

**City of Columbus  
City Council Meeting  
Alternative Meeting Format  
MN Statute, Section 13D.021  
06.08.2022**

The 06.08.22 meeting of the City of Columbus City Council was called to order at 6:32 p.m. by Mayor Jesse Preiner at the City Hall. Present were Councilmembers Robert Busch, Janet Hegland, Shelly Logren and Sue Wagamon; City Administrator Elizabeth Mursko, City Attorney Bill Griffith, City Engineer Kevin Bittner, Public Communications Coordinator Connor Keith and Public Works Director Jim Windingstad.

Also in attendance: Cindy Angel, Myron Angel, Planning Commissioner Bob Berens, Chris Harchanko (via teleconference), David Harchanko (via teleconference), Planning Commission Chairman Ron Hanegraaf (via teleconference), Planning Commissioner Kris King, Brenda Miller (via teleconference), Mike Nelson, Natalie Ryder (via teleconference) and Steve Wagamon

1. **CITY COUNCIL REGULAR MEETING**
  1. **Call to Order – Regular Meeting – 6:32 p.m.**
  2. **Pledge of Allegiance**
2. **CONSENT AGENDA**
  3. **Motion – Agenda Approval with Additions**
  4. **Motion – Approval of the 04-27-2022 City Council Meeting Minutes**
  5. **Motion – Approval of the 05-11-2022 City Council Meeting Minutes**
  6. **Motion – Pay Bills as Posted**

**Motion by Hegland to approve Consent Agenda items 3-6. Seconded by Wagamon. Roll call vote: Logren – aye; Wagamon – aye; Hegland – aye; Busch – aye; Preiner – aye. Motion carries.**

3. **PRESENTATION**
  7. **Public Open Forum**

No participation.

8. **Planning Commission Report**

Berens provided a recap of the June 1, 2022, Planning Commission meeting, sharing that the Commission considered a Conditional Use Permit (CUP) for Potential Use Development (PUD) Apollo Development Apartment Building along I-35, conducted a public hearing and discussion about Kinsella Acres Preliminary and Final Plat and a SW Quad 35 Preliminary and Final Plat. The Planning Commission recommended approval for all three items.

Mursko shared Apollo Development Apartment’s presentation to the Planning Commission from the June 1 meeting, sharing that the developer was still planning on constructing all submitted amenities and features except the swimming pool, due to costs. If all goes according to plan, construction on the apartment building should commence in autumn in preparation for opening in late 2023 or 2024.

Hegland asked if the list of promised amenities should be included in the list of conditions. Mursko felt it was reasonable to include the list in the conditions. Griffith said that while that typically is not a normal thing to do, because it is a PUD the City can be more specific regarding amenities. The development could request an amendment to the PUD if it wanted to alter or omit any listed amenities.

Wagamon asked about risk associated with the project for the City. Chris Harchanko pointed towards interest rates continuing to climb making the project unfeasible, but that problem not being specific to this project. Wagamon continued, asking about Halverson and Blaiser Group, the selected property management company, and if the business had the flexibility to adjust course if this property management group was not up to grade. Harchanko said that if the management company was not providing satisfactory service, the LLC that owns the apartment could remove that company. Wagamon asked if the City could step in and remove the management company on its own. Griffith said the City does not currently have that mechanism for inspecting rental properties, but it does have the authority to correct violations of City code and nuisances. Wagamon asked how quickly Harchanko expected the development to fill with tenants. He said their market study indicated 150 units in 12-15 months, but developments in Forest Lake have sold out before opening for move-ins and there's a chance that trend could continue at the Landing of Columbus.

Busch asked about labor issues on the project and what the developers' plan was if subcontractors at any tier were discovered to not be paid. David Harchanko said this is something his group watches very closely and explained they get partial lien waivers quarterly throughout the project. Busch continued, asking how it would be addressed if workers were being misclassified on the project. Harchanko said they'd work with authorities and agencies to make sure all subcontractors are following appropriate procedures. Busch asked if Harchanko had used Auto Drywall on their projects. Harchanko said yes.

Hegland inquired if the developers could be required to include community policy documents in their CUP PUD as a condition to retain a specific standard in the future if the management company or ownership group changed. Griffith said that including a management program in a CUP PUD is unusual, but could be included voluntarily as a reference point in the development agreement.

Berens encouraged the City Council to review the list of conditions to see how the amenities related to the developer's concessions.

**Motion by Hegland to approve the Landing of Columbus Planned Unit Development Conditional Use Permit based on the Planning Commission's recommendation adopting Findings of Fact 1-26, with the addition of Findings of Fact No. 27 to include the Community Standards as we discussed, and Conditions 1-22, with the addition of Condition No. 23 that would require the addition of the amenities listed as included on Page 11 of the Overview Document, and the City Planner's Revised Report dated May 25, 2022. Seconded by Preiner. Roll call vote: Logren – aye; Wagamon – aye; Hegland – aye; Busch – nay; Preiner – aye. Motion carries.**

Landing of Columbus Planned Unit Development Conditional Use Permit Findings of Fact:

1. The City received a Planned Unit Development Conditional Use Permit (PUD CUP) application from David Harchanko, Apollo Development ("Apollo") on March 14, 2022. The application was found incomplete. After a series of revised application submittals, the PUD CUP application was found complete on May 2, 2022.

