

**MINUTES**

**CALL TO ORDER**

Chair Maddy called the meeting to order at 7:01 P.M.

**ROLL CALL**

Present: Chair Maddy; Commissioners Eggenberger, Gault, and Riedel; Planning Director Darling; Planning Technician Notermann, and, City Engineer Budde, Council Liaison Johnson

Absent: Commissioner Huskins

**1. APPROVAL OF AGENDA**

Riedel moved, Gault seconded, approving the agenda for October 5, 2021, as presented. Motion passed 4/0.

**2. APPROVAL OF MINUTES**

- September 7, 2021

Gault moved, Riedel seconded, approving the Planning Commission Meeting Minutes of September 7, 2021, as presented. Motion passed 3-0-1 (Eggenberger abstained).

**3. MATTERS FROM THE FLOOR**

**4. PUBLIC HEARINGS**

Chair Maddy explained the Planning Commission is comprised of residents of the City of Shorewood who are serving as volunteers on the Commission. The Commissioners are appointed by the City Council. The Commission's role is to help the City Council in determining zoning and planning issues. One of the Commission's responsibilities is to hold public hearings and to help develop the factual record for an application and to make a non-binding recommendation to the City Council. The recommendation is advisory only.

**A. PUBLIC HEARING – Registered Land Survey, Variances and Special Home Occupation Permit**

**Applicant: Peter and Marie Lehman**  
**Location: 21285 Radisson Road**

Planning Director Darling explained the request for a registered land survey, variances to lot area and width, and a special home occupation permit for the properties at 21265 and 21285 Radisson Road. She explained that the applicant would like to adjust the property lines between the properties to create two roughly equal parcels. She stated that the resulting parcels would be considered non-conforming for lot area and width so the application also includes a variance for those items. The two properties have a total of one home, three small cabins and one garage on them and they would place a primary home on one lot and the other lot would have the three

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cabins. She stated that this brings a number of problems so the applicant has proposed removing the southerly cabin and convert the second building into a home office which would clear up most of the non-conformities related to use, but not to setbacks. She reviewed the variance and special home occupation permit application and noted that staff is recommending approval subject to the conditions listed in the staff report.

Commissioner Riedel asked about the status of the cabins as legally non-conforming structures. He asked how long they have been there and asked about the history.

Planning Director Darling explained that the three cabins were used as vacation rentals in the past. She stated that staff believes they were constructed in 1930 and noted that there were quite a few rental cabins in the past, along Radisson Road, but is not sure if they were part of the Radisson Inn Resort. She stated that the County has the home listed as built in 1940 but the applicant thought it may be earlier than that. She stated that the home was either constructed in 1940 or Hennepin County may have set used that date if there was substantial work done to the home in that year which essentially changed the age of the structure.

Chair Maddy asked if the code states that there cannot be a kitchen in a detached accessory building.

Planning Director Darling stated that accessory buildings cannot be habitable nor used for habitation temporarily or permanently. She explained that in order to be considered habitable there has to be both a kitchen and a bathroom so one of them needs to be removed, and removing the kitchen suits the applicant better.

Chair Maddy stated that he does not like the idea that you cannot work in your own garage, if it is detached, without a special permit. He asked if there had been any thought into changing that now that most people have been working from home. He asked if the City really needed the rule that all of the work needs to be done at the primary residence.

Planning Director Darling explained that the logic behind that is controlling the impacts of the home based business. She stated that at the time this was written, she suspects it was more likely to be used as a machine shed or carpentry business and not simply a home office. She noted that the City requires this kind of permit when people are operating the business out of their attached garage and not just the detached garages.

Commissioner Eggenberger asked if the Special Home Occupation permit gives carte blanche to do what ever they want or if it placed limits.

Planning Director Darling explained that it would be limited within the permit and in this case, the applicant works alone and most clients are virtual.

Commissioner Gault asked if the applicant was operating this as a business or if they were just working as a remote employee.

Planning Director Darling stated that is a question that could be asked of the applicant. She noted that if anyone is working remotely and utilizing their shed or a detached cabin they should have this Special Home Occupation permit.

Commissioner Riedel stated that the City has a complaint based approach to compliance.

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Peter Lehman, 21285 Radisson Road, noted that they have lived on the property since 1986. He explained that their proposal is to make these properties have a more conforming use with one habitable dwelling per lot. He shared some of the zoning in the area and the history of the parcels and cabins in the area. He stated that he had submitted some historical documents surrounding the importance of the cabins.

Commissioner Gault confirmed that Mr. Lehman lived on one of the properties and asked what would be done with the other one.

Mr. Lehman stated that with COVID, anything is on the table, so they do not know what they will do. If the lot line can be revised, it will give them more options.

Commissioner Gault stated that his concern is that this would take a lot that complies with zoning and create two lots that do not comply.

Mr. Lehman stated that they are not in the position to combine these two lots to make them a single lot and believes that there is nothing in the Code or the Comprehensive Plan that prevents them from improving the property. He stated that they think their proposal for the two lots is an improvement. He noted that they are not splitting the lots, but are trying to make them more consistent with the neighborhood.

