

**CITY OF MENDOTA HEIGHTS  
DAKOTA COUNTY, MINNESOTA**

**PLANNING COMMISSION MINUTES  
July 22, 2008**

The regular meeting of the Mendota Heights Planning Commission was held on Tuesday, July 22, 2008, in the Council Chambers at City Hall, 1101 Victoria Curve at 7:00 P.M.

The following Commissioners were present: Chair Lally, Commissioners McManus, Norton, Povolny, Viksnins, Hennes and Field. Those present were Civil Engineer Ryan Ruzek, Assistant to the City Administrator Jake Sedlacek, and Planner Steve Grittmann. Minutes were recorded by Rebecca Shaffer.

**Approval of May 27, 2008**

**Commissioner McManus moved, seconded by Commissioner Norton, to approve the minutes of the May 27, 2008 Planning Commission meeting as presented.**

**AYES            7  
NAYES         0**

**Approval of June 24, 2008**

**Commissioner Hennes moved, seconded by Commissioner Norton, to approve the minutes of June 24, 2008 of the Planning Commission meeting as corrected.**

**AYES            5  
NAYES         0  
ABSTAIN:      2 (Commissioners Viksnins and McManus)**

**Hearings**

**PLANNING CASE #08-20**

**John Apitz / Mary Magnuson**

**1831 Hunter Lane**

**Critical Area Permit and Modified Site Plan**

Mr. Grittmann reviewed a map showing the location of 1831 Hunter Lane, which is zoned R-1, single family residential, and located within the Mississippi River corridor. The applicant is seeking a critical area permit to construct a 314 sq. ft. addition onto the existing home. Mr. Grittmann noted that this home is within the setbacks. Mr. Grittmann said there will also be some removal of the existing bituminous driveway. Staff feels none of the improvements will negatively impact the critical area and the reduction of the impervious surface will be an improvement to the site and recommends approval.

Mary Magnuson, 1831 Hunter Lane, said this is a very small modification to a 24 year old home, and is very supportive of the critical area ordinance. The applicant will be working with their contractor to ensure that the critical area is protected and that they will try to recycle as much of the old materials that they can.

Chair Lally opened the public hearing. Seeing no one coming forward wishing to speak, he asked for a motion to close the public hearing.

**Commissioner Norton moved, seconded by Commissioner Povolny, to approve close the public hearing.**

**AYES**            **7**  
**NAYES**           **0**

**Commissioner Viksnins moved, seconded by Commissioner Hennes, to recommend approval of the Critical Area Permit based on the finding it will have no negative impact on the Mississippi River Corridor Area.**

**AYES**            **7**  
**NAYES**           **0**

**PLANNING CASE #08-21**

**Daniel A Saltzman**  
**1921 Glenhill Road**  
**Critical Area Permit and Modified Site Plan**

Mr. Grittmann reviewed the map showing the location of 1921 Glenhill Road. The applicant is seeking a Critical Area Permit to construct a 288 sq. ft. deck addition with a self-contained hot tub onto the existing home. The property is zoned R-1, single family residential, and located within the Mississippi River Corridor.

Mr. Grittmann said the home is not in the proximity of the bluff and is surrounded by other single family parcels and roadways. The addition is very small to the extent that it increases the impervious surface in a minor way, and there will be no storm water impacts on the critical area as well any visual impacts from the critical area. The improvements meet all setback requirements and Staff recommends approval as submitted.

Dan Saltzman, 1921 Glenhill Road, said this is just as described and nothing will be disturbed.

Chair Lally opened the public hearing. Seeing no one else come forward wishing to speak, he asked for a motion to close the public hearing.

**Commissioner Hennes moved, seconded by Commissioner Norton, to approve close the public hearing.**

**AYES**            **7**  
**NAYES**           **0**

**Commissioner Hennes moved, seconded by Commissioner Viksnins, to recommend approval of the Critical Area Permit as presented.**

**AYES**            **7**  
**NAYES**           **0**

**PLANNING CASE #08-22**

**Beverly K Sargent**  
**1040 Sibley Memorial Highway**  
**Critical Area Permit and Modified Site Plan**

Mr. Grittmann shared a map showing the location of 1040 Sibley Memorial Highway, which contains a single family home, in the R-1 zoning district. This property is also in the Mississippi River Corridor. Mr. Grittmann said the applicants are requesting critical area permit to re-roof a portion of the existing home and construct a 168 sq. ft. addition onto the home.

