

**SHOREVIEW PLANNING COMMISSION MEETING  
MINUTES  
September 25, 2012**

**CALL TO ORDER**

Chair Solomonson called the meeting of the September 25, 2012 Shoreview Planning Commission meeting to order at 7:00 p.m.

**ROLL CALL**

The following members were present: Chair Solomonson; Commissioners, Ferrington, McCool, Proud, Schumer, Thompson and Wenner.

**APPROVAL OF AGENDA**

**MOTION:** by Commissioner Proud, seconded by Commissioner Schumer to move item *B. Continuation of Public Hearing - Text Amendment - Sales*, under Old Business to the end of the meeting.

**VOTE:** Ayes - 7 Nays - 0

**MOTION:** by Commissioner Schumer, seconded by Commissioner Ferrington to approve the September 25, 2012 agenda as amended.

**VOTE:** Ayes - 7 Nays - 0

**APPROVAL OF MINUTES**

**August 28, 2012**

**MOTION:** by Commissioner Schumer, seconded by Commissioner Proud to approve the August 28, 2012 Planning Commission minutes as submitted.

**VOTE:** Ayes - 7 Nays - 0

**September 11, 2012 Special Meeting**

**MOTION:** by Commissioner Proud, seconded by Commissioner Ferrington to approve the September 11, 2012 Special Meeting Minutes, as submitted.

**VOTE:** Ayes - 4 Nays - 0 Abstain - 3 (Solomonson, Schumer, Thompson)

**REPORT ON COUNCIL ACTIONS**

**Presentation by City Planner Kathleen Nordine**

The City Council approved the following, as recommended by the Planning Commission:

- Extension of approval for minor subdivision for Alysa B. DeLange, 5790 Fairview
- TSI Incorporated site and building plan review
- TIF District No. 9 - TSI Incorporated Expansion Project
- TCF Bank Comprehensive Sign Plan
- PaR Site and Building Plan Review

## **OLD BUSINESS**

### **SITE AND BUILDING PLAN REVIEW/VARIANCE**

**FILE NO.:** 2453-12-16  
**APPLICANT:** TSI Incorporated/Loucks Associated  
**LOCATION:** 500 Cardigan Road

#### **Presentation by City Planner Kathleen Nordine**

The Planning Commission reviewed the application for Phase 1 of this project (parking lot addition) at its August 28th meeting and recommended denial to the City Council because of concerns about storm water management. TSI is now requesting review of the entire expansion, Phases 1 and 2, which includes the parking lot improvements and building addition. A variance is requested to increase impervious surface from 80% to 84%.

The parking lot expansion will be on the west side of the property with an addition of 207 stalls. The building addition is on the south side of the building. It is two stories for a total of 58,000 square feet. The building addition does exceed minimum setback requirements and complies with height standards. The exterior is designed to match the existing building.

The storm water plan includes an underground infiltration chamber to capture runoff from a portion of the existing and new parking area and building addition roof. Management of the rate and volume of runoff will reduce overall the discharge of water during storm events. Any overflow will drain to City infrastructure at the south end of the property. The northwest portion of the parking area will be regraded to drain to Cardigan Road. The drainage plan includes elimination of the curb cut on the south side near the drainage basin to put in an earth berm in order to contain runoff on the site. The plan has been reviewed by the Public Works Director and City Engineer and found to be in compliance with Appendix C of the City's Development Guidelines as well as the Shoreview Surface Water Management Plan.

The applicant has submitted a statement indicating practical difficulty for the variance request due to the need to meet company growth objectives within the City's development standards. There are unique circumstances as a result of a confined land holding. No immediate adjacent parcel is available for expansion.

The impervious surface regulation is related to storm water runoff, green space and to reduce flooding. However, staff agrees with the applicant that there is practical difficulty. The proposed use is consistent with the land use and zoning. The addition on the south side of the building is away from single-family residents and adjacent to the parking area for multi-family housing. The added 4% would allow TSI to achieve its objective to have the ability to meet business needs. The infiltration chamber acts as pervious surface to collect site runoff. TSI does own land across Cardigan Road, which is being held for future growth.

Property owners within 350 feet were notified of the proposal. The majority of concerns expressed relate to storm water management and potential flooding of residential properties with increased use of the southeastern storm water pond.

Staff finds that the parking and building expansion are consistent with the Industrial land use and zoning. TSI's business needs and growth objectives define the building size and parking required, and staff supports the variance to add 4% impervious surface coverage. The storm water management plan complies with all City standards. Improvements will not have an adverse impact to surrounding properties. Therefore, staff is recommending approval of Phases 1 and 2 of the TSI Expansion Plan.

**Mr. Peter Coyle**, Larkin Hoffman, spoke for TSI. The plan achieves a reduction of rate of flow of water from the site. In regard to the variance, he stated that the expanded use is reasonable and does not have an adverse impact. TSI is growing and needs to grow, but they are landlocked. Technology allows construction of a pervious area that offsets the increase of impervious coverage.

**Mr. Paul Girard**, Project Manager introduced Mr. Chad Lockwood, Lockwood Associates, Project Engineer. The underground storage is a good option. It requires less maintenance. What is going to the storm water pond area has been greatly reduced. For 2-year, 10-year, and 100-year events the reduction is 19%, 24% and 27% respectively.

Commissioner Proud asked if there is a future failure with residents downstream being flooded, what would TSI do? **Mr. Girard** stated that he would be unable to answer that question because there is water from other areas that comes to this location. He agreed to have their alarm system notify the City if there is any flooding to residents.

Commissioner McCool asked how installation of the infiltration chamber changes the area to a pervious surface. **Mr. Lockwood** explained that the system is built over rock drainage bed. Commissioner McCool asked at what level there would be a discharge of water.

