

Planning Commission

August 23, 2021 – 7 pm

REGULAR MEETING MINUTES

This meeting was conducted in a hybrid format with in-person and remote options for attending, participating, and commenting. The City used Webex to conduct this meeting and members of the public were able to monitor the meetings by watching it on Comcast cable channel 16, by streaming it on CCXmedia.org, or by dialing in to the public call-in line.

1. Call to Order

The meeting was called to order at 7:00 by **Chair Pockl**.

Roll Call

Commissioners in person: Adam Brookins, Andy Johnson, Lauren Pockl, Mike Ruby, Chuck Segelbaum
Commissioners virtual: Rich Baker
Commissioners absent: None
Staff present: Myles Campbell – Planner
Council Liaison present: Gillian Rosenquist

2. Approval of Agenda

Chair Pockl asked for a motion to approve the agenda.

Commissioner Johnson asked for an update on the remaining Comprehensive Plan Rezoning.

MOTION made by **Commissioner Brookins**, seconded by **Commissioner Johnson**, to approve the agenda of August 23, 2021. Motion carried.

3. Approval of Minutes

Chair Pockl asked for a motion to approve the minutes from August 9, 2021.

MOTION made by **Commissioner Johnson**, seconded by **Commissioner Ruby**, to approve minutes. Motion carried.

4. Informal Public Hearing – Consideration of Preliminary Plat

Address: 8810 10th Ave North

Applicant: Academy of Whole Learning

Val Quarles, Community Development Intern, introduced the topic. The Academy of Whole Learning is seeking to consolidate the three parcels they own: 8810 10th, 915 Boone Ave North, and 1021 Boone Ave North. Staff noted the proposed conditions for the preliminary plat approval, and that the application otherwise met the City's criteria for approval of a minor lot consolidation.



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Recommended Action

Staff recommended approval of the Preliminary Plat by Planning Commission, subject to conditions.

Chair Pockl asked if any Commissioners had questions for staff. **Commissioner Johnson** asked for clarification on the purpose of the lot consolidation. **Quarles** clarified that while, the school owned all three properties, the shared internal lot lines would impact the ability to expand the building, due to minimum required setbacks.

Commissioner Brookins asked how the north side of the lot was considered side or rear yard. **Quarles** stated that it would be considered a side yard since it did not front a public street. Johnson asked about the condition regarding the provision of a new fire hydrant and who would be responsible for that cost. **Myles Campbell, Planner**, stated that the applicant would be responsible for the purchase and installation costs, while the city would become involved if maintenance were required long-term. **Pockl** asked whether the applicant was aware of the fire hydrant and easement conditions. Staff affirmed that they were aware of all proposed conditions.

Hearing no further questions from Commissioners, the Chair invited the applicant to address the body. **Dan Noyes, with Sperides Reiners Architects, Inc.** addressed the Planning Commission. **Mr. Noyes** confirmed that they had planned for the hydrant with the Fire Marshall and that they were planning for the needed easements. **Commissioner Johnson** asked whether the site had vehicle access from Boone. **Mr. Noyes** noted that it does, and that the school was planning to use that access as the principal exit.

Hearing no further questions from the applicant, the Chair opened the Public Hearing at 7:17pm. No commenters were in person at the meeting. No commenters called into the official phone line. The Chair closed the Public Hearing at 7:18.

Chair Pockl asked Commissioners for their discussion. **Commissioner Baker** noted what a great asset the school seemed. He had no issues with the proposal. **Commissioner Segelbaum** noted that the application seemed to meet the necessary requirements for a consolidation had been met, and that he felt it should be approved. He agreed with Commissioner Baker on the value of the School. **Chair Pockl** affirmed.

Hearing no further discussion, the Chair called for a motion.

MOTION made by **Commissioner Brookins** to recommend approval of the Preliminary Plat, with the conditions as written by staff. Motion was **seconded** by **Commissioner Segelbaum**.