Commissioner Gault noted that they are actually splitting the currently conforming lot. He stated that he suspects the City will be hearing a variance request for new home construction on Tract A in the near future.

Mr. Lehman stated that appears to be speculation and asked if homes need to have a garage.

Planning Director Darling stated that a garage is not required, but does make things easier in the winter months. She stated that if one is constructed without a garage, the ordinance requires that the plans show space where a conforming garage could be constructed in the future.

Mr. Lehman stated that he understands that the City would prefer if they combined the lots, but they will not be doing that and reiterated that they think this request is reasonable.

Commissioner Gault asked about Mr. Lehman's reason for not combining the lots.

Mr. Lehman stated that he thinks that is a superfluous question because if he has two properties it would not make sense to combine them. He stated that the Met Council is trying to increase densities in cities which would be a reason not to combine the properties.

Chair Maddy opened the Public Hearing at 7:33 P.M. noting the procedures used in a Public Hearing. There being no comments, Chair Maddy closed the public testimony portion of the Public Hearing at 7:33 P.M.

Commissioner Riedel stated that he understands Commission Gault's concern but he sides with the applicant that this is their right.

Commissioner Gault stated that he feels there is a simple solution in terms of the property by having just one lot that meets the zoning requirements.

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Commissioner Riedel noted that doing nothing would also meet the zoning requirements and this is before the Commission because the applicant wants to do something and not just maintain the status quo.

Chair Maddy stated that he does not think the request is improving things or making the situation worse because it is 45,000 square feet with two lots on it before this is considered or after it is approved. He stated that making one of the lots more livable is an improvement, but is not worried about what the applicant 'could' do.

Commissioner Gault reiterated his concern with the precedent this will set for future lot splits.

Commissioner Eggenberger stated that he understands Commissioner Gault's concerns, but feels the overall idea and plan makes sense to him.

**Riedel moved, Eggenberger seconded, recommending approval of the Registered Land Survey, variances, and Special Home Occupation permit at 21265 and 21285 Radisson Road, subject to conditions in the staff report.**

Commissioner Gault stated that he would like to see the motion have each items separated.

**Riedel moved, Eggenberger seconded to withdraw the original motion. All in favor, motion passed 4/0.**

**Riedel moved, Eggenberger seconded, recommending approval of the Registered Land Survey and the variances at 21265 and 21285 Radisson Road, subject to the conditions in the staff report. Motion passed 3-1 (Gault opposed)**

**Riedel moved, Eggenberger seconded, to recommend approval of the Special Home Occupation permit at 21285 Radisson Road, subject to the conditions as listed in the staff report. Motion passed 4/0.**

Planning Director Darling stated that this will be on the City Council agenda on October 25, 2021

**B. PUBLIC HEARING – Conditional Use Permit**

**Applicant: Ben Becker**

**Location: 6180 Cathcart Drive**

Planning Director Darling explained that this application is for a Conditional Use Permit to allow two detached garages on a property where one is permitted without a C.U.P. The applicant is proposing to remove all of the structures on the property and build a new home with two attached garages that would store their personal vehicles and equipment. Staff recommends approval subject to the conditions listed in the staff report.

Commissioner Riedel asked for more details relating to the C.U.P.

Planning Director Darling explained that the criteria used would be for the same standards used for an oversized garage C.U.P. She noted that, in general, the sizes are under 1,200 square feet in area and the applicant has not run into an issue with the maximum amount of garage space or going above the ten percent of the required minimum lot area for the zoning district.

Commissioner Riedel confirmed that the C.U.P. is just necessary because there are two garages.

Chair Maddy opened the Public Hearing at 7:49 P.M. noting the procedures used in a Public Hearing. There being no comment, Chair Maddy closed the public testimony portion of the Public Hearing at 7:49 P.M.

**Eggenberger moved, Riedel seconded, recommending approval of the Conditional Use Permit at 6180 Cathcart Drive, subject to the conditions as listed in the staff report and that the structure use materials similar to the home. Motion passed 4/0.**

**C. PUBLIC HEARING – Comprehensive Plan 2040  
Amendments to the Land Use Map  
Applicant: City of Shorewood  
Location: Multiple**

Chair Maddy noted that based on the e-mails they have received, he thinks the City could have done a better job explaining what is exactly going on and asked staff to clarify what is happening.