Commissioner Proud asked if there has been verification of the capacity of the City storm sewer system. **Mr. Lockwood** answered that he does not have that information.

**Mr. Floyd Graebel**, TSI General Counsel, clarified that this project improves the amount of water coming off this property. Efforts have been made to revise the plans and show creativity to alleviate water runoff issues. TSI has been a resident in Shoreview for 36 years and is a part of the community. Thirty-eight families who work at TSI live in Shoreview.

Mark Maloney was present to answer questions. Commissioner Proud asked if there were to be a future failure, what action would be appropriate to evaluate the system. Public Works Director Mark Maloney stated that it is difficult to assign fault for water management. For the last 14 months, he has been dealing with the rainfall event in July 2011, when the City experienced 5.4 inches of rain in 24 hours in southern Shoreview, with 4.5 inches falling in the first 90 minutes. Those numbers are off the charts. Some of that has been tied to this application, but it is important to understand that there was flooding in many parts of the City that July. It is possible to design for higher rainfall standards, but it is a matter of money. Drainage is complicated in this area. A significant amount comes from the west where there was a significant problem last July.

Commissioner Proud asked if there is an increase of volume of water that flows into the City system. Mr. Maloney stated that this plan is designed so less water to come into the public system from this site. Commissioner Proud asked if the City system can perform to its capacity. Mr. Maloney stated that all storm water infrastructure is inspected annually to insure proper functioning.

Chair Solomonson opened the discussion to public comment.

**Mr. Michael Hendrickson**, 3519 Cohansey Street, expressed concern about the pipe running from the southeast corner to provide relief with a heavy rain. There was a geyser from the manhole cover, and that is when water came into the house. There is a problem with the volume that pipe can handle. TSI owned land to the south that absorbed water, but that is all being developed now.

Commissioner Proud asked if there was an overflow from the pond. **Mr. Hendrickson** answered, yes. Water was backing up to the TSI building.

**Ms. Mary Fenske**, 3515 Cohansey Street, stated that the sewer capacity is not being addressed. This issue was raised at the last meeting. She received notice earlier in the day, when documents of the changes were posted on the website. It is unfair to the neighbors, especially as it is a complicated engineering issue. The problem is that there are drains that if backed up will overflow onto hers and the Hendrickson's properties. The variance is not a reasonable use of this property. There is nothing that she can see that Best Practices are going to be used. Therefore, there is a 9% differential--from 75% allowed to 84%. She does not understand how this can be a reasonable use when there has been substantial flooding to neighbors. Secondly, unique circumstances need to be based on not being created by the property owner. This is not the case. TSI is creating its own unique circumstances by not using property it owns to the south of this site. Impervious surface standards specifically state it will not be a credit, if it is used as a pervious surface. The character of the neighborhood will be impacted visually on the east. She is not convinced that the berm will prevent any overflow flooding from the storm water pond on the southeast corner. The added parking lot is still going into the same pipe. Flooding lowers property values, which has been ignored. There is no clear answer that TSI will address any future flooding. Residents are getting stuck repeatedly. If this variance is granted and there is more flooding, she and her husband are considering a legal action for punitive damages. Since

the last meeting, the City has not addressed the increased rainfall in single occurrences over the last decade. The City has not addressed the problem with the pipe along the southern boundary of TSI. The new plan will put water into that pipe. Maintenance has been a problem, and maintenance has not been addressed with residents. She asked the Commission to have TSI consider relocating the addition to their vacant property to the south. Other plans for that property do not constitute a unique circumstance that justifies the variance.

Commissioner McCool asked what report was not made available to residents. **Ms. Fenske** answered that in the City Planner's September 19th memo, reference is made to a completed application, and she does not know what is contained in that application. It was not posted.

Mr. Maloney asked if Ms. Fenske's property is currently being impacted. She answered, yes.

Ms. Nordine stated that notices to residents were sent out on September 12th. In the notice, it was stated that the plan was denied by the Planning Commission due to storm water drainage issues. It was also pointed out that TSI was looking into other options. Once the notice was sent to residents, she did not receive any request for further information. When an application is received, it is not posted on the website. What is posted is the Planning Commission packet and comments received. **Ms. Fenske** agreed that notices were sent, but in her September 20th letter, she foresaw that a new plan would be presented at this meeting that had not been reviewed by residents.

Commissioner McCool asked when the revised plan was received by the City. Ms. Nordine answered, September 19th.

Commissioner Wenner again asked about the capacity of the storm water management system not only from the subject property but from contiguous properties. Mr. Maloney explained that there are two systems. The applicant has proposed a contained on-site plan for storm water management. The City owns public infrastructure which is not under-designed. The Surface Water Management Plan for the City models storm water drainage conditions of major trunk lines. All information indicates that the public infrastructure is in compliance with standards. His understanding of the applicant's new plan is that it will reduce the amount of water draining off the site into the City infrastructure, which is good. At some level, all public infrastructure will fail.

Chair Solomonson asked the direction of flooding water during heavy rain events and whether there is a way for water to get to the street. **Ms. Fenske** stated that when the pond overflows, water runs down a steep slope to Cohansey Street between her property and her neighbor on the north side. The water is forceful enough to push landscaping rock across the street. She added that she has not seen any documentation that discusses the reduction in flow from TSI.

**Mr. Hendrickson** stated that when the water floods it runs down his back yard and across to the Fenskes.

Commissioner McCool asked if the pipe on the southern boundary has an easement from TSI. Mr. Maloney stated that the pipe is actually located just north of the TSI property line.

Commissioner Proud stated that he would support this proposal with an amendment to the conditions of approval listed with the motion. Approval would be based on an amendment that the certificate of occupancy should not be issued unless or until the City or the applicant verifies that the City's storm water system associated with this project performs in a manner that the present and proposed water volumes will be managed.