The motion passed unanimously.

5. Informal Public Hearing - Preliminary Plan for Golden Valley Country Club Villas PUD No. 126

Address: 7001 Golden Valley Road

Applicant: Ron Clark Construction

Myles Campbell, Planner, introduced the public hearing topic. Ron Clark Construction is seeking approval of a Planning Unit Development (PUD) to construct seven new single-family homes on the northwesterly portion of the Golden Valley Country Club property located at 7001 Golden Valley Road. The PUD would be necessary due to the design of the individual home lots, which are more compact than what is allowed by code, as well as the inclusion of a communal open space towards the existing street intersection.

Staff presented on the Preliminary PUD Plan, covering the request details, City PUD procedure, the review and evaluation done by staff, and the evaluation of the Public Amenities provided. Campbell went through the necessary findings for approval of the Preliminary Plan, which staff felt had been conditionally met to their satisfaction.

Recommended Action

Staff recommended approval of the Preliminary PUD Plan by Planning Commission. This approval was subject to the 14 conditions that were recommended by City Staff, in order to address outstanding issues prior to the Final PUD Plan.

Campbell reminded Commissioners that as part of the Preliminary PUD process they were also encouraged to provide feedback and recommended modifications for the City Council to consider.

Chair Pockl asked if the Commissioners had any questions for staff.

Commissioner Segelbaum asked if the zoning code flexibilities listed by staff included in their consideration the recent modifications to code regarding narrow lots. **Campbell** explained that those new changes had been incorporated in staff review. He noted that height and individual lot cover data were not provided in the Preliminary Plan, and that these may require flexibility from code. **Segelbaum** asked if the garages for the new homes met the new façade requirements for narrow lots. **Campbell** affirmed that the garages, while making up a significant portion of the front façade, did not exceed the 75% of total façade maximum that had been established for narrow lots.

Segelbaum noted that the City had in cases approved PUDs with narrow setbacks, and asked whether staff had weighed any items differently within the Preliminary Plan as part of their review. **Campbell** noted that staff focused on the proximity to Bassett Creek and the protection of that shoreland area. In terms of the balance of the requests, he noted that the most significant flexibilities in staff's eyes were those related to lot standards such as area and width.

Commissioner Baker requested that the next staff memorandum on the topic also include those code flexibilities as part of the PUD beyond the zoning and subdivision items, in order to get a fuller sense of the request.

Pockl asked whether the Planning Commission would need to find in the affirmative for each of the findings of fact that are required to approve a Preliminary PUD, and whether a single negative finding would lead them to recommend denial. **Campbell** answered that this was the case, and that all findings must be met. **Campbell** noted that staff felt that a portion of those were being met outright, with some findings only being met in staff's eyes due to the conditions proposed for the approval.

Commissioner Johnson asked why the site plans provided as part of the application included the names of neighboring property owners, and whether that seemed significant to staff. **Campbell** answered that the documents in question were submitted by the applicant, and that his best guess was that the property owner information had been pulled from Hennepin County's online records. Staff had not felt it significant in their review, and gave examples of other cases where multiple property owners might be listed on a survey document.

Segelbaum asked about the petition for Public Amenity points for the Green Path Certification, and whether or not they were necessary. **Campbell** reiterated the requirements to petition for amenity points, but agreed with **Commissioner Segelbaum** that given the other amenities proposed, the two points would not be necessary.

Commissioner Brookins asked if there were additional plans submitted to the City, and specifically in regard to stormwater management. **Campbell** answered that additional materials had been submitted, and that typical practice from staff was to exclude certain technical documents or those that were not otherwise pertinent to discussion. **Campbell** reiterated the details on the stormwater management plan.

Brookins asked whether there were any issues regarding the third stormwater storage tank that fell outside the boundary of the PUD. **Campbell** noted that this location would likely involve agreements between the Country Club and the future Homeowners Association. **Brookins** requested that the site plan sets regarding stormwater could be included in the next staff memorandum.