Mr. Grittmann said the location of the proposed addition is on an existing paved area and as a result, this will not increase any storm water flow, nor does the steepness of this area constitute a bluff as there are no special protection setback requirements. This application appears to be fully consistent with the critical area requirements and it does not appear there are any negative effects. Staff recommends approval of this critical area permit as submitted.

Commissioner Povolny asked about a small building highlighted on the report. Mr. Gritman said this was a small shed and has no relation to this application.

Beverly Sargent, 1040 Sibley Memorial Highway, said this small 12' x 14' addition is requested to make her kitchen bigger. Ms. Sargent said the small building is a shed for garden equipment.

Chair Lally opened the public hearing. Seeing no one else come forward wishing to speak, he asked for a motion to close the public hearing.

**Commissioner Norton moved, seconded by Commissioner Hennes, to approve close the public hearing.**

**AYES 7**  
**NAYES 0**

**Commissioner Norton moved, seconded by Commissioner McManus, to recommend approval of the critical area permit based on the findings outlined in the Staff Report.**

**AYES 7**  
**NAYES 0**

**PLANNING CASE #08-23**

**William Stein**  
**2465 Westview Terrace**  
**Wetlands Permit**

Mr. Gritman introduced the application for a wetlands permit. The applicant is proposing to install a fence within 100 feet of the wetlands on the property located at 2465 Westview Terrace. This property is a single family parcel, zoned R-1 and guided low density residential. This fence would be a black vinyl coated chain link fence that would be placed in the rear yard of the property. The applicant has suggested that they will maintain a strip of land of approximately 30 ft. and the property shall be left unfenced adjacent to the pond. The applicant is proposing to plant this area with native plantings, which will not be mowed.

Staff feels that the improvements meet the intent of the ordinance, having very minor impacts on the land and recommends approval as submitted.

Chair Lally asked about Item 1B and asked for clarification that the fence is only for the lot line to the rear of the home. Mr. Gritman said that was correct and the report contained some general ordinance standards not specific to this application.

William Stein, 2465 Westview Terrace, said he and his wife have 15-month old twins and would like to keep them contained in the yard and away from the pond. Mr. Stein said the fence will be 4-ft tall.

Commissioner McManus asked what kind of vegetation is along the water. Mr. Stein said there are some oak trees and some Kentucky Bluegrass, which the previous owners would mow up to the water's edge. Mr. Stein said he will mow only up to the point shown on the map, and may plant something more native in that area.

Chair Lally opened the public hearing. Seeing no one else come forward wishing to speak, he asked for a motion to close the public hearing.

**Commissioner Hennes moved, seconded by Commissioner Viksnins, to approve close the public hearing.**

**AYES 7**  
**NAYES 0**

**Commissioner Norton moved, seconded by Commissioner McManus, to recommend approval of the wetlands permit based on the findings and conditions as presented in the Staff Report.**

**AYES**            **7**  
**NAYES**           **0**

**PLANNING CASE #08-11**

**Mendota Mall Associates, LLP; RLK Inc., and Ken Henk**

**Trunk Highway 110 and Dodd Road**

**Wetlands Permit, Conditional Use Permit, Rezoning, Preliminary Plat, Preliminary PUD Review for Mendota Plaza Expansion**

Chair Lally asked Mr. Grittmann to reintroduce this application, noting that the commissioners have previous knowledge and have been presented with a large report.

Mr. Grittmann said this is a return of a case that the Planning Commission reviewed, and then went on to the City Council for further review. The Council then asked the Planning Commission to consider a number of comments that have been made previously as part of this process. In addition, Staff realized that through the review that one of the additional requirements was a conditional use permit for the grade and fill (there is a requirement in the ordinance where once the development exceeds 400 cubic yards of fill, a CUP is required).

Mr. Grittmann said he will attempt to skim through some of the highlights rather than touch on everything that has been specifically commented on.

Commissioner McManus said the Planning Commission has received this very large report, and the Planner's recommendation is that this application has not met the requirements that have been asked by the City Council. Commissioner McManus said it is known that the Planner's recommendation is to turn this application down, and asked if this needs to be further reviewed in great detail sections of this plan or should the Planning Commission wait until the applicant has met the requirements that were requested by the City Council. Chair Lally said the Planning Commission has some obligation to the public hearing and for asking the applicant for some additional information in regards to what has changed since April 22<sup>nd</sup>. Chair Lally said this case was before the Planning Commission on January 22, in which there were two hours of testimony, and then again on April 22<sup>nd</sup>, more than 2½ of testimony. This then went to the City Council on May 6 with continued recommendations – more than 25 items – to repair/change/comment on. Chair Lally said it is important to use this forum at this time to receive updates on those changes and encouraged both the City Planner and the applicant not to go over every detail of the plan because of the familiarity that already exists.

