 within 350 feet of the subject site.

21
22 Commissioner Crowder stated from the first retaining wall to the beach, the elevation will drop
23 about 30 feet. Mr. Witzke stated that sounds about right.

24
25 Commissioner Crowder asked if this is being done so the applicant can have a private sandy
26 beach. Mr. Nepp stated the bluff is quite steep and does not allow reasonable access to the lake
27 or view of the shoreline. He stated another type of access would be destructive of the slope and
28 the applicant preferred a gradual sloped access to the beach and boats; however, this was not
29 being done to create a beach.

30
31 Commissioner Vanderheyden asked what is the base of the existing house compared to the
32 proposed. Mr. Witzke stated the highest point on the existing house is 49 feet.

33
34 Mr. Nepp stated the grade slopes from the existing home gradually to the neighboring property.
35 As a starting point, it will not be as high as the original house. He described the slope of the
36 property towards Lot 5 and stated the house will be located on the side slope of the original
37 Burnett property so the same starting point cannot be achieved.

38
39 Chair Gonzalez opened the public hearing at 7:51 p.m.

40
41 Betty Hamel, 147 Grove Lane, stated she is an architectural journalist and infers from this
42 discussion that the owner plans to demolish the existing house. She stated many are concerned
43 about losing the house, as it is an architectural icon.

44
45 Mr. Nepp stated the homeowner is living in it now and during construction and is looking for an
46 option to move it to another site. However, it will be a challenge to move the house because it is

1 on a concrete slab without a basement or wood frame. As the house may not travel down
2 Ferndale Road, it may need to be cut and placed on a new lot with appropriate framing system.

3
4 There being no additional comment, Chair Gonzalez closed the public hearing at 7:55 p.m.

5
6 Chair Gonzalez stated there are four applications under consideration and requested the
7 Commission first comment on the new residence and carriage house CUP.

8
9 Commissioner Cooper stated it appears they are proposing two primary structures with a
10 walkway between. Mr. Witzke stated the carriage house would be connected by a covered
11 outdoor room that is about 20 feet wide and would be open air to both sides.

12
13 Commissioner Cooper asked what is next to the stone wall. Mr. Witzke stated one is a guest
14 house and the other is a changing room/mechanical room for the pool, all contained in one
15 structure.

16
17 Commissioner Cooper asked if there is a tennis court. Mr. Nepp stated the buildings straddle a
18 pool on one side and a tennis court on the other. The tennis court will be recessed so view of the
19 fencing is not as high.

20
21 Commissioner Iverson asked if there will be lights on the tennis court. Mr. Nepp stated there has
22 been no discussion of lighting the tennis court and that could be a stipulation.

23
24 Commissioner Iverson stated she would like to discuss the lot combination prior to the elements
25 to be constructed.

26
27 Chair Gonzalez asked the Commissioners to comment on the lot combination.

28
29 Commissioner Iverson asked if lots in other areas of Wayzata are allowed to be combined. City
30 Planner Gadow answered in the affirmative and stated if you own two parcels of property, you
31 can make formal application for a lot combination that is considered by the Planning
32 Commission and City Council. A lot combination cannot be an administrative approval.

33
34 Chair Gonzalez stated there may have been a moratorium on lot combinations at one time. City
35 Planner Gadow stated there was a change to remove it from an administrative approval process.

36
37 Commissioner Crowder stated he does not have questions about the proposal but would ask why
38 more information on the potential adverse effects of the extensive grading have not been
39 provided. He stated he does not have enough information on moving this amount dirt and the
40 report only contains several lines relating to the grading. He stated the Comprehensive Plan
41 indicates there is value in maintaining natural topography and this grading will change the
42 natural topography. He stated he is concerned about the precedent it may set and without
43 additional information, he cannot make a recommendation.

44
45 City Planner Gadow asked what kind of information he would like. Commissioner Crowder
stated he would like information from professionals as he is an unpaid volunteer Planning

1 Commissioner and does not know the right questions to ask or the expertise to say whether doing
2 this is or is not okay. He stated he would like to know if there are any adverse effects and asked
3 if that information can be provided by the City Engineer, Watershed District, or if a consultant
4 should be hired. Commissioner Crowder stated Councilmember Amdal is an architect and may
5 know that information. He stated the Planning Commission is to ferret out information and
6 present the facts for the City Council to consider and he does not have that level of information
7 on the grading.

8
9 Chair Gonzalez stated the City Engineer is recommending the City Council review and approve
10 the grading plan as part of the application review. She stated the proposal is under the “trigger
11 point” but the grading is close to the threshold.