Baker asked whether the PUD and its conditions could affect areas outside the PUD. **Campbell** noted that this was an option, however with the limitation that in the cases of conditions of approval there still needed to be a nexus between the condition proposed and a regulatory interest by the City. **Baker** stated that he was particularly interested in the impacts of the PUD on the shoreland area and Bassett Creek, and that portion of the shoreland outside the PUD.

Baker asked about the floodplain area around the Creek. **Campbell** brought up an aerial map of the area to demonstrate the various overlays along Bassett Creek, including floodplain, floodway, and the 50-foot shoreland setback. **Campbell** provided more details on the shoreland overlay, the 50-foot structure setback, and the 300-foot shoreland area. **Baker** noted he was concerned about how those overlay areas were or were not represented on the site plans. He requested that the City require these areas be shown on future plans. **Baker** also requested that the tree preservation plans provided by the applicant be updated to call out the locations of the four legacy trees on-site.

Campbell noted that to the Commissioner's first point, staff had recommended a condition of approval that the plans should show all shoreland areas and areas of steep slopes. The staff conditions had not included identification of legacy trees, but that it could certainly be included if the Commission desired.

Baker asked whether staff knew why the applicant had decided to use underground storage tanks versus above-ground stormwater options. He was not enthusiastic about the use of below ground treatment and the lack of alternative options provided by the plan. **Campbell** provided some background into the discussions between staff and the applicant, but deferred to the applicant to answer why they had chosen underground storage.

Johnson added that he was skeptical of the stormwater management systems proposed, especially given the number of trees being removed and the site elevation for the north tank. **Campbell** reiterated that he was not a civil engineer and that the question of how the stormwater systems would function might be better left to the applicant. He did note that in regards to elevation, the use of underground was here a benefit since they would be lower than grade, compared to a pond which would need to be made larger and deeper to function similarly.

Johnson asked if staff could explain why the front setback was being measured to the curb rather than the front property line. **Campbell** noted that typical practice is to provide the front setback to the property line, but that they had used the curb distance since it had been provided by the applicant. Staff had reviewed the setbacks to front lot lines as well, and noted that the applicant was already planning to include this measurement on the next set of plans.

Chari Pockl noted that no further questions remained for staff and invited a representative for the project, **Mike Waldo, Ron Clark Construction**, to speak on its behalf.

Mr. Waldo introduced the rest of his team present at the meeting, as well as two representatives from the Country Club. **Mr. Waldo** started by describing the stormwater management system. He noted that Outlot A was the best option in terms of soil infiltration, and therefore was chosen to have the main storage tanks. He reiterated that a pond in that area would need to be exceptionally wide and deep in order to function at a similar level. He noted that one of the benefits of below ground treatment is that there is no chance of overflows during major flooding events, as with a pond.

Commissioner Johnson asked for further clarification on the grading as it relates to stormwater. **Mr. Waldo** defined the area served by the north storage tanks, and noted that the storage tank system is buried such that it is still lower than grades in that area. **Commissioner Baker** also expressed skepticism on whether the grading of the PUD did support the correct flow of water. He expressed a desire for the applicant to consider use of a pond or rain garden on the northern outlot.

Mr. Waldo noted that Outlot B was originally considered for use as a ponding area. If no longer needed for this use, or to meet impervious surface percentages, they were looking to remove Outlot B.

Mr. Waldo described the thinking behind the PUD's purpose and intent. He noted that the area in question could support a traditional 7-lot subdivision, but that the Country Club had chosen them for the quality of the development plan, and its limited impact on neighboring properties. **Mr. Waldo** noted that one outstanding item they were working on was tree removal. He noted that their team was focusing on replanting with native trees, and noted that a number of the significant trees on site were Black Locust. **Mr. Waldo** noted that this species was non-native to Minnesota and identified by the Minnesota Department of Agriculture as a noxious tree. His hope was that by removing the aggressive tree species and replacement with native trees there would be a better diversity of trees within the PUD over time.