Mr. Grittmann said there was one additional piece of information that was received containing some review of the material of the wetland mitigation application and it was felt there was some interesting information that might help refine a couple of the issues. Mr. Grittmann said one of those issues relates to the east/west roadway, and based on comments from Staff and the applicant, as well as the city officials, this roadway is shown to connect from Dodd Road, winding through the edge of the parking lot between McDonalds and the Center, looping around the corner building and heading out to Highway 110. As part of the wetland application, the applicants submitted a "minimal impact site plan", which retains much of the wetland area on that site.

Mr. Grittmann said one of the Council's objectives on this project is to preserve as much of this wetland as possible and that has to do with the green space/impervious surface in the project. The PUD requires that at least 30% of green space be retained, having a maximum of 70% impervious surface (rooftops, driveways, etc). The preferred plan by the applicant shows a 31.5% green space, which would indicate that the minimum impact site plan would give the opportunity for even more green space, some being natural and some manicured.

Mr. Grittmann said one of the comments that have also been discussed at length is the setback of the buildings from Highway 110, having various ideas of what the appropriate setback might be. The setback of the McDonalds has been one of the guidelines that some people have used and the applicants want to make the point that the setbacks they have proposed for the two buildings would essentially average the setback at McDonalds. The applicant is complying with the intent to move the buildings back from Highway 110.

Mr. Grittmann said there has been quite a lot of discussion about trail connections and the County is planning for greenway and how this impacts Dodge Nature Center. The County has talked about a greenway that follows along the ditch/creek space, and this may be a difficult thing to accomplish even in the minimal impact design. Dodge Nature Center has said they don't want it on their property as this would increase the amount of activity on their property. Their goal is to decrease the level of activity along that edge. The plan does not show a greenway or a trail way through the site, except for a sidewalk connection through out the site. Mr. Grittmann said this plan most likely respects Dodge Nature Center's requests more than the County's plan.

Mr. Grittmann talked about the visibility of the rooftop equipment which Staff feels the applicant has provided a drawing that shows the view from the roadway and it appears that a foot or two of additional height in the screening would properly screen this equipment, and Staff recommends this be done.

Mr. Grittmann said as the plans have evolved, there has been quite a bit of work done to the façade of the existing center. The back portion has been treated quite differently with a series of wall combinations and landscaping and other improvements such as paint. These treatments have been applied to the north side of the building as well and it appears to Staff that those improvements are going in the direction that that Council and Planning Commission has asked for.

Mr. Grittmann said there has not been a lot of discussion on the signage and noted that the applicant has two existing signs, and proposing a third. The applicants are also proposing four monument signs along the back of the property. The proposed freestanding pylon sign along Highway 110 will be 35-ft. high, which is in excess of the city's code. The applicant is asking for PUD flexibility on this. Mr. Grittmann noted that there will be seven individual signs to match up with individual businesses, and PUD flexibility is also requested.

Mr. Grittmann referred to Item 14 of the Staff Report, and said Staff has spent some time walking through the individual applications that the developer would have to make if this were not being treated as a PUD, and found that there would be a need for a large number of variances (minimum lot width, frontage, front and side yard setbacks, parking, fencing, spacing). This gives the understanding of what the flexibility the PUD is going to cover. It is important for the City to remember that when doing a PUD, the point of it is will be that the City will be granting some flexibility and the expectation that the City has as part of that flexibility is that the City will be getting a project in return that is designed in a way superior of what the basic ordinance design would end up with. Mr. Grittmann said the tradeoff goes both ways – the applicant gets some flexibility and greater utilization of their site and the City ends up with a project that is something beyond what the ordinance standards would require.

Mr. Grittmann said there have been discussions on the clustering of buildings over time. In looking back over the comments made by the Council and the Planning Commission, it appears to Staff that the clustering of buildings does not mean a pod of buildings but means more of a design style that is less suburban in character, buildings that are closer together and have less roadways as is in the style that The Village was designed to look like a traditional village (urban) layout, rather than the suburban layout which is characterized by buildings that are separated by parking lots where parking is out in front and separates the drive from the roadway and buildings. Mr. Grittmann said he is not sure that it is clear what is meant by the clustering of buildings.