Mr. Maloney stated that the City Surface Water Management Plan includes a model of the major parts of the system. This segment of pipe has never been considered a major part of the system and no model has been done. The amendment seems to imply that a model would be done of the storm drainage capacity for this area. That is not something the City can do easily. System modeling is done by consultants. The pipe could be televised to check for possible obstruction.

Chair Solomonson stated that much has been done by the applicant to address concerns and, in fact, reduce water runoff from the site. This plan has been reviewed by two or three professional engineers, including from City staff.

Commissioner Ferrington expressed her concern of neighborhood issues, but she also appreciates the improvements and changes that TSI has made in the plan to address concerns. She stated that the underground chamber should be considered as pervious surface on the basis of how it will function. She will support the proposal.

Commissioner McCool stated that he also supports the application. It is important to understand what can and cannot be done by the Planning Commission regarding drainage and the TSI application. TSI is doing what is required. The larger drainage problem is a City-wide problem. He appreciates all that TSI has done with respect to drainage. However, he questions that practical difficulty exists to justify the variance. He will support the project because the applicant is implementing technology that is unique, which should be incorporated into the findings of unique circumstances. He would not support a condition of larger water study in order to obtain a Certificate of Occupancy. Imposing such a condition is outside the Code and not fair to TSI.

**MOTION:** by Commissioner Schumer, seconded by Commissioner Wenner to adopt Resolution 12-85 approving the requested variance to increase the maximum impervious surface from 80% to 84% and to recommend the City Council approve the Site and Building Plan request submitted by TSI Incorporated. Said approval is subject to the following:

**Variance**

1. Said approval is contingent upon City Council approval of the Site and Building Plan review.
2. The project must be completed in accordance with the plans submitted as part of the Variance application.
3. This approval will expire after one year if a building permit has not been issued for this project.
4. This approval is subject to a 5-day appeal period.

This approval is based on the following findings of fact:

1. The proposed improvement is consistent with the policies of the Comprehensive Plan, including the Land Use and Housing Chapters.
2. The property owner proposes to use the property in a reasonable manner not permitted by the Shoreview Development Regulations. The proposed impervious surface coverage is reasonable based on the business needs and growth objectives for TSI and use of an underground infiltration chamber. The stormwater management plan has been designed to manage the run-off with the proposed 84% impervious surface coverage and complies with Appendix C of the Surface Water Management Plan.
3. The plight of the property owner is due to circumstances unique to the property not created by the property owner. Unique circumstances warrant the variance. The constrained lot area and the need for the business to expand the structure and provided the parking required for the employees working on the site. Existing development to the west, east and south prohibit opportunities to increase the lot size and reduce impervious surface coverage.
4. The variance, if granted, will not alter the essential character of the neighborhood. The proposed improvements will not affect the character of the neighborhood. There are several other industrial uses along Cardigan Road. The proposed building addition is consistent with the architectural character of the existing building, has a height less than 35' and will not visually impact nearby residential properties. In addition, the proposed parking area is on the west side of the property, away from the single-family residential neighborhood and adjacent to the parking area for the apartment complex to the south.

### **Site and Building Plan Review**

1. The site shall be developed in accordance with the plans submitted. Minor modifications may be made to the plans, subject to approval by the City Planner. Significant changes to the plans require review and approval through the Site and Building Plan review process.
2. Approval of the final grading, drainage, utility, and erosion control plans by the Public Works Director. Items identified in the attached memo from the Assistant City Engineer shall be satisfied prior to the issuance of a building permit for the parking lot expansion.
3. Revisions to the tree preservation and landscape plans shall be made in accordance with the attached memo from the Environmental Officer prior to the issuance of a building permit for this project.
4. Lighting on site shall comply with Section 204.030, Glare, of the Development Code. Details of the proposed pole, pole height and light fixture shall be submitted to the staff prior to the issuance of a building permit. .
5. The applicant shall enter into a Site Development Agreement prior to the issuance of any building permits for this project.
6. The Building Official is authorized to issue a building permit for the project, upon satisfaction of the conditions above.

This approval is based on the following findings of fact:

1. The proposed land use is consistent with the designated Industrial land use in the Comprehensive Plan and I, Industrial zoning district.
2. The development supports the City's business retention and expansion goals by supporting the continued growth of a company that:
  - *Provides livable wage jobs that allow residents to support local businesses and participate in community activities*
  - *Maintains tax base to generate revenues*
  - *Supports the economic vitality of the City*

**Discussion:**

MOTION FOR AMENDMENT: by Commissioner McCool, seconded by Commissioner Wenner to amend Finding of Fact No. 3 to add the following two sentences: The applicant's utilization of an underground storage chamber to mitigate the impact of additional impervious surface on-site is unique. The City Code does not currently recognize the functionality of this new technology which creates a plight for the landowner not common to other landowners.

VOTE ON AMENDMENT

Ayes - 7                      Nays - 0

MOTION: by Commissioner Proud to amend the motion to add condition No. 7 to the Site and Building Plan Review that states the certificate of occupancy should not be issued unless or until the City or the applicant verifies that the City's storm water system associated with this project performs in a manner that is adequate for the present and proposed water volumes and design volumes of this sewer system.

The motion died for lack of a second.

Commissioner Proud stated that he believes the application is the same as previously presented but with different expected results.

VOTE ON MOTION AS AMENDED.

Ayes - 6                      Nays - 1 (Proud)

**VARIANCE / MINOR SUBDIVISION-EXTENSION**

**File No.:**                      **2427-11-20**  
**Applicant:**                **Jereen Rasmussen**  
**Location:**                 **4877 Nottingham Place**

**Presentation by City Planner Kathleen Nordine**

The Planning Commission approved this variance and minor subdivision in September 2011 to reduce the 125-foot lot depth to 104.44 feet for a minor subdivision. The applicant has requested that the approval be extended for one year due to financial issues and delayed closings on the property. Such extension will not have any adverse impact on adjoining properties. The extension will provide time for a new appraisal and closing proceedings on the house and adjacent lot.