Chair Pockl asked if the applicant knew the size of the replacement trees being planned for. **Mr. Waldo** confirmed with their landscape architect that they were targeting Category A replacement trees from city code, approximately 2.5 to 4 inches in diameter.

Commissioner Baker commented that he did not care for the comparison between Black Locust and invasive species of tree such as buckthorn. He did not feel that the tree species was undesirable. **Baker** stated that of the legacy trees, one was a black locust, versus the remaining legacy trees being Austrian Pines, a non-native tree.

Mr. Waldo provided additional details on the other aspects of the landscaping plan, in regard to use of sod, native replantings, and the vegetation within the shoreland setback area.

Mr. Waldo noted that they had shown the street as public right-of-way, and that they were comfortable with the recommended condition regarding the stub access for lots 6 & 7. He described two potential options for the public amenity area on Outlot A, and that they were seeking feedback from Planning Commission. He noted that they proposed amenities were designed to be in scale with the neighborhood, creating a rest area rather than a larger gathering area that might impact surrounding properties.

Commissioner Baker made a comment that he felt the applicant should consider that the PUD might require more than the minimum protections from Bassett Creek compared to a conventional subdivision. **Commissioner Johnson** agreed, noting that the stormwater plan met the minimum requirements, but that he would like to see a plan that exceeds those minimums. **Mr. Waldo** acknowledged the comments from Commissioners and noted that because the lot currently had very little runoff, the development's stormwater management was held to meeting or exceeding that same amount of runoff. He pointed out that as part of the flexibilities provided by the PUD, they were asking for no flexibilities from the requirements for stormwater management or from the shoreland overlays.

Commissioner Johnson asked whether the road would be built to lower standards than required by the City. **Mr. Waldo** answered that the road would be built to the same standards as if it were constructed by the city, but that the amount of right-of-way dedicated around the roadway was less than subdivision code called for. **Johnson** clarified his confusion was related to a condition in the packet. **Campbell** explained that a condition was included that public improvements associated with

the project would be constructed by the City itself, but the applicant would be responsible for the cost of the construction.

Chair Pockl asked what the value of the homes might be. **Mr. Waldo** stated the homes would be around \$1,000,000. He noted this was slightly above the value of homes in the neighborhood, but not out of character for homes that might be rebuilt today. He noted that while lower market value, the existing homes have appreciated in their value over time and are very well maintained and his hope was that their project would continue this type of character.

Pockl asked why the applicant chose to use a fee in lieu of replanting the trees removed on site. **Mr. Waldo** noted that with the redevelopment, there would not be enough open space to effectively plant trees without them out-competing each other.

Commissioner Baker asked whether the applicant had considered building only six-units as opposed to seven, allowing for more space to replant trees and accommodate public benefits. **Mr. Waldo** answered that the plan for seven lots has been their plan since presenting to the Golf Course initially. They thought it made sense from a financial perspective for the project, but that it would also work well for the future residents, neighbors, and the city itself.

Chair Pockl asked if Commissioners had any further questions for the applicant, hearing none she thanked **Mr. Waldo** for his time.

Chair Pockl opened the public hearing at 9:00pm

Eric Boe, 1023 Quebec Ave N. Mr. Boe thanked the body for their work, and asked the City to consider the off-center intersection of Plymouth and Pennsylvania, and the drop in grade as Plymouth Ave moves east. He noted that cars travelling along Plymouth are a danger to pedestrians, and that he was concerned about introducing a new drive access from the development along Plymouth. He would like to see a sidewalk be included along this street. Mr. Boe also noted he was a little concerned about public art, and asked that the neighborhood be involved in the discussion. He did not want to see the area become a place of loitering.