2. The 60-day review period ends on July 1, 2022 and the 120-day review period, if necessary, ends on August 30, 2022.
3. The proposed development is located in the northeast quadrant of the I-35/TH 97 interchange, legally described as Lot 2, Block 1, NE Quad 35 2<sup>nd</sup> Addition (“Property”).
4. The Property is currently zoned Mixed Use High Density Residential (MU-H), which allows residential uses at a maximum density of 30 units per acre.
5. The Property is designated Mixed Use – High in the 2040 Comprehensive Plan, which allows high density residential, ranging from 17 to 30 units per acre.
6. Apollo is proposing a three-story, 150-unit, market rate apartment building.
7. The Property is approximately 5.3 acres in area, which allows a maximum of 159 units.
8. Rental units consist of 15 studios (650-654 square feet), 65 on bedrooms (798-894 square feet), 22 one bedroom plus dens (881-1070 square feet), and 48 two bedrooms (1,025-1,264 square feet).
9. Building amenities include a two-story main lobby with pergola entrance, onsite property management, heated underground parking, three elevators, electronic access controls, a community room with full kitchen, a 2<sup>nd</sup> story rooftop patio with tables, chairs and grills, a fitness center, a ground level outdoor patio and playground, Wi-Fi and high speed internet, a mail room with electronic mail concierge, storage lockers, bicycle storage, and a pet wash room.
10. Individual unit amenities include stainless steel appliances, solid kitchen countertops, washers and dryers, individual climate control, 9-foot-tall ceilings, and balconies in the majority of units.
11. The “L-shaped” building features staggered or alternating wall planes, balconies, variable rooftop parapets, and earth tone color. Exterior material include brown stone veneer on all sides (35%), brown engineered lap siding, tan engineered vertical siding, orange engineered lap siding and dark bronze and orange trim accents.
12. [Note: for clarification and proper orientation it appears the exterior elevations (sheet A1) are mislabeled. The South Elevation should be labeled the West, the West Elevation should be labeled North, the North Elevation should be labeled East and the East Elevation should be labeled South.]
13. The building is approximately 34.5-foot-tall at the roof line and 37.5-foot-tall at the top of parapets (from average ground elevations).
14. Two entrances allow access to the underground parking garage. 24-foot-wide aisles provide access to 151 parking stalls. There are 83 stalls that are 9’X19’ and 68 stalls that are 9’X23’. Apollo is requesting PUD modification of the minimum stall dimensions of 10’X20’ required in the Zoning Ordinance. There are no accessible parking spaces noted in the garage. It appears at least six ADA parking stalls are required, which should be located near elevators. This will likely result in the reduction of three or more actual stalls in the garage, depending on their location.
15. There are 150 surface parking stalls, which are accessed by 24-foot-wide aisles. Stalls adjacent to curbs are proposed at 9’X18’ and stalls abutting each other are proposed at 9’X20’. There are six parking spaces which meet ADA requirements. Apollo is requesting PUD modification stall dimensions of 10’X20’ required in the Zoning Ordinance.

16. The Zoning Ordinance requires two surface parking spaces per unit plus ¼ stalls per unit for guest parking. Garage stalls may offset the number surface parking spaces required, if all garage stalls are assigned to residents. A total of 338 parking spaces are required and 301 are provided. A proof of parking area is illustrated on the site plan, which includes a minimum of 37 additional parking spaces and potential future parking garages. The proof of parking area should be adjusted to reflect the reduction of the total number of stalls in the garage.
17. Building and parking setbacks are consistent with minimum ordinance requirements, except the rear yard building setback. Apollo is requesting PUD modification of the minimum 30 feet rear yard setback to 20 feet (same as side yard building setback).
18. A generous landscape plan illustrates 127 shade trees and 28 conifers, well distributed on the Property. Foundation plantings include 9 shrubs, 85 perennials and 177 grasses. The landscape plan is well in excess of minimum ordinance requirements.
19. The landscape plan also identifies a 20'X20' concrete outdoor patio area and a 30'X36' playground area (yet to be designed) at the southerly end of the building.
20. Five-foot-wide sidewalks are adjacent to the building at the parking lots and outdoor patio/playground.
21. Site drainage is accommodated by two existing stormwater ponds, one to the north and one to the south. The regional ponds are generally designed to allow 75% lot coverage. The site plan indicates impervious site coverage is approximately 62% and approximately 70%, if the proof of parking area and potential future garages are improved.
22. Apollo will be required to obtain a permit from Rice Creek Watershed District for the development. As current owner of the Property, the City may be required to cosign the permit application.
23. Trash and recycling is facilitated by two 'chutes' on each floor and two collection areas in the garage. The 'trash' rooms in the garage are located near each garage entrance. There are no outdoor storage containers.
24. Site lighting is provided with six 25-foot-tall parking lot light standards (50 watts-70-watts), five wall packs at pedestrian entrances (20 watts) and two wall packs over the garage entrances (30 watts). The intensity of illumination is less than one foot candle at all property lines (generally 0 to 0.3 foot candles). All site lighting must be downcast and shrouded.
25. There are no detailed signage plans at this time. One of the building elevations includes "The Landings" facing Hornsby Street. All signs will require administrative permitting.
26. The Planning Commission held a public hearing on the Landings of Columbus PUD CUP application on May 18, 2022.
27. Community Standards will be included in the Conditional Use Permit Planned Unit Development.

Landing of Columbus Planned Unit Development Conditional Use Permit Conditions:

1. The PUD CUP is contingent upon detailed recommendations of the City Engineer.
2. The PUD CUP is contingent upon recommendations of the City Attorney.
3. The PUD CUP is contingent upon detailed plan review and approval by the Building Official.

4. The PUD CUP is contingent upon detailed plan review and approval by the Forest Lake Fire Department.
5. The PUD CUP is contingent upon requirements of the Rice Creek Watershed District.
6. Once authorized, Apollo shall construct and maintain all site improvements consistent with the Conditional Use Permit Application, dated March 14, 2022; Narrative, dated April 8, 2022; revised Single PUD Submittal, dated May 2, 2022, (including Architectural plan sheets A0-A6, Civil plan sheets C0.01-C1.01, sheets C4.01-C8.01 and sheet C8.02, Landscape plan sheets L1.01 & L2.01 and Electrical plan sheet E1.1), except as may be modified with City approval.
7. Approval of the PUD CUP does not eliminate the requirement for obtaining any other permits and approvals as may be required by City, watershed, county, or state laws, rules, ordinances, and policies, including but not limited to grading permits, building permits, plumbing permits, electrical permits, stormwater permits, sign permits, driveway permits, public water connection, and public sewer connection.
8. Approval of the PUD CUP authorizes a rear yard setback of 20 feet.
9. Approval of the PUD CUP authorizes the modification of automobile parking stall dimensions, illustrated on Architectural plan sheet A2 and Civil plan sheet C5.01.
10. The PUD CUP is contingent upon the addition of six ADA parking stalls in the garage. The stalls must be within reasonable proximity to one or more of the elevators.
11. The PUD CUP is contingent upon all garage parking spaces being leased or otherwise assigned to residents at all times.
12. The PUD CUP is contingent upon the reasonable assignment of deeper garage stalls to larger/longer vehicles and shallower stalls assigned to shorter vehicles.
13. The PUD CUP is contingent upon approval of the “proof in parking” plan, identifying the location of 37 additional surface parking spaces on the Property. The total number of spaces shall be adjusted to reflect the reduction of total garage stalls, resulting from the addition of ADA parking requirements in the garage. Upon a finding of need and upon reasonable notice, the City Council may require all or a portion of the additional “proof of parking” spaces to be constructed, consistent with the approved plan.
14. No parking spaces may be obstructed for tenant or guest usage, including snow storage.
15. The PUD CUP is contingent upon changing the minimum required shade tree planting stock size from 2-inch caliper to 2.5-inch caliper.
16. All site lighting shall be shrouded and downcast.
17. All site signage requires administrative review and permitting.
18. Pet wastes shall be promptly removed from the Property and shall be removed from any neighboring property if evidence exists that the waste was generated by pets at The Landings.
19. In the event the City Council determines, in its sole discretion, that the use of the Property is not being operated in accordance with any term or condition contained herein, the PUD CUP may be revoked by the City upon proper notice and a hearing. The City shall notify regulatory authorities that have issued licenses or permits in connection with the PUD CUP of any such revocation.
20. No new uses or intensification of the use of the Property is allowed without City approval.