**MOTION:** by Commissioner Proud, seconded by Commissioner Schumer to extend the variance approved for Jereen Rasmussen, to reduce the minimum 125-foot lot depth to 108.44 feet for the proposed lot. The Resolution has been not been recorded at Ramsey County. Said extension is for a one-year period to September 25, 2013. Conditions attached to the variance approval shall remain in effect.

**VOTE:** Ayes - 7 Nays - 0

## **NEW BUSINESS**

### **PUBLIC HEARING - PLANNED UNIT DEVELOPMENT-DEVELOPMENT STAGE REZONING / PRELIMINARY PLAT**

**File No.:** 2458-12-21  
**Applicant:** Clyde & Arlene Rehbein  
**Location:** 5618 Heather Ridge Court

#### **Presentation by Senior Planner Rob Warwick**

The property consists of 11.7 acres. This plan would result in four lots. The existing house sits on 6.5 acres. Three lots would be developed with new single-family homes. The applicant developed Heather Ridge in the 1970s and 1980s. The east six acres were purchased in 2006 through a subdivision at 5625 Turtle Lake Road. At that time, the property was not rezoned and remained UND, Urban Underdeveloped.

The three lots would consist of 1.5, 1.8 and 1.9 acres. Lot widths vary being narrower at the street and widen out at the rear property line. Access to all lots will be from Heather Ridge Court with shared driveways to minimize impact to the wetland areas. Adjacent properties are developed with single-family residents, townhouses and the City of North Oaks. The former St. Paul Water Utility has property to the east.

Rezoning to PUD is requested because development of the proposed lots does not follow a typical residential subdivision pattern due to the configuration of the lots and environmental constraints. The underlying zoning for this PUD will be RE, Residential Estate, a minimum of 60,000 square feet per lot. RE lots must have 100 feet in width, and houses must have a front yard setback of 30 to 40 feet from the front property line. A 30-foot rear setback is required and side setbacks must be 15 feet. Lot coverage cannot exceed 15%.

The preliminary plat divides the property into four RE lots. All lots comply with RE lot requirements. The building pads proposed for each lot are setback further than required at a point where each lot exceeds 125 feet in width. Lot depth of each is at least 490 feet. The drainage and utility easements will be dedicated along property lines. Wetland drainage easements have not yet been finalized, but are required. Private easements will be required for the shared driveways, including a maintenance agreement. Lots 1 and 2, and Lots 3 and 4 would share the two proposed driveways. Each lot is required to connect to City sewer and water.

The property is located in PDA #4 of the Comprehensive Plan. The proposed development is consistent with City policies for this area to maintain low density residential land use for minimum impact to environmental features. The Rice Creek Watershed District (RCWD) must issue a permit for development. The wetland delineation has not yet been submitted to RCWD. Storm water runoff will be small in the overall area. A grading plan is required with each building permit.

Staff does not believe there will be any adverse impact with this development. The existing wetland provides a buffer between the proposed development and adjoining land uses. The dwelling density is under 4 units per acre. The applicants are willing to enter into a Development Agreement with the City.

The PUD will address shared driveways and utilities. The City will grant flexibility in return for minimum impact to the environment and wildlife. The applicant is use a larger setback standard to preserve wetland features and minimize development impacts.

A tree inventory has been submitted. Loss of trees will be determined when building permits are received. Three replacements per removal of one landmark tree will be required.

Property owners within 350 feet were notified of the proposal. One written and one phone call were received. No concerns were expressed. A neighborhood meeting was held in summer.

Staff finds that the proposed development is consistent with City land use and housing policies. The proposal meets criteria for rezoning to PUD, the preliminary plat. It is recommended the application be forwarded to the City Council with a recommendation for approval.

Commissioner Wenner asked if there would be any net loss of wetland. Mr. Warwick stated that potentially there will be impact to approximately 2,000 square feet for a driveway that would cross wetland to the west. Commissioner Wenner asked the direction of flow of water on this property. He further asked what is to comprise the buffer zone to the wetland. Mr. Warwick answered that the east 6 acres drains north to Kerry Lake. The remaining property drains south to Charlie Lake. He stated that the buffer will covered with an easement. The buffer will be designed to assure that vegetation remains and not be disturbed by development.

Commissioner Ferrington asked if a PUD can be considered without a wetland delineation when Rice Creek Watershed District indicates that development could be significantly impacted. Mr. Warwick stated that the only crossing over wetland is the one driveway. Utilities can be bored

without excavation, which would minimize any disturbance. All the house pads are well above any wetland areas.

City Attorney Filla reported that the affidavit of notice for the public hearing has been given, and the public hearing is in order at this time.

Chair Solomonson opened the public hearing.

**Mr. Clyde Rehbein**, Applicant, stated that he would like to answer any questions from Commissioners.

Commissioner Ferrington asked if there will be enough land for yard space with wetlands and required buffer. Mr. Rehbein stated that the wetland delineation has been done and turned out to be the same as was done in 2006. He believes the wetlands will be an asset because the building sites are large enough that they will be appreciated for wildlife.

**MOTION:** by Commissioner Schumer, seconded by Commissioner McCool to close the public hearing.

**VOTE:** Ayes - 7 Nays - 0

Chair Solomonson asked if it would be possible to subdivide the six-acre lot in the future. Mr. Warwick stated that there would not be sufficient frontage on Heather Ridge Court, although there is frontage on Turtle Lake Road. However, further subdivision would be limited because of the wetlands.