Lisa Boe, 1023 Quebec Ave N. Ms. Boe noted that as a pedestrian she appreciates the sidewalk along Pennsylvania given the speed of vehicle traffic. She noted that the existing trees are helpful in terms of shade for walkers. She reiterated that Plymouth Ave is dangerous for pedestrians without a sidewalk. She noted that given the number of exceptions to the zoning code, that perhaps there were too many homes proposed. She also spoke about the removal of trees further along Bassett Creek, and that while she likes native vegetation, she did not want it to appear messy.

There were no callers for the hybrid comment period.

Chair Pockl closed the hearing at 9:06pm

Chair Pockl invited the Commissioners to begin their discussion of the item. **Commissioner Segelbaum** asked if other commissioners wanted to break out individual topics, before providing his own thoughts on the Preliminary Plan. He noted that among the necessary findings, consistency stood out to him as well as the balance of flexibility and amenities. He felt that these weighed against the applicant, noting that he could not recall another instance where the Commission had approved such a setback. **Segelbaum** also felt concerned about the amount of front façade taken up by the garage. He was uncomfortable with the level of density.

Commissioner Baker agreed with the **Commissioner Segelbaum**, and felt it was not consistent with the neighborhood, based on the value of the homes. He did not see any benefit to the city other than an increase to tax base. He pointed out that this is valuable open space to neighbors. **Baker** thanked those Commissioners that recommended denial of the rezoning of the land, based on the loss of woodland and stream buffer. He asked for additional evidence regarding the need for a bike rest area in this location, and was also not enthusiastic for the other amenities proposed. He reiterated his desire to see the applicant consider six homes rather than seven for the site.

Commissioner Johnson reiterated a number of the concerns already stated. He mentioned that he had not been supportive of the PUD Amenity Point system, and that developers would seek out the easiest points available. **Johnson** noted that the staff memo left some significant unanswered questions. He felt the Preliminary Plan did not represent quality site planning. He mentioned appreciating the comments from residents about providing a new sidewalk and additional shade trees along Pennsylvania.

Commissioner Brookins noted that parts of the plan he was comfortable with. He noted that the shorter front setbacks were mitigated by the additional buffer from the homes across Pennsylvania. However, he felt that the benefit to the City was still lacking in regard to the amenities. He noted that he was generally in favor of the villa design, and that it would be appropriate for the neighborhood. He wondered if there was an opportunity to provide an overlook space for the Creek or golf course, versus a bench on a street corner. **Brookins** also supported the idea of a sidewalk along Plymouth.

Commissioner Baker suggested that the Golf Course allow the Luce Line Regional Trail through the golf course, which he saw as a major amenity.

Chair Pockl noted that she did not feel the findings necessary for approval had not been met by the Preliminary Plan. She noted that she had recommended denying the zoning change, and that her opinion had not changed for the most part. She wanted to see more done in regard to tree replacement and shoreland protection.

Commissioner Brookins asked staff to elaborate on the PUD process, and given the Commissioners' discussion whether it was more appropriate to table the item versus recommending denial to City Council. **Campbell** recommended that the Commission still send the Preliminary Plan to City Council, in this case with a denial, so that the City Council would also have the opportunity to review the materials.

MOTION made by **Commissioner Baker** to recommend denial of the Preliminary PUD Plan, based on the determination that the required findings of approval had not been met. **Commissioner Segelbaum** provided the specific findings and **Baker** noted especially Quality Site Planning, Efficiency, and Preservation had not been met. Motion was **seconded** by **Commissioner Johnson**.

The motion passed unanimously.

6. Discussion – Accessory Dwelling Units

Val Quarles, Community Development Intern, introduced the discussion. **Quarles** ran through the areas in which the code could restrict and regulate Accessory Dwelling Units (ADUs) and which of those fell under the zoning code, versus other sections of City code. The discussion also included comparison with how other Minnesota communities have applied the regulations.

As a discussion item there was no recommended action for the Planning Commission, staff had a few guiding questions for the Planning Commission to consider.