Commissioner McManus asked Mr. Grittmann for his definition of the creek/wetland. Mr. Grittmann said it is his opinion that this is definitely a wetland, regardless of what other words are used to describe that feature. It meets the definition of a wetland. Any impact of that wetland requires a wetland permit and going through the process of wetland alteration mitigating. Commissioner McManus asked if this was just runoff that creates this wetland, or is there some source of water in addition to runoff. Mr. Grittmann said the City Engineer may have a better answer as he does not want to label this with un-technical terms. Commissioner McManus asked if the runoff is sufficient enough to have a natural pond. City Engineer Ryan Ruzak said this is the main outlet from the Friendly Hills Marsh and the whole southeastern Mendota Heights. This has a flow of 340 cubic feet per second which is a small stream during rain events. Mr. Ruzak said there is a 72-in. outlet under Highway 110 which is sized to handle the flow from that entity. Commissioner McManus said the planners from the project have indicated that the no impact site plan and they way they have attempted to do it to make it work actually creates two sites instead of one site and that these sites are not easily accessible. Mr. Grittmann said the no impact site plan was a part of their wetland conservation permit process, and it is true that if there is no impact to this wetland, it does put the site into a northeast corner and a larger southwest corner and the only way to connects them will have some impact on the wetlands.

Commissioner McManus asked Mr. Grittmann if he or the developer had discussions on compromise issues which protect the wetlands and connect these two sites. Mr. Grittmann said that has been illustrated by the site plan they submitted as part of the wetland permit application and the minimal impact plan, which provides a connection and impacts the wetland in some minor way because it will require some of the water to run through culverts and some of the wetland area will be impacted by the roadway.

Commissioner McManus asked if this modest impact is one which both the Planner and the developer thinks can work or is this merely a throw away. Commissioner McManus said he is under the opinion that the developer does not want to do this. Mr. Grittman said he is sure they don't, and that the developer has identified their existing plan as their preferred site. Mr. Grittman said it is his opinion that their preferred site is better because it preserves more of that natural green area which could be an asset of the site, and the loss of one building is relatively modest cost. Mr. Grittman said if the overall goal is to have an urban village style design where there is a cluster of buildings; both of the designs that were submitted are more suburban design. Mr. Grittman said it is his opinion that if city chooses between one suburban shopping center design and another, the minimal impact plan appears to be superior, but one might say that neither of them really meet what the City was hoping to see in the long range for this site.

Commissioner McManus said he would hope that there be more opportunity for more creativity in that and somebody will exercise it. Mr. Grittman said there very well may be in the minimal impact plan as he does not believe anybody on the city side has analyzed this to be massaged to become a better project. Commissioner McManus said he views their comments and documents to be sale documents rather than a compromise and that is disappointing to him.

Commissioner McManus asked if the County has made any comments on the wetlands and trails. Mr. Grittman said the County had submitted some materials previously related to the greenway trail idea that they have supported. Mr. Grittman said he is unsure of any further comments received at this point. Commissioner McManus said he hopes there will be more comments from the County instead of having them submit a letter, throwing everyone into turmoil and then just back away.

Chair Lally said there were eight items that Mr. Grittman outlined (wetland, setback from Highway 110, trail connection, Walgreen's, changes in exterior of existing building, signs, PUD issues vs. variances and ideas related to variances, and the clustering of buildings).

Chair Lally suggested that, since there are so many topics, the Commission carry on the discussion of wetlands to see if there are any other questions that other commissioners might have, and then work through the rest of the list.

Commissioner Norton said there seems to be a difference of opinion regarding 1A of the Staff Report, and asked Mr. Grittman to respond to the applicant's remarks that a median would cause traffic to go faster. Mr. Grittman it is Staff's position that a median (by the Dodd Road access) would actually slow down traffic as the drive lanes are actually smaller.

Commissioner Norton asked if the road width will be changed. Mr. Grittman said the road width has been widened from the original plan (26-ft instead of 24-ft).

Commissioner Norton asked about the hours of operation of the Walgreen's store, and could the hours be limited on all the businesses that are in operation in that particular sub development. Mr. Grittman said in a PUD, the City has a lot of discretion to negotiate hours of operation and may want to have some substantive reason as to why one store needs to be closed sooner than another.