Planning Director Darling explained that the application has been submitted by the City. She stated that because of some of the e-mails received, she would like to review some basic information on what a Comprehensive Plan is and how it works with the zoning ordinance. She noted that the City is required to update the Comprehensive Plan every ten years and identifies how the community will grow and change over a twenty year time horizon as an overall guiding document and noted that the one being reviewed now is through the year 2040. She explained that the City submitted the approved Comprehensive Plan to the Metropolitan Council for their review in 2019 and the Metropolitan Council gave comments to the City and declared the Plan incomplete because the City needed to address a number of items. She gave an overview of the items to be addressed, including that the City needs to have one-hundred and fifty-five units somewhere in the City that would provide opportunities for density greater than five dwellings per acre. She explained what the City has done to address this feedback including adjusting the density designations for the land use classifications to be a bit higher. She stated that the Met Council would also like the City to add more density that is developed at eight dwellings per acre or greater which would be more conducive for 48 of the units to be affordable. She stated that even if the City makes these areas available to build higher density housing, they cannot force property owners to add that housing nor force them to add affordable housing. She stated that the Metropolitan Council is asking the City to allow these opportunity areas where this type of development could occur. She reviewed the suggested amendments to the Comprehensive Plan. She noted that there has been quite a bit of concern that these would mean that here is a development proposed in the near future. She explained that property owners could continue to operate their businesses on their sites indefinitely and in the case of the mixed use areas, they would be under no obligation to add residential uses to those areas and could continue to operate them as commercial properties. She stated that the dredging company parcel would likely need to be rezoned to a residential district but could continue operating it as a dredging company indefinitely. She stated that the City could not shut down their operation, but if the dredging company stops operating for a period of one year or greater the use would be considered abandoned. She noted that the marina property can continue to operated as a marina indefinitely and would not need to be rezoned..

Commissioner Gault asked what would happen with an ownership change.

Planning Director Darling stated that nothing would happen and they could sell the properties and continue to operate the businesses consistent with the way they are now. She stated that if these

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amendments are approved by the Council, then it would be submitted back to the Met Council for their approval.

Bob Kirmis, Northwest Area Consultants, gave an overview of the feedback the City received from the Metropolitan Council. He stated that one of the things they asked for was a map identifying specific parcels that would be subject to change and reviewed the other things the Metropolitan Council asked the City to amend. He stated that staff believes the proposed amendments meet the Metropolitan Council requirements for approval.

Planning Director Darling noted that the City Council looked at these amendments in a work session but have not formally acted on them and will not until they receive a recommendation from the Planning Commission.

A member of the audience asked questions about the review process and procedure.

Chair Maddy summarized that the Met Council is forcing the City to change the Comprehensive Plan to add some housing opportunities. He stated that staff and the consultant have found areas that this could potentially be done in the next twenty years and noted that nothing would be forced. The City Council will not take any action until the Planning Commission has given them their opinion and recommendation.

Planning Director Darling stated that there is a draft letter attached to the staff report that identifies other smaller changes to the Comprehensive Plan that were also requested by the Met Council. She stated that the smaller changes are things like re-mapping and recalculating some demographic information. She noted that making changes is part of the process in getting a Comprehensive Plan approved by the Met Council.

Commissioner Riedel asked staff to give a brief overview and explanation of the Met Council and how it fits in as a tier of government and whether things are considered 'binding' or not.

Planning Director Darling explained that the Met Council is a body appointed by the governor that is similar to a planning commission in a city but are essentially a planning commission for the State government and have more authority. The task of the Met Council is to look at specific development related issues and ensure that all of the cities are coordinating their plans together which means they review all of the cities Comprehensive Plan's to make sure that they are consistent with regional and State plans.

Chair Maddy reiterated that the City goes through this process every ten years.

Commissioner Eggenberger asked what the penalty would be for not meeting their Plan.

Mr. Kirmis stated that the Met Council is charged with addressing regional systems such as transportation, density, and regional parks. He stated that one of their objectives is to disburse density into the outlying cities rather than concentrating it in the inner city. He stated that as far as a 'penalty', he knows that the City would lose eligibility for Met Council grants if they do not comply but noted that he was not sure how much it has been tested. He referenced a case with Lake Elmo who lost a case against the Met Council.

Chair Maddy opened the Public Hearing at 8:15 P.M. noting the procedures used in a Public Hearing.

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Penny Trunnel, 19865 Waterford Court, asked about affordable housing in the City and asked if the only property left that can be used for this and Mixed Use purposes is along Highway 7. She stated that if that is all the left, she would like to know why.

Planning Director Darling stated that the City is a built-out community and does not have large tracts of land like other cities have. She stated that it is not the only place where the City could add higher density housing because there are the other three areas that are being looked at tonight and could be proposed in other areas as well. She explained that these areas were identified because they are relatively compact and have access from the highway system.

Paul Kobs, 5585 Timber Lane, noted that he had submitted some comments earlier today via e-mail and agreed that was some confusion between zoning and land use. He stated that his message remains the same that they are in strong support of the way the Shorewood Marina operates and functions today and gives the community access to the City's greatest natural resource. He stated that he is concerned that the City would support any land use other than what is currently there today. He stated that a discussion about taking away a community amenity is concerning. He stated that there has been a lot of talk about affordable housing and the impact that has on zoning. He stated that he does not think Lake Minnetonka or lakeshore property is the place where that would be addressed and located.

Paul Christopher, 19827 Waterford Court, stated that most of his neighbors are also present tonight because of the notice. He asked when the rezoning would take place.