Chair Pockl asked if any commissioners had questions for staff. **Commissioner Baker** complimented the presentation and asked about what community input had been gathered thus far. **Quarles** noted that no official survey had been proposed yet, however, anecdotally staff hears from residents often asking about their ability to add a mother-in-law style apartment to their home, which is currently restricted under code. She noted staff plans to have community input once the ordinance is further developed.

Commissioner Johnson asked how the ordinance would be effectively enforced, and how the city would differentiate between an ADU and any other home addition. **Quarles** noted that it was a good question to keep in mind moving forward, and that the Commissioner was getting at some of the issues with the existing code language, namely that it was difficult to currently enforce the “boarding room” allowed for R-1 homes. **Campbell** provided additional information on the current requirements for building permits and rental licensing.

Commissioner Ruby asked how the additional structure is handled in terms of home value and taxable value. Staff noted it was something they needed to do more research around, and that they would contact the County Assessor to see if any market evidence could be found.

Pockl asked for a clarification on staffs’ comparisons in the memo and presentation to Minneapolis and Apple Valley. **Quarles** affirmed that the two were meant to describe opposite ends of the scale when it came to how restrictive an ADU ordinance was drafted, Minneapolis being one of the least restrictive, and Apple Valley one of the most. **Quarles** noted that Planning Commission’ own preference for an ordinance in Golden Valley would likely fall somewhere in between these two extremes.

Commissioner Brookins noted his appreciation for the City ordinance comparisons. He noted that he was initially interested and drawn to the ordinance adopted by Minnetonka. He asked that if the Commission were to continue considering detached ADUs, that he would like to have an estimate for the number of detached garages existing in the City today. He noted that he was in favor of internal and attached ADUs, and that he would consider detached ADUs, perhaps with a conditional use

requirement. He also highlighted parking and utilities as other areas where he would like to see more information.

Commissioner Ruby asked if other cities regulate the appearance of the ADU. **Quarles** affirmed that many cities do have a requirement that the ADU match the exterior of the principal structure, some go into greater detail in terms of how the exterior treatment of the ADU must be handled to reduce visual impact.

Commissioner Johnson stated that he was supportive of the use of a special permit for ADUs, and also brought up the idea of a buffer or proximity restriction between ADUs. He noted that he was not as concerned about a maximum size compared to a minimum, given that no matter the size of the unit, it was still adding density by default. **Quarles** asked for clarification on the suggested buffer restriction. **Johnson** noted he felt it did not need to be a hard prohibition on multiple units in a small area, but felt that it could function as a quota or a way to control the rate of adoption through the city. **Quarles** noted that while difficult to predict demand for ADUs, she noted that it was important to bear in mind impacts on neighbors. **Johnson** agreed, and said there should be a balance between allowing ADUs while protecting long-term residents.

Commissioner Baker agreed with **Johnson's** comments around aging in place. He noted that he felt this was in part an equity issue and that staff and the Commission continued to keep this in mind when considering regulations and what might be barrier to certain people. He appreciated **Commissioner Brookins** earlier analysis on the Minnetonka code.

Chair Pockl closed the discussion, and ended the televised portion of the meeting.

7. Council Liaison Report

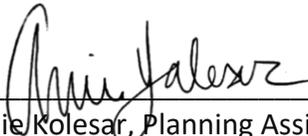
Council Member Rosenquist provided a summary on the ongoing activities of City Council and other City-wide activities including: Facilities Study and upcoming City Hall tours for residents, the newly established PEACE Commission, and upcoming budget discussions.

8. Other Business

Campbell noted only that the Board of Zoning Appeals would be meeting on August 24th, 2021. The Board had one variance item for discussion and deliberation.

9. Adjournment

MOTION by **Commissioner Brookins** to adjourn, seconded by **Commissioner Johnson**, and approved unanimously. Meeting adjourned at 10:05 pm.



Amie Kolesar, Planning Assistant



Andy Johnson, Secretary