Commissioner McCool expressed concern about timing and lack of completed wetland delineation. However, because of the large lots he believes there will be sufficient space for development and will support the application.

**MOTION:** by Commissioner Ferrington, seconded by Commissioner Wenner to recommend the City Council approve the following requests submitted by Clyde and Arlene Rehbein for the subdivision of their property at 5618 Heather Ridge Court into four single-family residential lots. Said recommendation for approval is subject to the following conditions

***Rezoning***

1. This approval rezones the property from UND, Urban Underdeveloped to PUD, Planned Unit Development.
2. The underlying zoning district for this PUD is RE (60), Residential Estate, with a minimum lot area of 60,000 square feet.
3. Rezoning is not effective until approvals are received for the Final Plat, PUD - Final Stage and development agreements executed.

***Preliminary Plat***

1. A public use dedication fee shall be submitted as required by ordinance prior to release of the final plat by the City.

2. The final plat shall include drainage and utility easements along the property lines and wetland areas. Drainage and utility easements along the roadway shall be 10' wide and along the side lot lines these easements shall be 5' wide and as required by the Public Works Director.
3. Private agreements shall be prepared for recording the regarding joint driveway, parking and maintenance agreements. Said agreements shall be submitted to the City Attorney for review and approval prior to the City's release of the Final Plat.
4. The Final Plat shall be submitted to the City for approval with the Final Stage PUD application.

***Planned Unit Development – Development Stage***

1. This approval permits the subdivision of the property into four single-family residential lots.
2. The underlying zoning for the PUD is RE (60), Residential Estate with a minimum lot area of 60,000 square feet.
3. Access to Lot 1 is prohibited from Turtle Lake Road. Access to the site shall be provided only via the shared driveways as indicated in the application submittal.
4. Tree Preservation and Replanting plan shall be submitted with each building permit application for Lots 2, 3 and 4. Replacement trees shall be planted in accordance with the City's Woodlands and Vegetation Ordinance.
5. The applicant and future property owners shall maintain a 16.5' buffer along the perimeter of the all wetland areas. Signs marking this buffer area shall be installed to inform future owners that this area is to be protected and not disturbed.
6. Grading, Drainage and Erosion Control shall be submitted with each building permit application for Lots 2, 3 and 4.
7. The structure setbacks from the front property line for the planned unit development shall be a minimum of 200 feet and a maximum of 260 feet.
8. No detached accessory structures shall be permitted on Lots 2 and 3 south of the wetland area.
9. The applicant is required to enter into a Site Development Agreement and Erosion Control Agreement with the City. Said agreements shall be executed prior to the issuance of any permits for this project.
10. This approval shall expire after two months if the Planned Unit Development - Final Stage application has not been submitted for City review and approval, as per Section 203.060 (C)(6).

This approval is based on the following findings:

1. That the proposed development is consistent with the policies of the Comprehensive Plan and with the general purpose and intent of the development regulations.
2. That the development facilitated by the proposed rezoning will not significantly and adversely impact the planned use of the surrounding property.
3. That the applicant is willing to enter into a development agreement as a condition of the rezoning approval.
4. The proposed deviations permit development that retains the natural features of the property and minimizes development impacts on the adjoining residential land uses.

Discussion:

Commissioner Proud noted that a wetland delineation has been done but not yet approved by Rice Creek Watershed District. He agrees that the building pad size will not pose a problem.

VOTE:           Ayes - 7                           Nays - 0

**PUBLIC HEARING - PLANNED UNIT DEVELOPMENT- DEVELOPMENT  
STAGE/REZONING**

**File No.**                    **2459-12-22**  
**Applicant:**               **Joycelyn Company, LLC / House of Dreams**  
**Location:**               **4001 Rice Street**

**Presentation by City Planner Kathleen Nordine**

Joycelyn Company, Ltd. has submitted an application to convert the existing office building at 4001 Rice Street to a mixed use of office and residential. The request is to rezone the property from OFC, Office to PUD, Planned Unit Development. The property currently consists of 0.75 acres with an office building of 5,160 square feet and parking area with 25 stalls with access from both Rice Street and Hodgson. A dwelling unit would be made from 2,960 square feet of office space that would include one bedroom, kitchen, bath and loft area on a second floor. Parking for this unit would be in the existing parking lot. The owner plans to live in the unit and continue operating the business. The unit may be rented in the future. Adjacent land uses are Commercial, Institutional and Low/High Density Residential. The application also includes an application for Development Stage Review of the PUD. There is access off Hodgson Road and Rice Street.

Staff has reviewed the criteria for a PUD rezoning and although a mixed use is not specifically permitted in property zoned OFC, Office, the primary use will continue to be office. Staff believes the use is compatible and a PUD is suitable. Adjacent land uses will not be impacted by the change, and the applicants have agreed to execute a Development Agreement with the City. As long as the space meets code requirements, the loft may be used for a sleeping area. This would be considered a live/work unit, where people live and work in the same location and reflects the changing economic housing climate. Staff believes this is consistent with the Comprehensive Plan.

Property owners within 350 feet of the property were notified of the proposal. One response was received indicating no concerns. The Fire Marshal and Building Official reviewed the application. Compliance with Building Code requirements for the bathroom, kitchen and egress is required, and a building permit will be required for the remodeling work. Staff is recommending approval with the conditions listed in the staff report.

Commissioner Wenner asked if there is a garage on the site. Ms. Nordine answered that there is no garage. What is required is two parking spaces for the residential unit. An accessory structure is not required. Commissioner Wenner noted that residential use brings a need for

storage. Ms. Nordine stated that a management company handles maintenance. The question is whether the resident would want to store a vehicle outside.