Planning Director Darling stated that if he is specifically referring to the Holiday Station location there is no need to rezone the property because it is currently zoned Planned Unit Development. She stated that the property owner is not required to add additional multi-family housing into the development, but if they do, the PUD will need to be amended to show what they are proposing and to show that they are limiting the impacts.

Mr. Christopher asked what phase of the Comprehensive Plan was the City currently in. He stated that as part of the discussion he has heard the word 'force' used and does not like the idea that the Met Council is forcing the City to do anything.

Commissioner Riedel explained that there is no development currently planned and is a change in the Comprehensive Plan to indicate that this area would have this use.

Chair Maddy stated that the Comprehensive Plan looks forward twenty years and justifies the zoning beneath it but right now the City is moving to respond to the Met Council's request to change some things from the first submittal.

Planning Director Darling noted that the Met Council has sixty days to review the newly submitted Comprehensive Plan.

Mr. Christopher asked if a notice would be sent out to the residents for a public hearing if there is going to be a change. He stated that they are fearful that they will wake up one day and it will be rezoned, they did not know anything about it, and it is too late to do anything.

Planning Director Darling stated that she understands that concern, but noted that the City cannot act on a rezoning or amend a PUD without calling a public hearing so they will be notified.

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Mr. Christopher stated that the way the Comprehensive Plan reads right now is that the City does not want to move away from what they currently have and noted that he hopes they stick with that.

Commissioner Gault stated that he is confused by Planning Commissioner Darling's statement that the City would not rezone the shopping center. He stated that he was under the impression it would be changed to a Commercial/Mixed Zone.

Planning Director Darling stated that this was not correct and explained that the zoning district is part of the Zoning Ordinance which is an implementation tool of the Comprehensive Plan. The Comprehensive Plan has land use categories which is showing future land use of Mixed Use which means, at some point, the property owners could propose to add residential by amending the PUD.

Commissioner Gault noted that it is confusing because the map shows these areas as Commercial/Mixed Use.

Planning Director Darling clarified that tonight's discussion is about the Land Use Plan and not the Zoning Ordinance.

Jason Schiller, 19580 Shady Hills Road asked if the apartment complexes behind the gas station, in Minnetonka, were taken into consideration when the traffic studies are done. He stated that there are a lot of families with children in the area, so traffic is a concern for them.

Planning Director Darling stated that a traffic study would be required for a proposed development.

Chair Maddy noted that the study would take into account the existing traffic as well as the proposed and is not limited to just the City limits.

Joel Peters, representing owners of 23425 County Road 19, (Davis Family LLC) stated that he was here to submit the formal objection by the land owner to this proposed change in use and subsequent zoning change that would be inevitable. He noted that they could not improve the property significantly under its current use and the use changed, they would not be able to use it the building in the current use in perpetuity.

Planning Director Darling stated that if rezoned to a residential district, the owners could use the current building for its current use in perpetuity or improve the building at its current location in perpetuity but could not change the type of use that is proposed unless it is changed to a conforming use.

Mr. Peters stated that 'riddle' would occur upon sale or conveyance of the property.

Planning Director Darling stated that even after a sale, the property owner could continue to use the property as it is currently being used.

Mr. Peters stated that however, if a significant redevelopment were to occur and the use were to change it would be subject to the new criteria. He stated that he would just like to make clear that the proposed change is in opposition to the property owner's continued use and enjoyment of the property and would limit the property owners rights, detract business development, limit gathering resident input, and ignores the desires of the residents.



Chair Maddy asked what Mr. Peters and the Davis Family LLC wants out of this situation.

Mr. Peters stated that they just want to make sure that their existing land use rights are preserved.

Commissioner Riedel stated that those existing land use rights are preserved if they do not change the business.

Joseph Huber, 19762 Waterford Court expressed his appreciation for the Planning Commission and the Planning staff. He stated that in a nutshell, his comments are 'don't let this horse out of the barn'. He stated that the residents in the room chose to come to Shorewood for its density and nature of the community and increasing the density will change the nature of the community. He stated that he understands all the reasons, politically, that this has to happen and if the City is, in essence, being 'strong-armed' into it., he would ask that, especially for the PUD changes, that the City find a way to shoehorn in limitations to make residential units one story high with no occupancy on the second story.

Ree Barnes, 6055 Lake Linden Drive, stated that she would like to get back to the question about what kind of 'teeth' the Met Council has. She asked why the Met Council would want to make this change when the population rates are decreasing. She asked if there was a time limit and if the City could wait to make this change or if there was a date that the City had to expand by. She asked if there is a way to fight against the bureaucracy which are appointed, not elected individuals. She stated that she had grown up in the City, but she stayed here because of the nature of the community, including the density and does not want an apartment building that can look in in her bathroom window. She stated that she does not want that and questions if this means she should sell now because right now this is a great place to live. She reiterated her request that the City find a way to delay or fight this direction.