12
13 Commissioner Crowder stated in this case, 650,000 cubic feet is a lot of dirt.

14
15 Commissioner Cooper stated the way the bluff looks now and the way it looks after the dirt is
16 removed will completely change the way the property appears. She stated the trees have already
17 been clear cut and she is surprised that the Watershed District or DNR, or whoever polices the
18 lakeshore, is okay with this proposed grading as it is a significant reduction of that lakeshore
19 appearance.

20
21 Mr. Nepp clarified that there has been no clearing of trees on the applicant’s property; however,
22 trees were removed from one lot over.

23
24 Commissioner Vanderheyden asked if combining the lots would be forever. City Planner
25 Gadow stated it would be forever only until someone makes application to subdivide them.

26
27 Commissioner Vanderheyden questioned whether the request to combine the lots is to allow the
28 approval of removing 650,000 cubic feet and result in being at 1.99 ft average of the site. He
29 stated the way the house is positioned on Lot 4 could lead one to believe the lots could be
30 subdivided in the future and allow something to occur again on Lot 3. Commissioner
31 Vanderheyden stated combining the lots to get the math leverage needed to change the lot
32 structure followed by an opportunity to subdivide and resell Lot 3, causes him consternation. He
33 asked if something can be done to make the lot combination “once and forevermore” given the
34 leverage it allows for this level of grading. City Planner Gadow stated he would have to research
35 whether it can be a condition of the land combination or restriction on the deed that is filed
36 against the property. He stated if one or both options work, that is how it could be addressed.

37
38 Commissioner Vanderheyden stated in the absence of it, “the dog doesn’t hunt” in terms of
39 removing the dirt. He stated he would find it entirely reasonable that the applicant would fund
40 the City’s Civil Engineer to review the plan, establish questions, and candidly monitor pre- and
41 post-work on the job. He stated that per the applicant’s experts, a reasonable over/under is 10%,
42 which would put it over the two feet.

43
44 Chair Gonzalez stated another recommendation is to require soil tests and asked whether those
45 tests are needed ahead of making an informed recommendation to the City Council. She asked
46 when the City Council will have to act on the proposed grading and if it can include advice from

1 the City's Civil Engineer and Attorney. City Planner Gadow stated the City Council's review on
2 the grading plan will occur at the same time it considers the Planning Commission's
3 recommendation on the four applications.

4
5 Chair Gonzalez stated when you move that much dirt, you will damage the roots of old trees and
6 those trees affix the soil and clean water going into the Lake so the potential environmental
7 damage is frightening.

8
9 Mr. Nepp stated they are conscious of the trees as the property owner wants to keep the park-like
10 setting. He stated the only trees to be removed are where the house proper sits or where the roots
11 would be damaged by the grading. He stated they will install fencing to keep truck traffic away
12 from tree roots and will take those precautions. Mr. Nepp stated if you look at the shoreline as it
13 exists, a high percentage of existing shoreline vegetation will remain and in other areas, it will be
14 replaced. He stated only 15% of the overall length of shoreline would be modified to allow view
15 of the shoreline, which is not a large change. Mr. Nepp stated there may be another house on the
16 other lot if that lot is sold some day because of how they are situated. He stated the Burial
17 Mound is located in the center of the property so the house was moved to the bottom edge
18 because of that.

19
20 Commissioner Vanderheyden stated he was not suggesting nefarious behavior but the City does
21 not want to provide something that is not proper.

22
23 Mr. Nepp stated when talking about the total amount of soil to be moved, the calculation
24 includes the total of both fill and cut. He stated the cut is usually deducted from the total, but it
25 has been interpreted by the City of Wayzata to calculate it in total without deducting the cut.

26
27 Commissioner Crowder stated he is not prepared to act on this application tonight and if action is
28 taken, he will vote against because he does not think there is enough information on the grading.
29 He stated the lot combination allows this level of grading and Ordinance 801 addresses the cubic
30 foot of removal but even if the level is below the threshold, that does not mean it should be
31 approved because the Comprehensive Plan still means something and addresses maintaining
32 natural topography. Commissioner Crowder stated he wants more information on the adverse
33 effects of this level of grading. He stated he can "see" the change in topography and that will be
34 important as well but he does not know enough about the scientific and engineering aspects.

35
36 Chair Gonzalez asked what they will do to protect any stormwater run off to adjacent properties
37 or City streets when the topography of the site is changed.

38
39 Mr. Gardner stated most of the runoff goes to the Lake and Stormwater Pollution and
40 Sedimentation Control Plans will be provided, silt fence will be placed around graded areas, and
41 protective fences will be placed around trees to be saved. He stated the grading plan shows no
42 water runs to adjacent properties, it goes to the Lake.