21. Apollo shall be obligated to pay all costs and expenses incurred by the City in connection with any proceeding to revoke the PUD CUP, including reasonable attorneys' fees and consultant fees.
22. Apollo shall be responsible to reimburse the City for its out of pocket expenses incurred in the review and approval of the PUD CUP, including any subsequent inspection and enforcement actions.
23. Developer shall provide the amenities listed on Page 11 of the Overview Document submitted for the Project.

Turning to the Kinsella Acres Second Addition Preliminary and Final Plats, Preiner explained the proposal of combining three individual lots into one.

Mursko provided the history of the area, saying City View Electric came before City Council for a CUP amendment that was approved on June 23, 2021. This activated a yearlong probationary period that allows a business to establish its use, as – in this case – construction was going on and progress was being made on the business establishing itself, before needing to file for the final plat. City Planner Dean Johnson, Mursko and Nelson have been in discussion about granting an extension to the probationary period due to changes in plans. Mursko recommended extending the probationary period by six months and allow City View Electric to file the final plat to establish their expansion of their existing business.

Busch asked Mursko if, with the moratorium in place, City View Electric still fits in because it had a plan in place beforehand. Griffith said the way the moratorium is written, it would not apply to Kinsella Acres.

**Motion by Preiner to approve Kinsella Acres Second Edition Preliminary and Final Plat based on the Planning Commission's recommendation adopting the Findings of Fact for Preliminary Plat 1-14 and Final Plat 1-5, subject to Preliminary Plat conditions 1-9 and Final Plat conditions 1-10 of the City Planner's Report dated May 24, 2022, and subject to the Attorney title review and memo conditions. Seconded by Wagamon. Roll call vote: Logren – aye; Wagamon – aye; Hegland – aye; Busch – aye; Preiner – aye. Motion carries.**

Kinsella Acres Second Edition Preliminary Plat Findings of Fact:

1. The City received a preliminary plat/final plat application from Kinsella Properties, LLP, ("Kinsella") for Kinsella Acres 2<sup>nd</sup> Addition on April 29, 2022. The application was found complete.
2. The 120-day preliminary plat review deadline is August 27, 2022.
3. Kinsella Acres 1<sup>st</sup> Addition was approved by the City on June 23, 2021. The 2021 plat was never recorded. That plat was a replat of two landlocked parcels, legally described as Lots E5 and E6, Will's Addition.
4. The current proposed plat will combine Lots E5 and E6, Will's Addition with Kinsella Acres as Kinsella Acres 2<sup>nd</sup> Addition. [Anoka County recommended naming this plat as the 2<sup>nd</sup> Addition rather than the 1<sup>st</sup> Addition]
5. The proposed plat is located in the C/I Commercial/Industrial Zoning District at 14309 Lake Drive NE.
6. The 36.81-acre property currently consists of three parcels legally described as Lot 1, Block 1, Kinsella Acres and Lots E5 and E6, Will's Addition ("Property").

7. The Property is proposed to be platted into a single 36.81-acre parcel, Lot 1 Block 1, Kinsella Acres 2<sup>nd</sup> Addition.
8. All of the current City View Electric buildings are located within Kinsella Acres.
9. Wetland delineations have previously been approved on the Property.
10. The Property is located in the Rice Creek Watershed District.
11. An application for stormwater management was submitted to the Rice Creek Watershed District on 4/16/21. A Conditional Approval Pending Receipt of Changes (CAPROC) was issued by the District on 5/19/21.
12. There is no correspondence from the Anoka County Highway Division regarding the plat.
13. The preliminary plat includes standard 20-foot drainage and utility easements abutting right of way, 10-foot drainage and utility easements along remaining property lines and a large drainage and utility easement covering the wetland, including the minimum 1-rod buffer adjacent to the wetland.
14. The Planning Commission held a public hearing on the proposed preliminary plat on June 1, 2022.

Kinsella Acres Second Edition Preliminary Plat Conditions

1. Detailed recommendations of the City Engineer.
2. Title review and recommendations of the City Attorney.
3. Requirements of the Anoka County Surveyor.
4. Any requirements from the Anoka County Highway Division regarding access to Lake Drive.
5. Requirements of the Rice Creek Watershed District.
6. Cash in lieu of park land dedication.
7. Reimbursement of all City expenses associated with plat approval.
8. No further subdivision of the Property for development purposes is allowed without subsequent City approval.
9. Future development within the plat is subject to all laws and permitting requirements.

Kinsella Acres Second Edition Final Plat Findings of Fact

1. The City received a final plat application from Kinsella Properties, LLP, (“Kinsella”) on May 4, 2022. The application was found to be complete.
2. The final plat was submitted concurrent with the preliminary plat and the review period for the final plat is coterminous with the preliminary plat.
3. The 36.81-acre property currently consists of three parcels legally described as Lot 1, Block 1, Kinsella Acres and Lots E5 and E6, Will’s Addition (“Property”).
4. The proposed final plat will change the legal description of the Property to Lot 1, Block 1, Kinsella Acres 2<sup>nd</sup> Addition.
5. The final plat is consistent with the proposed preliminary plat.