Sherol Christian, 23800 Lawtonka Drive, stated that she has three concerns with this proposal. She asked if the Met Council has taken into consideration other multi-family dwelling units within a mile of this location. She stated that she already sees a lot of traffic issues on County Road 19 which will continue to get worse. She stated that her third point is that as a previous small business owner, she wants to support the City's small businesses and does not like the idea of turning their precious property into more residential when small businesses are struggling. She stated that she does not want their land to be taken or reused for residential.

Tom Lingo, 23445 Smithtown Road, explained that he and his wife own the Garden Patch on County Road 19. He stated that he was told that if their property was switched over to apartments or high density that they could continue their business however he cannot make any improvements to keep the business going, such as enlarging the building. He stated that if a tornado comes and blows the business into the ground they would only have six months to build the exact building that was there. He stated that there should be some freedom to make changes in order to keep the business going. He stated that he is opposed to their property being considered for high density housing. He noted that there is also a culvert that goes through his property and would also restrict housing and thinks his property is pretty limited for the number of housing units that could go there. He stated that he does not support all the restrictions when he is just trying to keep a business going.

Bob Skinner, 19880 Waterford Court, asked for a show of hands of people who live on Waterford Court that are present at the meeting and those that are concerned about this project. He stated that the packet information talks about how the City's consultants came up with a draft plan and the changes include the creation of a new land use. He asked if Commercial/Mixed Use has not been a land use used here before.

Planning Director Darling stated that was correct.

Mr. Skinner stated that the Met Council has photos of what the Commercial/Mixed Use may look like which are businesses on the main floor and then six stories of residential above. He stated that this would happen right next to their properties and are currently about two units per acre and this would be 15-30 units per acre. He distributed a copy to Planning Director Darling. He stated that people in the room are concerned about the idea of a 4-6 story building adjacent to their property.

Gabriel Jabour, 23500 Smithtown Road, stated that he owns Shorewood Marina and the land that the dredging company operates on. He stated that he shares the feeling that Mr. Lingo shared regarding the Garden Patch. He stated that he thinks it is the City's responsibility and duty to direct the change that will come between now and 2099. He stated that what currently exists is by accident. He asked if his understanding was correct that the Shorewood Marina was residential, overlaid with Lakeshore Recreational which will not change. He stated that the other property is Commercial. He stated that with relation to compatibility not just based on what is currently there. He stated that it is within their rights today, based on the existing zoning, to build a commercial building and some is retail.

Planning Director Darling stated that they are allowed to develop the property for any of the uses allowed in C-2 zoning district.

Mr. Jabour stated that having commercial in that spot is not an appropriate use of that property and if it is guided towards residential, that would be a better use. He stated that between now and 2099, the business that exists there should have the ability to continue. He stated that he would urge the City to consider some way that the existing business could be allowed to modernize, not necessarily expand by leaps and bounds, but change in order to address issues that the new market forces on them. He stated that he is very excited to see someone from the neighborhood like the marina and noted that they offer life cycle housing and have special pricing for Shorewood residents.

Petra Cripe, 450 West Lake Street, explained that her home is right next to the dredging company site and has lived here for over twenty years. She stated that she agreed with the comment made earlier that this location makes zero sense for affordable housing. She stated that she would like to know if this is an oxymoron or if the City was playing a joker card. She stated that she does not care if apartments are put here because it will increase her property value, but noted that she is concerned about the way it is going about it, because this is not affordable housing. She stated that her bigger issue is all the people that will be living there will be coming through her street. She asked what would happen with the dredging companies CUP which protects her with things like fencing and proper landscaping to shield her from the equipment. She asked if the CUP would dissolve or if it goes along with the land. She stated that if it goes with the land, it gives an extreme amount of power to the land owner. She stated that she does not think this situation is fair because it is basically boxing the business owners into the current use. The City has already built a ton of houses at Country Club and at the bowling alley and asked if that contributed to the bottom line of the need for 155 dwellings. She stated that properties like the Shorewood Yacht Club is already zoned properly and suggested that it just be left this way so they would not need to be here tonight talking about this proposed change. She asked about run off and ground cover when there are high density buildings in a small amount of space. She reiterated that lakefront property is not affordable housing and that point should not be sugar-coated.

Commissioner Gault noted that the City does not get to count Tonka Bay's housing when the Met Council is addressing Shorewood.

Lindsey Ballard, 5585 Timber Lane, stated that many of the concerns shared have been related to traffic which are valid and good points have been made. She stated that she thinks that the most important thing to protect are the residents of the City having some kind of access as what the Comprehensive Plan refers to as Lake Minnetonka 'being the single largest park and recreational facility for use by Shorewood citizens'. She stated that she thinks the City needs to look harder for other alternatives other than what has been proposed because there are many who do not like the options being presented.

There being no additional input, Chair Maddy closed the Public Hearing at 9:02 P.M.

Chair Maddy clarified that the City is having to deal with what the Met Council is trying to force the City to do. He stated that they say affordable housing is typically at a certain density however, in this community, everyone knows better. He stated that the Met Council also says that the City needs to increase its density and they are trying to do the same thing in many communities that are auto-oriented. He reiterated that the City is simply trying to do what the Met Council is telling them to do. He stated that this is something being pushed by the Met Council and is not the City, volunteers, or Council coming up with the idea.