43
44 Commissioner Iverson asked what type of rainfall the plan is based on, noting this year there has
45 been heavier rainfalls. She also asked what are they proposing over and above the standard. Mr.
46 Gardner stated the standard is 6 inches of rain in 24 hours, a 100-year rainfall. He described the

1 three rainfall benchmarks used for modeling for a 2-year (2.5 inches within 24 hours), 10-year (4
2 inches within 24 hours), and 100-year (6 inches within 24 hours).

3
4 Chair Gonzalez asked whether a family is living in the home now. Mr. Witzke answered in the
5 affirmative.

6
7 Chair Gonzalez stated the City has a Heritage Preservation Board (HPB) and likes to involve
8 them before a building is moved or demolished to document the history of the site. Mr. Witzke
9 stated they will provide copies of the plans for the existing house.

10
11 Chair Gonzalez stated the HPB likes to view the property so they can take pictures. City Planner
12 Gadow stated the City would have that as a requirement, if the application is approved.

13
14 Commissioner Cooper stated she walked this property so she would better understand but people
15 were there. She asked if the property owners would mind if the Planning Commissioners walked
16 the property.

17
18 Mr. Nepp stated he cannot speak for the property owners, as they are private people, but they are
19 trying to do everything to follow the process correctly so they could be asked. He stated City
20 Planner Gadow has their contact information to make the request.

21
22 City Planner Gadow stated an item that came up was one of soil tests and asked if that can be
23 done in a relatively short period of time. Mr. Gardner stated soil borings have already been
24 conducted and no other soil tests are conducted pre-construction for this type of project. Mr.
25 Witzke stated he will forward a copy of the soil boring results to City Planner Gadow.

26
27 Commissioner Iverson stated she shares the concerns of Commissioner Crowder and does not
28 feel she has enough information on grading to make an intelligent decision or ask the appropriate
29 questions given this is a significant volume of grading that may have potential environmental
30 impacts.

31
32 Chair Gonzalez asked about the threshold to require an Environmental Impact Worksheet. City
33 Planner Gadow stated it is usually considered for large and multiple lot subdivisions (Locust
34 Hills) but he will verify whether this large lot combination would qualify.

35
36 Chair Gonzalez stated the City should make an effort as this project would likely entail hundreds
37 of trucks going through the neighborhood.

38
39 Commissioner Cooper stated that has been an issue with other projects, one turned into a lawsuit,
40 and the City would not want that to occur.

41
42 Chair Gonzalez stated the neighbors may not be aware of the level of grading that is proposed
43 for the site.

44
45 Commissioner Pearson stated a notice was published in the *Lakeshore Weekly* and also mailed
46 but that was a notice of the hearing without specifics. City Planner Gadow stated that is correct

1 and the notice indicated copies of the application are available at City Hall for review. He stated
2 in this case, no one stopped by to view the application.

3
4 Chair Gonzalez stated there appears to be consensus to continue the application so more
5 information and professional advise from a Civil Engineer can be received and to have the City
6 Attorney present at the next meeting.

7
8 City Planner Gadow stated he would like to know what information is being requested beyond
9 obtaining copies of the soil boring report and adverse impacts of the grading.

10
11 Chair Gonzalez asked for a professional review the landscape plan and a proper recommendation
12 to deal with concerns of impact to trees, vegetation, and protection of the Lake.

13
14 Commissioner Iverson stated she would like more information on stormwater runoff into the
15 Lake, if there is an emergency backup plan to protect the Lake, and if there are similar project
16 during years of high levels of rain.

17
18 Commissioner Ramy stated with the Gleahaven subdivision, the Planning Commission was
19 concerned to the gallon with what the Surface Water Intake Protection Plan would contain. He
20 asked if that is also a consideration with this application. City Planner Gadow stated the
21 Gleahaven subdivision was requesting stormwater mitigation because it was beyond the
22 hardcover threshold but this application is within those thresholds.

23
24 Commissioner Ramy asked if the status of the existing structure is of concern to the City. City
25 Planner Gadow stated it is a concern but the City does not have ability to bind a property owner
26 to keep or preserve a house; however, staff will work with the property owner on options to
27 move it.

28
29 Commissioner Pearson stated the Planning Commission should be specific on the additional
30 information it is requesting so a recommendation can be considered at the next meeting.