Kinsella Acres Second Edition Final Plat Conditions

1. Approval of the preliminary plat.
2. Detailed recommendations of the City Engineer.
3. Title review and recommendations of the City Attorney.

4. Requirements of the Anoka County Surveyor.
5. Any requirements from the Anoka County Highway Division regarding access to Lake Drive.
6. Requirements of the Rice Creek Watershed District.
7. Cash in lieu of park land dedication.
8. Reimbursement of all City expenses associated with plat approval.
9. No further subdivision of the Property for development purposes is allowed without subsequent City approval.
10. Future development within the plat is subject to all laws and permitting requirements.

**Motion by Preiner to approve a six-month extension, as presented, on the probationary period for one year for City View Electric's Conditional Use Permit approved on June 23, 2021, due to a change in market supply and changes in the new Preliminary and Final Plats. Seconded by Busch.**

Mursko clarified that the probationary period is one year and started June 23, 2021, and the six-month extension will begin June 23, 2022.

**Roll call vote: Logren – aye; Wagamon – aye; Hegland – aye; Busch – aye; Preiner – aye. Motion carries.**

Turning to the SW Quad 35 Preliminary and Final Plat, Mursko shared this plat is City-owned land that was once one lot, but the relocation of West Freeway Drive bisected it. The intention of this new plat is to make it easier to sell these City lands to potential buyers. One decision that the Council does need to make during this process is if the City wants to install a public road connecting the Holiday gas station to the road and how it would be configured, or if the connection would be a driveway and Holiday's property. This is an important detail, as the City avoids turning snowplows around on private property. It would also allow driveway access to the potential new lots west and south of Holiday, as Anoka County is not permitting any more accesses from Lake Drive NE. As currently constructed, left turns onto West Freeway Drive to travel south from this potential turnaround or driveway are not possible, meaning drivers would need to travel north to the roundabout connecting the road to Lake Drive NE and then travel back down the road south.

Preiner asked Bittner where a turnaround for a snowplow would be placed on the street. Bittner said that if the City had 120 feet to construct a cul-de-sac and recommended a right-of-way.

Busch asked who would be paying to stub the new road in. Bittner said it would be the responsibility of future developers, as Holiday is no longer interested in connecting the southwestern corner of its property to West Freeway Drive.

Hegland asked if this improvement could increase the value of the vacant lots. Griffith said that since the improvement is contingent on future development, any stubs or turnarounds created would be taken into account when developers make offers for the land.

**Motion by Preiner to approve the SW Quad 35 Preliminary and Final Plat based on the Planning Commission's recommendation, adopting Findings of Fact 1-8 and Final Plat 1-4, with the change in No. 3, subject to the preliminary conditions 1-6, and Final Plat Conditions 1-7, with changes establishing a public right-of-way. Seconded by Logren.**

Mursko said that the changes to No. 3 will reflect the lot block legal descriptions.

**Roll call vote: Logren – aye; Wagamon – aye; Hegland – aye; Busch – aye; Preiner – aye. Motion carries.**

SW Quad 35 Preliminary Plat Findings of Fact

1. The City has prepared a preliminary plat for City-owned property in the southwest quadrant of the I-35 interchange.
2. The 12.3-acre metes and bounds property is located in the Southwest Quarter of the Northeast Quarter of Section 24, Township 32, Range 22.
3. The property was bisected by the realignment of West Freeway Drive (CSAH 54), but remains as one parcel of record with a very complicated legal description.
4. The purpose of the plat is to create new legal descriptions for both sides of the roadway. Proposed Lot 1 (2.63 acres) and Lot 2 (3.69 acres), Block 1 lie on the easterly side of the West Freeway Drive. Proposed Lot 1 (5.94 acres), Block 2 lies on the westerly side of West Freeway Drive. A shared access driveway to West Freeway Drive currently exists on the common lot line of Lot 1 and Lot 2, Block 1 on the east side of the highway.
5. There are currently no development proposals within the plat.
6. The property has existing wetland delineations which may need to be recertified.
7. Drainage and utility easements are depicted adjacent to roadways (20 feet) and other property lines (10 feet), consistent with the Subdivision Ordinance. The wetlands and minimum 16.5 buffer are also protected with drainage and utility easements.
8. The Planning Commission held a public hearing on the proposed preliminary plat on June 1, 2022.

SW Quad 35 Preliminary Plat Conditions

1. Detailed recommendations of the City Engineer.
2. Title review and recommendations of the City Attorney.
3. Requirements of the Anoka County Surveyor.
4. Requirements of the Rice Creek Watershed District.
5. Requirements of the Minnesota Wetland Conservation Act.
6. Future development within the plat is subject to all laws and permitting requirements.

SW Quad 35 Final Plat Findings of Fact

1. The City has prepared a final plat for City-owned property in the southwest quadrant of the I-35 interchange.
2. The purpose of the plat is to create new legal descriptions for both sides of the roadway, resulting from the bisection of the property by the realignment of West Freeway Drive (CSAH 54).
3. The proposed final plat will change the legal description of the property to Lot 1 and Lot 2, Block 1, and Lot 1, Block 1, SW Quad 35.
4. The final plat is consistent with the proposed preliminary plat.

## SW Quad 35 Final Plat Conditions

1. Approval of the preliminary plat.
2. Detailed recommendations of the City Engineer.
3. Title review and recommendations of the City Attorney.
4. Requirements of the Anoka County Surveyor.
5. Requirements of the Rice Creek Watershed District.
6. Requirements of the Minnesota Wetland Conservation Act.
7. Future development within the plat is subject to all laws and permitting requirements.