Planning Director Darling noted that the City had received a number of letters concerning this issue also and they are part of the public record.

Chair Maddy stated that Commercial/Mixed Use requires certain percentages to be residential and commercial and asked if that is by floor area or units.

Mr. Kirmis confirmed that it is determined by floor area.

Chair Maddy asked if there was a reason that the proposal is for fifty commercial and a minimum of forty as residential rather than opening it up so the existing uses could be expanded upon without adding residential.

Planning Director Darling stated that the City set them at the minimum amount so the City could meet the Met Council goals for the number of dwellings that the City may be able to produce with those land uses

Commissioner Riedel asked if the numbers needed to add up to one-hundred percent, for example could they add up to two hundred percent with development proceeding as it does. He asked if that would satisfy Met Council.

Chair Maddy asked if the City could allow one-hundred percent commercial and up to forty percent residential.

Planning Director Darling stated that she understands what they are suggesting and thinks that may be problematic for the neighborhood with regard to traffic impacts, not Met Council.

Commissioner Gault stated that he does not like the idea of taking away any recreational use property in the City and converting it to something else. He asked what the thought process was behind making everything, in terms of density, go up across the City.

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Planning Director Darling explained that the reason the City targeted a few areas is because they were already fairly separated from residential areas, especially the two shopping centers. She stated that they have their own access and traffic to those areas would be from arterial roadways and in that sense, the development would be contained on those areas. She stated that they could have opened up more parts of the City for higher density residential development, but there was a concern that would be less comfortable for the residents to have many corners of the City that are currently single family homes suddenly guided for multi-family housing.

Commissioner Gault noted that the Planning Commission had just approved creating two half acre lots from a one acre lot and asked why that could not be done all across the City to meet the density requirement.

Planning Director Darling explained that this would not meet the requirements that the Met Council has set for the City because the densities need to be at five units per acre, or greater. She noted that none of the new units in the Minnetonka Country Club would meet that requirement, because the densities are too low.

Commissioner Gault stated that if they are just looking to increase the number of units by one-hundred fifty five, he questions why they would care how many there are per acre.

Planning Director Darling stated that it is the Met Council's purview to provide the minimum density levels for the new units and it is more likely that communities will get affordable housing at the higher densities than they will by developing more single family homes.

Chair Maddy clarified that this is the Met Council's opinion and not the City.

Planning Director Darling agreed and noted that it does not mean that every development moving forward will be affordable but by allowing for opportunity areas, there is a greater chance that there can be affordable housing throughout the metro area.

Chair Maddy asked if there would be a way to allow the existing land use rights of the listed properties in addition to the higher densities they would be allowed to have in the future, for example, The Garden Patch.

Planning Director Darling stated that she thinks the parcels are too small to look at for the new mixed use standard to be applied there. She stated that she thinks for those parcels the City either needs to look at them as an opportunity for higher density housing or leave them as is.

Mr. Kirmis stated that he has seen cities that allow expansion of non-conforming use by Conditional Use Permit, which could help in that situation.

Commissioner Gault stated that it is nice to hear that this is an option but noted that Shorewood basically has no commercial property today and this is talking about taking away from of that commercial property which does not make sense to him. He noted that the sites that have been identified already have traffic issues and if they were redeveloped it would only exacerbate the problem. He asked why the City is trying to concentrate this activity in these small areas. He stated that commercial development is needed in the City and is something that they do not have right now. He stated that the garden center is more valuable as a commercial piece of property than it would be as high density residential.

Planning Director Darling stated that she would, at this point, suggest the Commission take each area separately and make separate recommendations to the Council.

Commissioner Gault stated that he appreciates all the work that has gone into these changes, but thinks that ultimately it is just getting something on paper that is not conducive to the overall well-being of the City.

Commissioner Riedel stated that it is not clear to him that there is a better solution and reiterated the need for increased density from the Met Council.

Commissioner Eggenberger stated that he was torn because the City is trying to create a plan but he cannot get St. Louis Park out of his head because of how different it is from twenty years ago when it did not have all the high rises. The reality is that things change and in twenty years, Shorewood will not be what it is today.

Chair Maddy stated that based on the requirements that have been placed on the City, he thinks staff did a good job finding locations where this is already some good thoroughfare and some more open areas that are not adjacent to too many people. He stated that he does not think anybody actually wants this to move through and is a question of how it can be done in the least disruptive manner.

Commissioner Riedel noted that there was really good public comment given today. He stated that for the property owners, this strikes him as a serious issue and is a rezoning of land that limits what the commercial property owners can do. He asked if there was some way to satisfy a requirement from the Met Council without constraining the owners of these commercial properties.

Planning Director Darling stated that staff will need to do more research into the options of allowing a conditional use permit for expansion of existing non-conforming uses.