Commissioner Norton asked at what point in time would the City want to require that sort of application. Mr. Grittman said this would have to be reserved as an issue now and will need more study and have some discussions with the applicants.

Commissioner Povolny asked Mr. Grittman what he feels that applicant has not accomplished to meet the requests of the City. Mr. Grittman said he believes it goes to the whole character of the center/project about whether or not this will be transformed from a suburban strip mall type shopping center to an urban village, or whether this will be the best suburban shopping center that can be done. Mr. Grittman said he believes the applicant is trying to make this the best suburban shopping center they can, and they have not stepped over the line to say they will do an urban style development.

Commissioner Povolny asked Mr. Grittman how he, as a Planner, would recommend doing this. This is a different animal, a different piece of property than The Village. Mr. Grittman said it would be a very dramatic change to do that. Commissioner Povolny said they way the applicant has laid this out seems to be some type of a trend of what other communities are doing, and this is just a different concept. Mr. Grittman said he believes that if the applicant would transform this into that urban mixed use village concept rather than a higher class suburban, the density would be greater with much less surface parking and more concentration of commercial space. Commissioner Povolny said he thinks this property would be one kind of market, where The Village would be another kind of market. Residents would then have two options to do business. Mr. Grittman said if the city decides that, from a goal standpoint, this option is attractive there is no problem with that idea. Mr. Grittman said he believes the discussion has been that the desire is to have this development look more like the village look. Mr. Grittman said he also believes that this project does not seem to be going in that direction, and if using what is on the site, and trying to enhance that from the

suburban shopping mall standpoint, that might be a very fine goal to have. Mr. Grittmann said the City needs to decide which way they want to go.

Commissioner Povolny asked if the County was okay with this project other than the creek issue. Mr. Grittmann said he does not believe there are a lot of issues with the County. The County's plans are always generalized plans, short of the fact the County might go out and acquire some property for a particular project. When they put together a plan, they look at natural resources and determine what they would like to see. The County leaves the decision up to the city to achieve those goals, and in this case, the County has not been in contact with the Dodge Nature Center regarding the edge of their property. Mr. Grittmann said he believes the County has an idea of what they would like to see in a perfect world.

Commissioner Viksnins asked for a chronological update on the process from April 22<sup>nd</sup>. Mr. Grittmann said the applicants have been working on their plan, meeting with Staff a couple of times, and is not sure there is an active committee anymore. It seems communication has been back and forth between Staff and the applicants to get a package together and figure out how to present that package in a way it can be consumed in a meeting.

Commissioner Viksnins asked Mr. Grittmann if he has been involved in that process. Mr. Grittmann said he has been at some of the meetings, not all of them.

Commissioner Viksnins said the Planner's Report says there are too many significant issues outstanding and asked if there is some prioritization of those issues. Mr. Grittmann said Staff has been trying to work on taking Council comments and Planning Commission comments from previous reviews, and obviously the applicants have been privy to formal comment as well, to try to package them in a way that the groups can better prioritize and talk about these issues. Mr. Grittmann said there are some issues that he would not say are the most critical, but have evolved into some critical issues for certain members of the Council, and they have popped out of the comments over time. Mr. Grittmann said he believes that the most important goal is to determine what type of development (suburban or urban) is desired. Mr. Grittmann said a lot of the comments talk about the inadequacies of the plans from the standpoint that the developer is not giving a mixed use urban village design, but almost none of the efforts that have been made in terms of trying to design something for this site have really been toward that end, but that the developer is continuing to propose plans that apply to a suburban center. That is the applicant's objectives and that is what they are going to pursue.

Commissioner Viksnins asked Mr. Grittmann how clearly does he believe the City Council favor the urban village concept. Mr. Grittmann said he does not attend the Council meetings, and does not believe he can answer that question very well.

Mr. Grittmann said the second issue would be what to do with the creek; is everyone in agreement with covering it up, putting a pipe through and dealing with wetland mitigation requirements. Or is this a major goal of the city to keep that as an environmental natural asset? This issue will greatly impact the utility of the rest of the land.

Commissioner Viksnins asked how important the trail is. Mr. Grittmann said it would be his opinion that this is not important as the transportation aspects of the trail issues are handled by either aspects of this design; and people will get through the site via sidewalks. Mr. Grittmann said unless a very large greenway is kept through that space, and have a greenway trail along that waterway, he would not see this as a major concern on the City's part.