### ~~9. Animal Control Contract & Impound Services Contract~~

## 4. STAFF & CONSULTANT REPORTS

### 10. Engineer's Report

Bittner provided an update to ongoing projects in the City, sharing St. Clair Lakes is installing underground utilities for the next two weeks before laying the road. Regarding the Waldoch Addition, 137<sup>th</sup> Avenue has been constructed, with a bypass lane on Lake Drive on the way. Hornsby Street is set to undergo construction starting June 21, but that start date may be delayed. Contracts have come back for the Kettle River Heights road reclamation project and are ready to be signed, but the contractor has not yet provided a construction schedule. They have until the autumn to get the work completed, so there's no urgency yet. 182<sup>nd</sup> Lane's turnaround is in the planning phase, with delivery scheduled for next week to permit for the City to start requesting bids. West Freeway Drive's designs are nearing completion and should be ready to be bid upon this summer. Acquiring MNDOT provisional right-of-way access is the current main priority for the West Freeway Drive project.

Logren asked about how construction was going on around Howard Lake when the City wasn't done with preliminary work. Mursko said St. Clair Lakes has all documents in order after a judgement in transferring titles because the holding company is in agreement with all improvements taking place. Griffith confirmed that, saying the receiver is operating as St. Clair Lakes to keep construction going.

### 11. Attorney's Report

Griffith directed attention to the proposed moratorium for the Commercial/Industrial and Mixed-Use/Low Density districts on Lake Drive NE at the southern border of the City. Johnson recommended the moratorium include light industrial manufacturing, processing, assembling and storing, testing or similar industrial uses, so it has been added, as has the Council's direction to extend the moratorium's activation until July 15, 2022 to allow pending, incomplete applications to be completed before it goes into effect.

Wagamon inquired about the discussion at the last council meeting about the moratorium. Griffith said that since City Attorney Megan Rogers was the attorney at that meeting, he only has her notes to go off, but that the two changes requested had been implemented. Wagamon continued, asking why the Mixed-Use/Low Density zone was included since she thought it was along the interstate. Mursko clarified that the zone that's being discussed is very small and along Humber Street. Griffith continued, detailing that the moratorium will cover the unsewered listed districts running along Lake Drive NE from the City's southern border until the sewer properties to the east.

Busch inquired if this would exclude contractor offices even if they didn't have any exterior storage. Griffith said this setup would still be prohibited under the moratorium.

Hegland asked about the agricultural use permitted in the district and if the Council wanted to add that to the list of uses restricted under the moratorium since these sorts of establishments could create the exact sort of heavy truck traffic the Council was trying to reduce. Griffith indicated the moratorium could apply to a permitted use if the Council wanted to include it. Preiner said the City should be wanting to look towards the future in this district, especially since there is so little property suitable for business in the City. He envisioned a row of brick buildings running along Lake Drive NE housing businesses that paid commercial taxes. As a result, he agreed with Hegland that perhaps agricultural uses should be included in the moratorium so it may be studied. Hegland pointed out that if Bergens did decide to expand while the moratorium was in place, it could request a hardship clause waiver.

Preiner asked Griffith to explain the stipulation in the moratorium that allowed for a cooling period before it takes effect instead of immediately stopping submitted proposals. Griffith pointed towards *Medical Services v City of Savage*, a case about a moratorium that was used to stop a particular unfinished project that was already in the planning process. The court decided that using a moratorium, which is supposed to be used to do a planning study, to arbitrarily stop a project the Council decided it didn't like anymore was illegal. Since this case, cities have been intentional about focusing on the future-oriented planning study when enacting moratoria and have thus found their cases upheld in court. Griffith said this is why the moratorium was written to allow a window for businesses to complete applications, as it was in effort to apply the rules uniformly to all parties. Griffith also reminded the Council of their authority to say "no" in particular circumstances.

Mursko asked if the City had the authority to adopt a moratorium to stop everything in its tracks that night. Griffith said the City could take that position, but he reminded the Council it would have to apply the moratorium uniformly to all parties.

Logren indicated that she was uncomfortable with the City negotiating with prospective businesses without input from the Council, felt misled about how the zoning and permitting process worked. Logren wished this type of moratorium had been discussed to prevent businesses going in that she felt didn't belong in the City, as she had felt she had to vote on specific applications if they fit a district. Griffith clarified that the Council can vote "no" when it feels a applying business doesn't fit in the area it is requesting, so long as it applies zoning rules fairly. Griffith continued, clarifying that the City was not negotiating, but advising applicants on how to complete their applications. Mursko shared that the businesses in the pipeline include Equipment Transport, a landscaping company, a cabling company and a used car sales business in this area, as well as the Park Construction application. Logren said she felt there was a misunderstanding between the Planning Commission and City Council about "what fits," as she's worried the City is losing its hold on being a quiet refuge outside the Twin Cities to increased truck traffic on county roads. Griffith said the Planning Department and City Staff need direction from City Council to execute its vision for what the City should be.

Preiner asked about the ramifications of the City adopting an immediate moratorium. Griffith answered that there are potential consequences in both scenarios of doing an immediate delayed moratorium.

Busch asked Griffith about the risk for individual members of the Council. Griffith confirmed that Councilmembers are protected individually by statute and are also insured for decisions made by the whole.

Hegland voiced that, like Logren, she wished the Council had enacted this moratorium a year ago, but that the Council had agreed all submitted applications on Lake Drive fit the zoning. Wagamon and Logren defended that they may have thought these applications fit in the district, but that they may not have liked the proposals. Hegland voiced that she felt relieved after hearing that the Council has the power to vote “no” on a proposal if there is not a way found to mitigate nuisances or risks.

Steve Wagamon, resident of 13530 Zodiac St. NE, Columbus, MN 55014, presented to City Council his opinion on a potential moratorium in the C/I and MU-L districts on Lake Drive NE. Wagamon alleged his attorney has never seen a moratorium composed like the draft the City was considering that didn’t stop pending business immediately and that the referenced case was turned down because it named a specific business instead of an overall district. He felt the City should enact the moratorium immediately for the total district as it shouldn’t be difficult to quickly change an ordinance.

Busch asked if Wagamon’s input should have taken place during Public Open forum instead of in the middle of the meeting. Griffith defended Wagamon, saying that the City’s history has been to involve public input for things on the agenda when that specific time arises instead of during the overall public forum, which is reserved for subjects not on the agenda.

Griffith defended the way the moratorium had been composed, pointing to a history of researched court cases and been involved in. Griffith said how the moratorium activates is something the Council has much discretion over, as it can decide to accept the pending applications to not.