Chair Maddy asked what the timeline was to respond to the Met Council.

Planning Director Darling stated that they would like to get this to the Met Council as soon as possible, which would likely be November.

Commissioner Riedel feels that there should be a compromise in this situation such as the Conditional Use Permit for these properties.

The Commission discuss more details of the proposed Comprehensive Plan amendments and the difficulties in finding a solution to the requirements put forth by the Met Council.

**Riedel moved, Eggenberger seconded, recommending approval of the Comprehensive Plan amendments, as proposed, with direction to staff to propose solutions on how best to preserve the rights of the property owners to allow them to continue with reasonable constraints. Motion passed 4/0.**

Chair Maddy recessed the meeting at 9:45 p.m. and reconvened at 9:52 p.m.

## 5. NEW BUSINESS

### A. Variance:

**Applicant: Gianfranco and Bonnie Cuneo**  
**Location: 26020 Birch Bluff Road**

Planning Technician Notermann gave an overview of the request for a variance to allow a two-story addition located 10.3 feet from the west property line and the combined side-yard setbacks

of 24.6 feet when 30 feet is required. She noted that the application has been revised from its original form and they are no longer asking for a variance related to impervious surface. She stated that the original subdivision was recorded in 1881 with the home constructed in 1900 with multiple additions since that time. She stated that there was an attached garage that was demolished in 2013 and the proposed location for a new garage is in roughly the same location. She explained that since 2018, the previous owner added patio and fire pit improvements within the fifty-foot setback to Lake Minnetonka. She stated that the patio area will need to return to turf and the other improvements can exist as legally non-conforming structures. The previous owners also received a permit for a shed on the south side of the driveway to store the contents of the demolished garage. The survey of the property has shown that the shed is larger than what was approved, so that is also non-conforming and staff recommends that those improvements be removed prior to issuance of any new permits. Staff recommends approval subject to the conditions as listed in the staff report.

Commissioner Riedel asked about impervious surface and if this would still be non-conforming.

Planning Technician Notermann explained that it is non-conforming, but it is existing in a non-conforming way and this does not increase the non-conformity.

Commissioner Riedel clarified that the only variance is for the side-yard setback.

Planning Technician Notermann confirmed that the only variance under consideration is for the side-yard setback.

Chair Maddy noted that the current condition is for 'turf', but noted that it could be any kind of vegetation or ground cover. He stated that he does not want require turf because it is not that ecologically beneficial.

Bonnie Cuneo, 26020 Birch Bluff Road, stated that they had purchased the property a few months ago and are new to the City. She stated that they purchased it with the anticipation of building a garage. She stated that they have agreed to remove the patio area near the lake and remove the pea gravel.

Commissioner Riedel suggested that the Cuneo's contact the watershed district because they also have regulations for buffer zones of vegetation of some sort.

Ms. Cuneo stated that with their request of the garage, the City has asked them to remove the shed. She stated that she thinks the shed was originally built to match the approved permit but then they added an enclosure for garbage cans. She stated that because of cost, they have considered reducing the garage down to a two-car garage with storage because that would significantly reduce the hardcover and eliminate the setback issue. She asked if they would be able to keep the conforming portion of the shed if they made that change to the size of the garage. She explained that they would take away the additional decking and the enclosure that was added.

Planning Director Darling stated that the patio will need to be removed, but the shed may be able to stay if the garage is reduced.

Commissioner Riedel stated that what Ms. Cuneo is requesting will not even require a variance which is an entirely different process.

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Planning Director Darling explained that if a variance was not needed, the process is a building permit process.

Chair Maddy stated that the Commission can go ahead and make a recommendation about the variance request and then the Cuneo's can work with staff and decide if they want to move forward in that manner.

Chair Maddy opened this up for public testimony at 10:08 p.m. There being no input, he closed the public testimony at 10:08 p.m.

**Eggenberger moved, Gault seconded, to recommend approval of the Variance request at 26020 Birch Bluff Road, subject to the conditions as listed in the staff report, with a language change from 'turf' to 'vegetation'.**

Chair Maddy noted that there was communication from the neighbors of the property included in the report.

**Motion passed 4/0.**

**B. Variance:**

**Applicant: City of Shorewood**

**Location: 5655 Merry Lane**

Planning Director Darling stated that this is a request for variances to allow placement of a concrete pad for Aquatic Invasive Species (AIS) equipment. She gave an overview of location and details of the pad and noted that staff recommends approval of the variance requests. She stated that the City received one letter from the adjacent property owner.

Commissioner Riedel stated that he does not understand why a variance is needed.

Planning Director Darling explained that the pad is proposed in the area of the landscape median, so it would convert some green space to hardcover.

Commissioner Gault asked where the water from the equipment drains.

Planning Director Darling stated that contaminated water is stored in the unit and removed from the site.

City Engineer Budde explained how the AIS equipment works.

Planning Director Darling introduced Commissioner Jim Heinz from the Park Commission. She stated that the Park Commission reviewed the request at their last meeting and gave a recommendation for approval.