Commissioner Proud asked if a garage could be added without a variance. Ms. Nordine answered that there will be enough room to build a garage. Commissioner Proud suggested time be taken to see how other cities handle such a mixed use request to be sure all conditions are included to cover future possibilities. Ms. Nordine stated that she looked at research on live/work units on the American Planning Association level, but she did not look at other cities' regulations.

Commissioner Ferrington asked how the loft can be prevented from being used as a sleeping area. Ms. Nordine stated that it will be difficult to enforce. The reason for this condition is that there is not sufficient egress from the loft area. Should the unit be rented, a rental license will be required which would also stipulate the loft to not be a sleeping area.

Commissioner McCool stated that he does not see how this can be allowed without an amendment to the Comprehensive Plan. Office zoning does not allow mixed use. Ms. Nordine explained that she interprets mixed use as not parcel related, but as a project. The designation is not appropriate because of the scale of this project. Office will remain the main use.

Commissioner McCool asked if a precedent is being set allowing this office space to be converted. He would not want to see higher tax based properties converted.

Chair Solomonson asked what types of businesses could operate in this space with mixed use zoning. Ms. Nordine stated that only businesses in Office zoning would be allowed.

City Attorney Fills stated that notice was properly given and the public hearing is in order.

Chair Solomonson opened the public hearing. There were no comments or questions.

**MOTION:** by Commissioner Schumer, seconded by Commissioner McCool to close the public hearing.

**VOTE:** Ayes - 7 Nays - 0

**MOTION:** by Commissioner Ferrington, seconded by Commissioner Wenner, to approve the requests submitted by Joycelyn Company, LTD for the proposed mixed residential/office use of the property at 4001 Hodgson Road and recommend the City Council rezone the property from OFC, Office to PUD, Planned Unit Development and approve the development stage of the PUD. Said approval is subject to the following:

***Rezoning***

1. This approval rezones the property from OFC, Office to PUD, Planned Unit Development.
2. The underlying zoning district for this PUD is OFC, Office.

3. Rezoning is not effective until approvals are received for the, PUD - Final Stage and development agreements executed.

This approval is based on the following findings of fact:

1. That the proposed mixed residential/office use is consistent with the policies of the Comprehensive Guide Plan and with the general purpose and intent of the development regulations. Office will remain the primary use of the property.
2. The proposed mixed residential/office use will not significantly and adversely impact the planned use of the surrounding property.
3. That the applicant is willing to enter into a development agreement with the City as a condition of rezoning approval

***Planned Unit Development – Development Stage***

1. The PUD permits the mixed use of this property as Office and Residential. Uses within the building will consist of approximately 2,400 of office space and 3,000 for residential. The residential unit is limited to one-bedroom and shall have separate bath and kitchen facilities from the office use. The space shall not be used for sleeping/bedroom purposes.
2. Parking for the residential unit shall be identified on-site with signage. A minimum of two-stalls must be provided.
3. The structure and uses must comply with the Building Code. A Building Permit is required prior to commencing any remodeling work.
4. A rental license is required for the residential dwelling unit if it is occupied by a person other than the legal owner thereof, pursuant to a written or unwritten agreement, whether or not a fee is required by the agreement.
5. The property owner shall enter a site development or use agreement with the City, clearly specifying the use of the property.

This approval is based on the following findings of fact:

1. The proposal supports the policies in the City’s Comprehensive Plan relating to land use, housing and economic development.
2. The proposed mixed residential and office land use will not adversely impact the planned land use of the surrounding property.
3. The proposal supports the changing needs of the economic and housing community.

**VOTE:**                      Ayes - 7                      Nays - 0

**PUBLIC HEARING - VARIANCE /CONDITIONAL USE PERMIT**

**File No.**                      **2459-12-23**  
**Applicant:**                      **Brad & Elena Oren / Imperial Homes, Inc.**  
**Location:**                      **5277 Hodgson Road**

**Presentation by Senior Planner Rob Warwick**

This application is to demolish the existing 1.5 story home and two accessory structures in order to construct a new two-story house with a 4-car attached garage. The variance would reduce the front setback to 641.1 feet rather than the 680 feet required that is based on the front setbacks of the houses on the two adjoining properties. The lot has an area of 3.97 acres with a width of 200 feet. The Conditional Use Permit, on lots over one acre, is used to allow an attached accessory structure to exceed the maximum area allowed and exceed the combined floor area for all accessory structures. The total floor area of all accessory structures would be 1,891 square feet.

The property is in the RE zoning district . Attached accessory structures can be 1,000 square feet or 80% of the dwelling foundation area. The proposal is for 1,292 square feet or about 54% of the foundation area. Total square feet of accessory structures cannot exceed 90% of the foundation area. The total of 1,891 square feet is 79% of foundation area. The house remains the dominant structure on the property.

The proposed house complies with the 30-foot setback from the top of the bluff. The house to the north is in compliance, but the house to the south predates this regulation and sits near the top of the bluff with no setback, which impacts the required minimum setback by about 15 feet. The garage is side-loaded and so nearer to the front lot line. The increased side setbacks reduce the impact of the proposed new house and garage. Both the house and garage are screened from Hodgson Road with vegetation .The side setbacks are 48 feet from the north and 33 feet on the south side.

The application complies with the Development Code standard and conditional use permit criteria.

Property owners within 350 feet were notified. Two comments were made with no concerns identified. A third comment expressed concern about the attached garage and bluff. That issue has been resolved by the applicant and neighbor.

Staff recommends approval of the variance request, as practical difficulties are present.

Commissioner Wenner asked what has been done to mitigate view of this large house from the lake. Mr. Warwick stated that the 30-foot setback from the bluff is more than the setback for the Ordinary High Water Mark (OHW). The applicant will also use natural colors and materials on the house. The bluff is 50 feet high. The location, trees and materials should be enough so the house will not stand out.