Commissioner Hennes asked how crucial is sign off from the Army Corps of Engineers. Mr. Ruzak said the City Council is the governing unit on this. Commissioner Hennes referred to the Planner Report where it talks about the Army Corps of Engineers requirement. Mr. Ruzak said the State Board of Water and Soil Resources and Dakota County Soil and Water Conservation District will all comment on the application in an advisory capacity.

Commissioner Hennes asked if there are any industry standards that are followed when talking about the total concept of averaging setbacks. Mr. Grittmann said he does not believe there are any industry standards and this is more a matter of what the City is trying to achieve with these setbacks. Commissioner Hennes asked Mr. Grittmann if he is comfortable with the proposed setbacks are. Mr. Grittmann said he believes they provide a very large and more than adequate green space separation from the highway and the buildings. The only intrusion into that area is a drive-thru loop. Mr. Grittmann said he would personally like to see great architecture there as the front door of the project and not have something that needs to be buffered with a whole bunch of planting.

Commissioner Hennes said given the limitations of the site, and the fact there is a McDonalds and a large existing building, he does not believe this would give way to an urban village, and people will be spinning on this for another 5 years, while having this site go downhill. Commissioner Hennes said he believes the City needs to go with what they've got here and try to make the most of it.

Commissioner Field complimented Staff on their report, doing an excellent job of trying to summarize the issues, particularly the PUD options vs. the traditional zoning models. This was helpful in putting things into perspective.

Commissioner Field thanked the applicant for their voluminous submittal and as he may not agree with them, they have provided a good deal of information. Commissioner Field also thanked Mr. Grittmann for his analysis of whether this is a suburban setting or an urban setting.

Chair Lally asked if there were any more questions relating to the wetlands. No one had any additional questions on the wetlands.

Chair Lally asked about retaining walls between the developed space and the protected space, and would those walls have any special requirements with their close proximity to the wetlands. Mr. Grittmann said this would require a wetlands permit because this would be within 100 feet of the wetland and the point of this would be that most of the improvement would stay out of the wetlands itself and there would be two different issues going on.

Chair Lally asked what impact these walls would have on the wetland. Mr. Grittmann said they will encroach into the buffer and it is a matter of how to manage the storm water above the wall, how to manage construction, and what happens between the edge of the wall and the edge of the wetland. The minimal impact here is intended to minimize the actual impact to the wetland. Chair Lally said if the idea is to preserve the wetland, the habitat, and the flow of the water, is the habitat really protected that much from the retaining walls, and is it visibly attractive? Mr. Grittmann said it will certainly be different than the existing natural large swale, so there will be some habitat that will be lost. This is not a "no impact" situation.

Chair Lally asked if there are questions pertaining to the east-west roadway.

Commissioner Povolny asked how much was the road widened? Mr. Grittmann said it went from 24-ft to 26-ft.

Chair Lally said the Council requested a median but there are still no plans for a median. Mr. Grittmann said this was actually a staff suggestion. Mr. Grittmann said the applicant compromised with placing medians at the access from Highway 110 and at the access from Dodd Road.

Commissioner Norton asked if there are other traffic calming techniques that can be used. Mr. Grittmann said they would include alternative paving in crosswalk areas, rumble effect cobblestone, and curving.

Chair Lally said he did not receive the McDonalds letter in his packet and asked for confirmation that they are fine with the roadways. Mr. Grittmann said he believes this has been taken care of, using McDonald's corporate design to work around this.

Chair Lally asked for confirmation that McDonalds and the BP gas station are not part of this plan. Mr. Grittmann said that is correct.

Mr. Sedlacek said Staff received a letter from McDonalds but did not get a copy of that letter in the packets.

Chair Lally said the BP has no objections to the development, but will lose 10 or more spaces and asked where those cars will go. Mr. Grittmann said he does not know the answer to that.

Chair Lally said there is some discussion in the Planners Report that talks about MnDOT's approval of the access, and asked if there were any questions regarding acceleration lanes and other outstanding MnDOT approvals. Mr. Grittmann said MnDOT has been relatively clear on what their requirements will be. Chair Lally said the right of way is significant enough that the turn lane will not need additional right of way. Mr. Grittmann said that was correct.

Chair Lally asked if there are any questions regarding the setbacks.