Preiner reopened discussion to the Council, saying they had a significant decision to make. Preiner said when this discussion began, the Council didn’t want a moratorium to squander all the work entities had put into completing applications. Hegland agreed, saying the Council wanted to be sympathetic to the amount of money some entities had spent on their applications and not pull the rug out from underneath them, but that at the time she only knew of Equipment Transport.

Logren disagreed with Wagamon, saying that drafting and amending ordinances is a difficult task that takes a lot of work, time and money, but agreed with Hegland that she had made her previous decision about the moratorium by not knowing that complete and incomplete applications were in the pipeline. Griffith said the City had been working with many of the applicants for approximately six month, and the meeting when the idea of a moratorium was first brought up the Council had been asked if it should include the pending applications or not, which the Council believed it shouldn’t. Preiner agreed with that sequence of events.

Mursko summarized what Griffith had said, telling the Council one of their options was to take a hardline approach with the moratorium if it so chose.

Preiner said this decision ties back into the completed permit application the City has received from Park Construction, which is backed up to residential property. He noted that Griffith had said the Council could control the outcome by simply saying “no,” but Griffith reframed that, saying the Council should remain impartial decisionmakers on all applications and has the power to approve, deny and condition.

Busch voiced his opinion that he is not in favor of the moratorium. He's not in favor of big trucking, but the City has already granted permits to contractor shops and the Waldochs to sell their lots on the road. Busch stated that the first of two moratoriums already in effect hasn't been addressed yet, so he had concerns about how quickly this moratorium could be resolved, and that he thought it was peculiar City View Electric had been pushed through that meeting despite being another contractor shop. Hegland and Sue Wagamon voiced that they didn't want to stop anything, but were using the moratorium to study the area and the Council's goals for the area, as well as better define those goals in the code. Logren agreed, saying that she didn't necessarily want to get rid of contractor shops, but that she wanted to reduce the noise and environmental impact of trucking on the City. Hegland felt that Busch brought up an important detail in that the term "contractor shop" is not well defined in City code. Preiner inquired how long the C/I District has been written. Mursko said the district was created in 1952, though the uses have changed over time. Preiner indicated this was all the more reason to initiate this moratorium, as it would allow the City to update the ordinance to today's language and definitions.

Busch expressed another of his concerns regarding going forward with a moratorium, saying that the economy may not sustain much longer and the City could miss out on development and tax dollars from that area for some time. Busch also said he felt the Council should be made aware of any applications or inquiries in lots the City may receive. Griffith said he'd never heard of a city in the Twin Cities area that forwarded inquiries and applications to Councilmembers in real time, due to applications regularly being submitted incomplete developers wishing to remain anonymous until the application process is complete. Busch expressed situations when the community knows information about applications before Councilmembers. Griffith said the intention of the practice of not submitting applications to Councilmembers until they are completed is to ensure that facts are what guide decisions instead of rumors and incomplete information that would need to be managed and corrected, and that Councilmembers don't decide their vote until they have all the information.

Logren asked if there was a point when the Waldochs proposed an industrial park when the City could have advised them to be selective about prospective developers. Griffith said that the Waldochs had the right to sell their property, and whatever the code or ordinances permitted when they complete the sell defines legal and illegal uses. Therefore, unless the City updates their code for this zoning district, the City has already had its say as the sellers can proceed under existing conditions. Griffith said the City cannot condition a plat on specific uses when a seller subdivides its land.

Preiner requested clarification regarding passing the ordinance as currently drafted. Mursko said it would adopt the moratorium with a window for complete applications to be submitted by July 15, 2022. Logren asked how that date was chosen. Mursko said it was arbitrarily chosen to create a four-week window, but Griffith reminded the Council it had been a direction from them to include a window of opportunity. Hegland asked about the 60 days usually required for Council to take action on a submitted application and how it played into this window. Griffith said it could be 60+60 days if the Council passes an extension.

Griffith listed the Council's options if it wanted to go forward with passing the moratorium: accepting it as it's been written, or accepting it with modifications regarding described restrictions or activation timing as soon as publication June 16, 2022. Hegland said she preferred moving forward with the moratorium as written but with the exception of adding agricultural use to the study, as she felt it was fairest. Logren asked if that meant the applications in the pipeline would still be eligible under the

current ordinance. Hegland confirmed that was the case, with a deadline for application of July 15, 2022. Hegland pointed towards the opportunity for the Council to decline an application if it can't mitigate impacts on the environment and neighborhood as a way the City could still keep control of the area if a completed application was received during the window. Wagamon felt this approach left too much to chance and that she would prefer the moratorium take effect upon publication.

**Motion by Hegland to adopt Ordinance 22-05 establishing a moratorium on development, construction or expansion of the building trade, contractor office, recreational vehicle sales and service, light industrial appliance and vehicle sales and repair, lumber yards and sales, machine and welding shop facilities and agricultural uses within the Commercial/Industrial and Mixed-Use/Low Density Residential Districts as more fully described within the Ordinance and directing Staff to complete a Planning Study assessing the need for an amendment to the City's official controls.**

Logren requested confirmation that Hegland's motion was to approve the ordinance as drafted, which would temporarily exclude the pipeline. Hegland confirmed it was, with the exception of adding agricultural uses.

Griffith shared that statute requires, if a proposed ordinance regulates, restricts or prohibits activities related to livestock production, a public hearing must be conducted following 10-day public notice.

**Hegland amended her motion to take out the agricultural uses.**

Preiner said the issue to him is the division between residential and commercial property and that the Council, if it is found an applicant cannot meet conditions to mitigate various listed nuisances, has the power to decline applications. Griffith confirmed that the Council can approve, deny or approve with conditions when considering applications, with conditions dependent on if concerns raised during hearings cannot be mitigated by reasonable conditions of approval. Mursko said these conditions must be based on studies or other reliable information Griffith indicated there should be substantial evidence in the record, whether from expert testimony or reports from Councilmember or Planning Commissioner observations.

Logren asked if the Planners said that a CUP cannot do more than zoning. Griffith said a CUP cannot expand the use beyond what is defined in the zoning ordinance, but can make rules based on specific performance standards, such as specifications about lighting direction or hours of operation, which can take into account the specific property in relation to others around it.