31
32 Chair Gonzalez asked if the idea is for the City to hire a Civil Engineer to provide comment.
33 Commissioner Crowder stated he was not suggesting the City hire a Civil Engineer and asked if
34 the City's Engineer has enough time to review this issue. He stated he wants to assure the City's
35 perspective is kept in mind when the information is provided so the Planning Commission can
36 identify the intelligent questions to ask.

37
38 Commissioner Cooper asked if a suggestion had been made for the City to hire a Civil Engineer
39 paid for by the applicant.

40
41 Commissioner Vanderheyden stated he had made that comment. He stated comments made by
42 the seven members have indicated there is discomfort in their level of expertise in a project that
43 is this substantial and if the City Engineer were in attendance, there may be greater comfort to
44 learn whether he/she has checked it out and the level of mitigation. Commissioner
45 Vanderheyden stated he would like to hear from an expert who has the City's interests in mind,
46 to render their opinion more overtly or in person.

1
2 City Planner Gadow stated he will reconfirm with the City Engineer if he can do that or the City
3 will need to use its other consulting engineers.

4
5 Chair Gonzalez stated she would like guidance on whether there is an alternative to
6 removing/trucking dirt from the site, a way to reuse/relocate the dirt on site, and if there would
7 be environmental impact with that option. She stated with having so many trucks driving on a
8 secondary street, the damage will be huge as well as cause disruption to the neighborhood.

9
10 Commissioner Ramy asked about the option of requiring a bond. City Planner Gadow stated the
11 applicant could be required to bond for any road damage caused by the trucks, as evaluated by
12 the City.

13
14 Commissioner Pearson asked if this level of truck traffic may just cause wear and put “miles on
15 the car.” City Planner Gadow agreed that could be the case.

16
17 Commissioner Vanderheyden made a motion, seconded by Commissioner Cooper, to continue
18 consideration of the request by Donald MacMillan and Indian Mound LLC, 392 and 410
19 Ferndale Road South, for a CUP to build a new residence and carriage house, a CUP for a gabled
20 roof peak above 40 feet, a CUP for chimneys above the 40 foot height limit in the R-1A District,
21 and a lot combination of Lots 3 and 4 into one lot, to allow time for staff to develop findings of
22 fact based on the Planning Commission’s discussion for consideration at the next available
23 Planning Commission meeting.

24
25 City Planner Gadow stated the Planning Commission has already indicated the additional
26 information it would like to receive for the next available meeting.

27
28 Chair Gonzalez asked whether the motion should include direction to staff to develop findings of
29 fact. City Planner Gadow stated unless staff is directed to prepare findings of fact, the Planning
30 Commission would not have that information for consideration at the next meeting.

31
32 Commissioner Crowder also questioned whether staff should spend its time to prepare findings
33 of fact given there is a lot of information being requested and yet to be considered. He suggested
34 the application be continued to obtain more information and if there is support, then staff can be
35 directed to prepare findings.

36
37 City Planner Gadow stated the motion is to continue review of all components of the application
38 to the next available Planning Commission and all of the information requested is available for
39 review.

40
41 Commissioner Vanderheyden stated that is the intent of his motion and accepted the friendly
42 amendment offered by City Planner Gadow. Commissioner Cooper, as the seconder of the
43 motion, also accepted the friendly amendment.

44
45 The motion passed 7/0.
46

Commissioner Crowder requested the applicant provide photographs of the site to show what it looks like today. He asked staff to gain permission for the Planning Commissioners to visit the site and that the next staff report include relevant sections of the Comprehensive Plan and Ordinance 801.

AGENDA ITEM 3. Other Items

a. Review of Development Activities

City Planner Gadow stated the 392/410 Ferndale Road South application will be on the next meeting agenda if the information requested is available. He stated there are no other pending applications for June. City Planner Gadow stated he will try to schedule a joint City Council/Planning Commission Workshop on June 18, 2013, to review the draft Telecommunications Ordinance.

City Planner Gadow provided an update on the Lakefront community workshop held this past weekend. He stated that all feedback and comments will be posted to the City's website and announced the upcoming Lakefront Community Workshop dates.

b. Other Items

Commissioner Iverson and Chair Gonzalez reported on the action taken by the City Council at its May 21, 2013, meeting.

City Planner Gadow stated the City Council supported ordinance modification to remove the requirement for bollard segregation of sidewalk cafés, when appropriate.

Chair Gonzalez reported that the City Council determined to not take action against a previous property owner who violated the City's ordinance because of the related legal cost to prosecute. She supported finding a way to assure compliance with the City's ordinances.

AGENDA ITEM 4. Adjournment.

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

The meeting was adjourned at 8:47 p.m.

Respectfully submitted,

Carla Wirth

TimeSaver Off Site Secretarial, Inc.