Commissioner McCool asked if a variance will be needed for the accessory structure in the front. Mr. Warwick explained that detached accessory structures are permitted in the front yards on riparian lots.

City Attorney Filla noted that the mailed notice for this public hearing lists an incorrect address of 5722 Hodgson Road instead of 5277 Hodgson Road. He suggested the public hearing be continued to the City Council meeting.

Chair Solomonson opened the discussion to public comments or questions. There were none.

**MOTION:** by Commissioner Proud, seconded by Commissioner Schumer to continue the public hearing to the October 15, 2012 City Council meeting.

**VOTE:** Ayes - 7 Nays - 0

**MOTION:** by Commissioner Schumer, seconded by Commissioner Proud to adopt Resolution 12-86, approving the variance request submitted by Imperial Homes to construct a new residence and attached garage with a front setback of 401.1 feet from the front lot line, and to recommend approval of the Conditional Use Permit to the City Council, subject to the following conditions:

***Variance***

1. The project must be completed in accordance with the plans submitted with the applications. Any significant changes to these plans, as determined by the City Planner, will require review and approval by the Planning Commission.
2. This approval will expire after one year if a building permit has not been issued and work commenced.
3. The project is subject to the permitting requirements of the Rice Creek Watershed District (RCWD), and a building permit shall not be issued by the City prior to satisfaction of the RCWD requirements.
4. Impervious surface coverage shall not exceed 20%.
5. The front setback shall not be less than 641.1 feet.
6. Prior to issuance of a building permit, the applicant shall submit a revised survey showing existing trees and identifying the trees that will be removed and the trees that will be retained. For each Landmark Tree removed, three replacement trees shall be planted. Retained trees shall be protected with protective fencing and a wood chip berm.
7. This approval is subject to a 5-day appeal period.

***Conditional Use Permit***

1. The project must be completed in accordance with the plans submitted with the applications. The attached garage shall not exceed 1,293 square feet in size, and the total floor area of all accessory structures shall not exceed 1,891 square feet. Any significant changes to these plans, as determined by the City Planner, will require review and approval by the Planning Commission.
2. The two sheds along the north side lot line shall be removed prior to the issuance of a Certificate of Occupancy by the City.
3. The accessory structures on the property shall be used for personal use only and no commercial use/commercial related storage is permitted.

**This approval is based on the following findings:**

1. The proposed improvement is consistent with the policies of the Comprehensive Plan, including the Land Use and Housing Chapters.
2. The proposal complies with the standards for a Conditional Use Permit for detached accessory structures on this lot larger than one acre.
3. **Reasonable Manner.** The proposed house and attached garage are in keeping with this large, deep lot riparian to Turtle Lake. The proposed house is located more than 600 feet from the front lot line, and more than 30 feet from all side lot lines and the top of the bluff.
4. **Unique Circumstances.** Due to lot depth, the proposed house is not visible from the abutting public road, and the alignment with the houses on adjacent properties relative to the front lot line is less important than compliance with the minimum setback from the bluff.
5. **Character of the Neighborhood.** The large setbacks and wooded nature of the lot minimize the effect the house will have on neighboring properties. Other houses nearby in the RE District are of a similar size and two-story design. The character of the neighborhood should not be altered.

**VOTE:**                      Ayes - 7                      Nays - 0

**VARIANCE / MINOR SUBDIVISION**

**File No.**                      **2461-12-24**  
**Applicant:**                **Silverthorn Properties, LLC**  
**Location:**                **3595Rice Street**

**Presentation by City Planner Kathleen Nordine**

This application is to divide the property at 3595 Rice Street into two parcels. There is also a request for a variance for one lot to allow a 100 feet of depth rather than the required 125 feet. The current property is 100 feet wide and 282.5 feet deep. It consists of .6 acres. It is a corner lot, with frontage on both Rice Street and St. Marie Street. The site has an existing house, a detached two-car garage, driveway, sidewalk and patio. The garage setback is 17 feet, less than the required 30 feet. Access for the property and garage is off St. Marie Street.

Adjacent land uses are single family residential. Parcel A, the subdivided lot, is 119 feet wide and 100 feet deep. Parcels A and B meets standards in area for a minor subdivision, except for the lot depth variance. The applicant states that the 282-foot depth of the existing parcel does not allow reasonable use of the property. The proposed 100-foot depth continues to allow a 30-foot front and rear setback for the building pad, which is in keeping with the Code.

Staff finds practical difficulty to be present. Unique circumstances are that this property is a large corner lot with frontage on both Rice Street and St. Marie Street. The applicant discussed the purchase of 25 feet from the neighbor in order to eliminate the need for a variance, but due to

financing issues, the purchase was not possible. Staff believes there will be no adverse impact or change of character to the neighborhood. Staff is recommending a recommendation for approval from the Planning Commission to the City Council.

Property owners within 350 feet were notified. One response was received in strong support. Also, there was a telephone call stating no objections.

Chair Solomonson noted that many properties along Rice Street are long and narrow in configuration.

**MOTION:** by Commissioner Schumer, seconded by Commissioner Wenner to approve the variance and minor subdivision applications for 3595 Rice Street dividing the property into two parcels, creating a new parcel for single family residential use. The lot depth variance is justifiable due to the proposed parcel keeping with the spirit and intent of the Development Code, and that hardship exists due to the existing configuration of the parcel. The proposal supports the City's housing goals regarding reinvestment and neighborhood preservation. Said approval is subject to the following conditions:

***Variance***

1. This approval is subject to approval of the Minor Subdivision application by the City Council.
2. This approval will expire after one year if the subdivision has not been recorded with Ramsey County.
3. The approval is subject to a 5-day appeal period.