**Motion failed for a lack of a second.**

**Motion by Preiner to make the drafted moratorium effective upon publication.**

Logren said she is still weighing the choices, as she would second Preiner's motion, but she wants to take into consideration how this could impact the Waldoch industrial park – something the Council wanted, but didn't anticipate ways the area was impacted – and the businesses that have begun working or planning to work in the area.

**Motion failed for a lack of a second.**

Griffith provided the option of moving on with the meeting to allow the Council the opportunity to think about the discussion more, but that they did need to complete the discussion before going into closed session.

**The discussion regarding the moratorium on Lake Drive was to be continued after the City Administrator's report.**

Griffith spoke with Margaret Vesel about the chances of a special session for Minnesota State Congress, who said the odds of that happening are slim.

**12. Mayor and City Councilmembers' Reports**

Hegland brought up the search for a Senior Accountant. Mursko said CliftonLarsonAllen had not gotten back to her with an updated proposal, but would hopefully have an update at the workshop on June 14, 2022. Hegland noted that interim Lissa Grabowski one day per week through the end of June to help manage payroll, bills and finishing the audit. The Personnel Committee also has an interview scheduled for June 15, 2022, for a potential Planning Tech.

Hegland also had an update on the new animal control contract, sharing that a template has been drafted that will be sent to the attorney's office to add items like indemnification clauses. Hegland said the contract template has already been updated to include a 60-day advanced notice of termination of contract instead of 30 days. A separate contract will be necessary for the impound facility, which will operate on an annual bill based on services provided over the previous year.

Preiner reported that Mursko has nearly finished the City's audit.

Hegland asked about the letter each Councilmember received from Jamie Jensen. Mursko said her most recent conversation with Jensen is what led to his letter being drafted. Hegland expressed no interest in changing the Comp. Plan as Jensen requested in his letter. Griffith said that landowners may formally request an amendment to the Comp. Plan similar to a rezoning request.

**13. Public Works' Report**

Windingstad updated the Council on the trees for Columbus City Park, indicating that they will be installed on June 9, 2022. There is room for one more tree if the Council is interested in ordering one. Hegland asked if ordering that tree would put the City over budget. At \$500 for the 10<sup>th</sup> tree, Mursko said it would. Logren asked how closely the trees were to be planted. Windingstad confirmed the trees would be planted 50 feet apart. Wagamon asked if the line of trees would look peculiar or like the City was missing a tree without adding this tree to the order. Windingstad said there would be approximately 100-foot gap until the trail turned north away from Kettle River Boulevard. Logren asked if the car shows staged in the park in the past would still be able to access the field and utilize the area. Windingstad confirmed that they would be able to fit within the 50-foot gaps.

**Motion by Busch to add a 10<sup>th</sup> tree to the park at \$500. Seconded by Wagamon.**

Windingstad reminded the Council that 12 trees were part of the original order since there are three hackberries being planted in a different spot, so adding a maple tree would make 13.

**Motion by Busch to an additional maple to the already 12 trees in the park. Seconded by Wagamon. Roll call vote: Logren – aye; Wagamon – aye; Hegland – aye; Busch – aye; Preiner – aye. Motion carries.**

Windingstad updated the Council on a complaint received about Gander Outdoor parking trailers in the fire lane. Windingstad said he talked to Forest Lake Fire Department Fire Chief Al Newman, who volunteered to visit the location and write a letter of notice if necessary. Should further enforcement measures be necessary, he will present to Council for further direction.

#### **14. Public Communications Coordinator’s Report**

Keith reminded the City Council that at their last meeting, they had received the results of the speed study and vehicle counts for 170<sup>th</sup> Avenue NE regarding the neighborhood’s petition to sever the connection between the end of the street and DePaul Street NE in Phase II of Thurnbeck Preserve and that the consensus was to host another neighborhood meeting to share the results with the community. Keith recommended scheduling the neighborhood meeting for Thursday, June 23 at 6 p.m., as that would provide two weeks’ notice with letters going in the mail the morning of June 9.

**Motion by Preiner to approve calling a 170<sup>th</sup> Avenue neighborhood meeting on June 23, 2022, at 6 p.m. Seconded by Hegland. Roll call vote: Logren – aye; Wagamon – aye; Hegland – aye; Busch – aye; Preiner – aye. Motion carries.**

Keith also shared with Council that the City had recently received grant funding from CenterPoint Energy in the amount of \$2,300. Those funds will be used to fund a Vivax-Metrotech Locator for Public Works. Windingstad said the City has applied for this grant four separate times, and it has been granted each time.

#### **15. Assistant City Administrator’s Report**

Mursko said that at the last meeting, the City Council asked Jessica Hughes, Assistant to the City Administrator, to ask Joe Murphy about the status of 16658 W Iverson St. NE. Murphy’s response was that a bench warrant is similar to a normal warrant – until, and if, the resident is arrested, there is nothing that can be done. In the meantime, the Council can pursue a civil action, such as citation and abatement. Hughes is updating the abatement ordinance to allow the Council to pursue that option should it choose to handle the box trucks on property. As for the ongoing abatement at the property regarding fencing in the pool, contractors have been contacted but they are struggling to get materials due to supply chain issues and may take five to six weeks to be completed.

#### **16. City Administrator’s Report**

Mursko reported that Deputy Clerk Lorie Spangler had items of recognition for Pam Wolowski, who resigned from the Planning Commission in December 2021. Busch and Wagamon recommended a Joint City Council and Planning Commission meeting, as soon as the meeting on June 15, 2022, if she was available.

*Resumption of Lake Drive Moratorium discussion*

**Motion by Hegland to adopt Ordinance 22-05 establishing a moratorium on development, construction or expansion of the building trade, contractor office, recreational vehicle sales and service, light industrial appliance and vehicle sales and repair, lumber yards and sales and machine and welding shop facilities within the Commercial/Industrial and Mixed-Use/Low Density Residential Districts as more fully described within the Ordinance and directing Staff to complete a Planning Study assessing the need for an amendment to the City’s official controls. Seconded by Preiner.**

Preiner asked if the Council had to reach a decision at this meeting. Griffith said the Council could make a decision at this meeting, the next meeting or not create a moratorium at all. Hegland said that every day delaying is another opportunity for more applications. Logren asked the Council what they felt is best for Columbus. Logren feels she doesn’t want more trucks in the area is the best option and going forward with the moratorium as written creates the chance of more trucking entities. Hegland says she feels what’s best is the moratorium as it at least starts closing the door. Logren said she doesn’t have a problem with the moratorium, but her struggle is with choosing to exclude applicants from the moratorium or not. Hegland asked where Logren stood on that issue, as her motion allowed applications to be submitted until July 15, 2022. Logren said she’d vote “nay” on the motion as put forward.