Chair Maddy asked about what currently existed within the median related to drainage.

City Engineer Budde stated that the stormwater on most of the parking lot sheets to the southwest where it is collected in a few inlets, then with a pipe it is directed to the center median which serves as kind of an open channel. He stated that there is a wooden weir structure in there that is not functioning the way it is intended so the proposal is to remove that feature. The pipe then extends across the rest of the parking lot and outlets into Christmas Lake on the northeast side.

Chair Maddy asked if it was feasible to add some sort of sequestering structure such as a rain garden that can pre-treat the water before it goes into the lake.

City Engineer Budde stated that they had looked into that because it was one of the requests but explained that the challenge with the site is the way the water sheets across the parking lot and does not really collect. He stated that they considered taking some of the curb out around the center island to try to get parking lot water to that, but they ultimately found out that when they try to do the filtration, it is so close to the ground water table that it is really not very productive.

Chair Maddy asked if this meant that the water was just going to go straight into the lake whether it is above ground or below ground and nothing would really be filtered with something like a rain garden.

City Engineer Budde stated that this was correct that nothing would really be getting filtered that would come off of the parking lot other than through a little bit of grassy areas.

Park Commissioner Heinz noted that he has been a citizen of the City for about 31 years. He stated that the Park Commission considered two options for this site and chose to recommend the option presented tonight.

Chair Maddy asked if they had discussed noise abatement for the machine.

Park Commissioner Heinz stated that they did not discuss the noise of the machine, but feels this is a positive effort to utilize this kind of technology in this situation.

Chair Maddy opened this for Public Testimony at 10:25 p.m.

Peter Lehman, 21285 Radisson Road, confirmed that the Commission had received his recommendations that he had submitted via e-mail. He stated that they have lived in this location since 1986 and the public access was placed after that time in about 1989. His understanding was that the actual public access to Christmas Lake was on Holly Lane in Carver County. He read aloud the statement that he had submitted via e-mail regarding concerns and ways to help reduce the noise of the equipment.

Chair Maddy asked if was the engine noise that was causing issues or the sound of the spraying.

Mr. Lehman stated that it is the engine. He noted that it is not run 24/7 but it can be run during times like 6:00 a.m. to 10:00 p.m. He has not made a formal complaint to the City because he understands that there is public benefit but noted that in terms of a tangible difference in sound, every foot it can be moved further back matters.

There being no additional Public Testimony, Chair Maddy closed this portion of the meeting at 10:35 p.m.

Chair Maddy asked if the machine sounds were in violation of the noise ordinance. He asked if there had been any conversations with whomever operates the equipment if there were any options to mitigate the sound.

Planning Director Darling noted that she had not measured the sound levels but noted that they have not received any complaints for the last four years.



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Commissioner Gault asked if the pad was moved where Mr. Lehman suggested would that create other complications. He asked if it would be possible to reverse the traffic pattern or if the hoses long enough.

City Engineer Budde stated that he did not think it could be reversed because of the boat ramp.

Mr. Lehman stated that he is sort of an 'expert' on the public boat landing and there is really no way to change the traffic pattern and explained how the public access works.

Commissioner Gault asked if the hoses were long enough that if it was moved they would still be useable.

City Engineer Budde stated that he would guess that they are long enough but does not have a definitive answer. He noted that their proposed location is approximately 297 feet from this to the nearest home to the north. He stated that there are two homes to the south that are closer at 206 feet and 165 feet.

Chair Maddy asked who paid for this AIS work to be done on the boats.

Planning Director Darling stated that the City pays a portion of the cost but the majority is covered by the Christmas Lake home owners association.

Commissioner Eggenberger asked if there would be a detriment to putting the equipment inside a structure.

Planning Director Darling stated that she would assume the detriment would be the cost of the structure and that it would have to be a custom design cabinet to fit over the existing trailer.

City Engineer Budde explained that currently, the make-shift muffler is made out of boards with some Styrofoam on the inside. He stated that it is portable because the trailer is moved in and out every few weeks which is also where a permanent structure becomes more challenging.

Commissioner Riedel stated that he thinks it is reasonable to assume that over time they will do more sound mitigation.

City Engineer Budde stated that he thinks they are willing to do that especially if they have a bit more of a permanent home for the equipment.

Commissioner Gault stated that the sound will not be any worse than it is right now.

**Riedel moved, Gault seconded, to recommend approval of the variance requests to impervious surface coverage and setback to Christmas Lake at 5655 Merry Lane. Motion carried 4/0.**

**C. MATTERS FROM THE FLOOR**

**D. REPORTS**

- **Liaison to Council**

October – Commissioner Riedel

November – Commissioner Riedel

Council Liaison Johnson reported on matters considered and actions taken during Council's most recent Council meeting (as detailed in the minutes for that meeting).

**E. ADJOURNMENT**

**Riedel moved, Eggenberger seconded, adjourning the Planning Commission Meeting of October 5, 2021, at 10:55 P.M. Motion passed 4/0.**