Commissioner Field said the argument is that the setbacks are being averaged. Chair Lally said any calculation he has seen measures from the right of way to the developed part of the property. Commissioner Field said the average is 10 feet difference between the two buildings.

Chair Lally said the setbacks were one of the subjects when talking about PUD issues and the flexibility on those setbacks. Chair Lally said while the City can agree to more narrow lot sizes and shorter distances, the City could also look for some compromise from the developer.

Chair Lally asked if there are any questions relating to the trail connections.

Commissioner Povolny said he agrees that there are enough sidewalks and pedestrian movement indicated in the plans, and does not believe this should be an issue.

Commissioner McManus said he would like to hear what the trail people would say in response to those comments as to whether joggers, walkers, and bicyclists would want to go through this area on sidewalks and whether this would be compatible within the shopping center, or should be placed outside the center.

Mr. Sedlacek said this plan was reviewed by the Park Commission and the consensus was that this would be a trail to nowhere until there is a better crossing over Highway 110. They did not feel strongly that a lot of residents would be coming up from the Friendly Hills area into this site to pass through this site, and were ok with the sidewalks as is presented.

Commissioner McManus said he would only comment that should they ever consider a trail, there better be one there, and there was also some talk about a pedestrian bridge over Highway 110. There should be some more discussion on this.

Commissioner Hennes asked if the trail issue can be resolved once both sides are redeveloped as people can now walk west along South Plaza Drive and then north along Dodd Road, and have that be the trail instead of going through the middle of the site or going along the MnDOT transportation easement. Mr. Gritman said that was the intent of their conversation as there is public access around the perimeter of the site, although not direct. Commissioner Hennes asked if this would be superior than using a patchwork quilt through the site. Mr. Gritman said the system would work fine.

Commissioner Field said going around the outside is probably a better use than funneling the trails through the center of the development, and while he respects the input from Mr. Singer, he believes that was a bigger concept than what this proposal could take on at this time. Given the parameter and sidewalks, he does not have issue with this point.

Chair Lally said it seems there is a solution on the Walgreen's rooftop screening but questions whether the Walgreen's would be agreeable to this.

Chair Lally said the City Council make it clear at their May 6<sup>th</sup> meeting that they did not want a 24-hour establishment in this project, and would assume this restriction will be in the development agreement. Commissioner Hennes said there is language in the lease agreement that Walgreen's would reserve the right to be open 24 hours. Chair Lally said it is his understanding that the City would have a number of controls as a PUD and it would be up to the applicant and Walgreen's to amend their lease agreement. Commissioner Hennes said that would be a private matter.

Commissioner McManus said this is a small city of about 12,000, and are proposing to have within several hundred feet two large stores (Walgreen's and Snyder's) and asked what will happen when one store dominates the other, taking that other store out of business, and having the City end up with a big vacant building. Chair Lally said this is a business decision that both developers need to consider.

Commissioner Field said the Planning Commission is not an economic planner. Commissioner McManus said he agrees, but does the PUD situation permit the City to say they don't think these two things will not work and they don't want a big vacant building. Mr. Gritman said some of the discussion in the PUD ordinance talks about market evidence that the project is going to succeed but it does not talk about market evidence that projects in the entire city that this project not will succeed as a result of this, and there is no language prohibiting the same type of business across the road.

Chair Lally referred to the exterior of the existing building and said there were some suggestions made by Council that were not addressed. Commissioner McManus said he is curious to know in some detail how they have enhanced that back of that building.

Commissioner Povolny said the plans show changes to the back of the building. Mr. Gritman said the applicant has made improvements to the rear of the building both from an architectural standpoint and a landscape standpoint. Commissioner Norton said Page 10 of the Planners Report states that "Staff's past concerns regarding the dominating concrete block façade have been addressed and a variety of materials and color are proposed on the south wall of the existing building". Commissioner McManus asked what the mixture will be back there, are they going to paint 90% of it and put in a couple of stone pilasters. Commissioner Povolny said Section B1, Section 5 shows the front matches the back. Commissioner McManus said he believes he is missing that page.

Chair Lally asked for questions on the signage. Chair Lally said this is the first time he remembers that there was any discussion on signage. Chair Lally said there are two existing signs, both exceeding the city's maximum, and asked if there is some agreement that permits it? Mr. Grittmann said the signs that are there were permitted through whatever process occurred at the time of the construction. These are not illegal signs but they do exceed the existing code requirements. It was noted in the report that there was some building signage that had received a separate variance in 2003 that was part of the building signage package on the existing strip center. Mr. Grittmann said there has not been any discussion on signage up to now, and asked that everyone spend some time looking at the proposed signage, realizing that this is the signage proposed for the site and if a recommendation for approval goes forward, it would be good to discuss whether the signs meet expectations.