Preiner asked how many weeks of opening the moratorium would provide. Mursko said four weeks to allow for applications to be completed, followed by going through the entire process for those that got submitted in time. Preiner asked if shortening the window would make Logren feel better about passing one with that sort of allowance. Logren said no, as the City is rolling the dice on not receiving more applications during that time span.

**Roll call vote: Logren – nay; Wagamon – abstain; Busch – nay; Hegland – aye; Preiner – aye. Motion does not carry.**

Preiner asked what the Council can do now. Griffith said it can lay the issue over two weeks to the next Council meeting, or continue to work on it at this meeting.

**Motion by Preiner to lay this issue over for two more weeks to the next meeting.**

Logren said the City can’t let this matter go for two more weeks and risk more applicants joining the pipeline. Hegland agreed, saying by not enacting a moratorium it creates the opportunity for others to come into the City and perpetuate the problem. Logren said she didn’t feel it was that simple, as she is for the moratorium but not for Item D.

Preiner felt the City could successfully schedule an activation date for the moratorium and use conditions in CUPs to manage any received applications. Logren said she didn’t feel like the City had had much success executing CUPs and getting applicants to acquiesce to what the Council wants. Hegland felt the City could formulate a plan for individual CUPs once it received all finalized applications. Logren said that based on the fact that she doesn’t want to keep applicants at bay for not starting the moratorium, that’s the way she would have to vote. Hegland said her main goal is to conduct a thorough study to determine what the Council truly wanted in the area, and the only way to do that was through a moratorium. Due to that, she can live with the consequences of leaving the application window opened or shut, just as long as the City passed a moratorium.

Logren asked Busch if he was totally against the moratorium. Busch said he doesn’t like the way it is written and how nearly everything is included contractor shops encompasses so many things.

**Motion failed for a lack of a second.**

**Motion by Busch to move on to the closed meeting.**

Griffith said the reason the moratorium is written the way it is because the term “contractor shop” is not well defined in the code. Griffith said defining these sorts of terms with modern terminology would be one of the goals of the moratorium. Hegland also said that while the moratorium can extend as long as a year, the Council could prioritize it so it can be lifted sooner.

Logren voiced that she’s struggling with the fact that the moratorium is going to hurt people who are through the process and the Waldochs, but she also doesn’t want businesses coming to the City that are going to add to trucking traffic and existing problems. Griffith recommended the best way to handle this problem is to declare an activation date versus adding or subtracting uses to the moratorium. Hegland feels the best way to limit impact on the Waldochs is to get the moratorium study completed as fast as possible. Griffith said doing this would require a motion to reprioritize the moratoria to expedite this one over the two existing.

**Motion failed for a lack of second.**

**Motion by Logren to adopt the request for a moratorium, but exclude Item D – the exclusion of the pipeline businesses. Seconded by Preiner.**

Griffith recommended modifying the motion by indicating striking the last two lines if Item D, starting with “The moratorium shall not apply to contractor shops...”, as well as edit the sentence in Section III to delete “...but not before July 15, 2022.” Logren agreed that these edits reflected her intentions. Busch said Equipment Transport has already moved out of their building in Forest Lake. Mursko said she hadn’t received an official application yet, but Busch felt the Council had given them its word. Hegland said it was a non-binding concept review.

Preiner recapped the motion, saying this motion stopped everything and would be implemented June 16, 2022. Logren stressed that she wanted the study and moratorium to be completed as quickly as possible.

**Roll call vote: Logren – aye; Wagamon – abstain; Hegland – aye; Busch – nay; Preiner – aye. Motion carries.**

**Motion by Hegland to adopt Resolution 22-09 immediately commencing a planning study and analysis for the need for an amendment to the City’s official controls related to the uses described in the Ordinance and to commence the moratorium as contemplated by the Ordinance. Seconded by Preiner. Roll call vote: Logren – aye; Wagamon – abstain; Hegland – aye; Busch – nay; Preiner – aye. Motion carries.**

Mursko provided an update on the moratoria timeline, sharing that the City Staff had already begun the study for the Residential Zoned Businesses (RZB) and conducted two of the five meetings, with the third scheduled for the next week. Due to that, Mursko did not recommend prioritizing the Lake Drive moratorium over the RZB moratorium, but felt comfortable prioritizing it over the Dog Kennel moratorium.

**Motion by Hegland that this moratorium and study is of higher priority than the moratorium the City has on the dog kennels and should be moved ahead of that moratorium. Seconded by Preiner. Roll call vote: Logren – aye; Wagamon - aye; Hegland – aye; Busch – nay; Preiner – aye. Motion carries.**

Griffith said this would likely lead to an extension of the kennel moratorium that will be submitted at a later meeting.

---

**17. (North) West Freeway Drive – PROW Acquisition**

This will be a CLOSED meeting under Minnesota Statutes Section 13D.05, subd. 3(c)(3) to develop or consider offers or counteroffers for the purchase or sale of real or personal property.

**5. ANNOUNCEMENTS & REMINDERS**

**18. City Council Workshop 06.14.2022 at 5:30 p.m.**

**19. Planning Commission & City Council Joint Meeting 06.15.2022 at 6 p.m.**

**20. City Council Meeting 06.22.2022 at 6:30 p.m.**

**21. Calendar of Meetings**

**6. ADJOURNMENT**

Meeting closed at 10:13 p.m.

**Motion by Hegland to adjourn. Seconded by Logren. Roll call vote: Logren – aye; Wagamon – aye; Hegland – aye; Busch – aye; Preiner – aye. Motion carries.**

Meeting adjourned at 10:22 p.m.

Respectively submitted:

Connor Keith, Public Communications Coordinator