***Minor Subdivision***

1. The minor subdivision shall be in accordance with the plans submitted.
2. The applicant shall pay a Public Recreation Use Dedication fee as required by Section 204.020 of the Development Regulations before the City will endorse deeds for recording. The fee will be 4% of the fair market value of the property, with credit given for the existing residence.
3. Public drainage and utility easements shall be dedicated to the City as required by the Public Works Director. The applicant shall be responsible for providing legal descriptions for all required easements. Easements shall be conveyed before the City will endorse deeds for recording.
4. Payment for City water availability to the new lot in the amount of \$3,241.56. Municipal water and sanitary sewer service shall be provided to Parcel A.
5. An escrow for the work in the City right of way would be required in the amount of \$3,000.
6. The applicants shall enter into a Development Agreement with the City. This agreement shall be executed prior to the City's release of the deeds for recording.
7. Driveways and all other work within the Saint Marie Street right-of-way are subject to the permitting authority of the City of Shoreview.
8. A tree protection and replacement plan shall be submitted prior to issuance of a building permit for Parcel A. The approved plan shall be implemented prior to the commencement of

work on the property and maintained during the period of construction. The protection plan shall include wood chips and protective fencing at the drip line of the retained trees.

9. An erosion control plan shall be submitted with the building permit application and implemented during the construction of the new residence.
10. A final site-grading plan shall be submitted and approved prior to issuance of a building permit.
11. This approval shall expire after one year if the subdivision has not been recorded with Ramsey County.

This approval is based on the following findings:

***Variance***

1. *The property in question cannot be put to a reasonable use under the conditions allowed by the Development Ordinance.* The subdivision is a reasonable use of the property as both of the proposed lots comply with and exceed the minimum standards of the R-1, District, except for the depth of Parcel A. With a lot area over 11,000 square feet, a lot width of 119 feet and a lot depth of 100 feet, Parcel A does have adequate area for a single family residence. The front and rear setbacks conform to the setbacks of the R1 development district, which are 30 feet. Using those setbacks the building pad for a future house would be about 40 feet deep and 99 feet wide. This pad size is ample for a future house.
2. *The hardship is created by circumstances unique to the property and was not created by the landowner.* The unique circumstance to the property is that it is a corner lot with 100 feet of frontage on Rice Street and 282 feet of frontage on Saint Marie Street. The property's large lot frontage is unique to the surrounding residential development pattern and contributes the need for a variance. The proposed depth of the property, though less than the minimum 125 feet required, is not out of character for the neighborhood.
3. *The variance will not alter the essential character of the neighborhood.* The proposed subdivision does not alter the existing lot configuration as the parcel now meets the definition of a Key Lot. The south rear lot line of the proposed lot abuts the side lot line on the adjacent parcel. The parcel immediately to the west, 176 St. Marie Street, has a similar development pattern in that it is a Key Lot that with the rear lot line abutting the side lot of the property to its south.

***Minor Subdivision***

1. The subdivision is consistent with the policies of the Comprehensive Plan and in compliance with the regulations of the Development Code.
2. The proposed lots conform to the adopted City standards for the R1 District.

**VOTE:**                      Ayes - 7                      Nays - 0

**CONTINUATION OF PUBLIC HEARING- TEXT AMENDMENT – VEHICLE SALES**

**File No:**                      2454-12-17  
**Applicant:**                      City of Shoreview  
**Location:**                      City Wide

**Presentation by City Planner Kathleen Nordine**

This amendment was reviewed by the Planning Commission at the August 28, 2012 meeting. At that time, it was tabled because of questions regarding how vehicle and equipment sales would impact equipment rental businesses. The Amendment would prohibit vehicle and equipment sales in C2 Commercial areas. The intent is not to restrict rental of household equipment. Vehicle and equipment sales would be permitted as a conditional use.

Changes to the Code include the following:

**Section 202.** Definitions would be added for: 1) construction, 2) heavy equipment sales and rental, 3) vehicle sales and 4) automobile rental and service facility.

**Section 203.035** Prohibited Uses would be for construction, heavy equipment sales and rental, and vehicle sales.

**Section 205.040B9** would be deleted, as it is the same language as in Section 205.030.

**Section 205.043C2** would be added to allow vehicle rental and rental services facilities as conditional uses with stipulated standards.

Staff is recommending forwarding the text amendment to the City Council for approval.

Commissioner McCool stated that he did not see language for outdoor lots. A building to sell ATVs or motorcycles would be prohibited. Secondly, he questioned the limit of five vehicles for rental. Ms. Nordine explained that the definition of vehicle sales would prohibit ATVs, motorcycles and automobiles in the C2 District. The reason for the limit of five rental vehicles is that staff's research showed that a typical suburban rental facility has five cars.

Commissioner McCool stated that he will vote against this amendment because anyone wanting to build a nice building for sale of vehicles similar to Tousley Ford, would be prohibited from doing so. The vehicle sales language should be modified. His preference would be to discuss this at another meeting.

Chair Solomonson reopened the public hearing. There were no comments or questions from the public.

**MOTION:** by Commissioner Schumer, seconded by Commissioner Ferrington to close the public hearing.

**VOTE:** Ayes - 7 Nays - 0

**MOTION:** by Commissioner Schumer, seconded by Commissioner Ferrington to table the text amendment to Chapter 200 of the Municipal Code pertaining to vehicle and equipment sales and rental to address comments raised during the public hearing.

**VOTE:** Ayes - 7 Nays - 0

**MISCELLANEOUS**

Commissioners Wenner and Schumer are scheduled to respectively attend the City Council meetings on October 1, 2012 and October 15, 2012.

**ADJOURNMENT**

MOTION: by Commissioner Schumer, seconded by Commissioner McCool to adjourn the regular Planning Commission Meeting of September 25, 2012, at 11:03 p.m.

**VOTE:**

Ayes - 7

Nays - 0