Chair Lally asked if it would be appropriate to recommend different sign configurations in regards to the overall PUD approval. Mr. Grittmann said this would be the Commissioner's purview to do so. Chair Lally asked if the four signs are proposed for the entrances. Mr. Grittmann said there would be 4 monument signs along South Plaza Drive for the three proposed buildings.

Chair Lally asked if there are any questions on the PUD Concept vs. the Traditional Process. There were no further questions.

Chair Lally asked if there were questions regarding the clustering of buildings and design style, and if there is an idea to have the goal for an urban village / town like theme, or if there is some tolerance for a suburban style mall, which the City has not encouraged in the recent past. There were no questions.

Ken Henk, Director of Development and Construction, Paster Enterprises, said they have been before the Planning Commission, having some marathon sessions. Mr. Henk said Mr. Grittmann put together a fine report and touched all the issues. Paster Enterprises have been meeting with Staff, in which 25 issues were addressed, ending up with 35 sub issues, which were all put together in a binder.

Mr. Henk said the Planner has recommended either denial, or approval with 33 conditions. Of those 33 conditions, Mr. Henk said he can only see one that they can't live with, and that is the County's greenway through the property. Mr. Henk said all the Phase I buildings are of the same architectural design incorporating a magnitude of quality materials utilizing a cohesive manner. Mr. Henk said that Mr. Grittmann agrees with that in his report. Mr. Henk said he had the architect put this model together showing the south side and the east side remodels. Chair Lally said these improvements are not different from the April 22<sup>nd</sup> proposal. Mr. Henk said they did not have the EFIS in the loading dock areas. Commissioner McManus said this is primarily a painted block. Mr. Henk said that would be behind the screened areas, and this is a rugged area where trucks are in and out and it is not appropriate to spend money on masonry materials that could be hidden.

Commissioner Povolny asked what materials will be on the doctor's office. Mr. Henk said this will be a masonry material with black metal awnings and brick pilasters with decorative lighting. Mr. Henk said the dock areas only will be painted block; all other areas will look like the other new buildings.

Mr. Henk reviewed the parking lots, saying no lot will contain more than 70 parking stalls, that size being similar to City Hall's parking lot, with shorter, aluminum lighting that will be pedestrian friendly and extensive irrigated landscaping. There will be 350 trees added.

Mr. Henk said the proposed new buildings along Highway 110 will be positioned the same distance back as McDonalds, one being slight different to accommodate a wrap around patio, one building moved 10 feet to the south and the other building moved 54 feet to the south. Mr. Henk said with the B-1 and B-2 zoning, the front lot requirement is 30 feet and the applicant is about 130 feet back.

Mr. Henk said there are two existing pylon signs and the plan is to change the base and the top of those structures to match the architecture of the building. A new sign will also be placed along Highway 110. Mr. Henk said the City requirement is 25 feet. The applicant is proposing 35 feet as the sign will sit about 5 feet below the existing grade. Mr. Henk said the ordinance allows for 7 signs, and explained how the monument signs will look.

Chair Lally asked what the height is of the current signs. Mr. Henk said one is 73 ft (on Highway 110) and the other is 30 feet (on Dodd Rd). Chair Lally asked what the comfort level is to have the signs lower. Mr. Henk said he is not sure of the history of the current signage and the approval process back then, and would like to leave it as is because it is important as to the distance it is at.

Commissioner Povolny asked if anyone knew when this sign was approved. Mr. Henk said it was approved as part of a PUD and the applicant is now asking what flexibility there might be.

Mr. Henk said they have worked closely to secure letters from adjacent property owners, such as McDonalds, BP, Dodge Nature Center, and the CDA and these letters were submitted to the City. Mr. Henk said he believes the developers agreement, which needs to be completed before final approval can incorporate a lot of the main city's interests as far as uses, hours of operations, etc. This would be a proper document to address these issues.

Mr. Henk said the mixed use PUD is balanced with 100,000 sq. ft. of retail and 100,000 sq. ft. of residential, with 50,000 sq. ft. of office space. This gives a floor area ratio of .25, and per the ordinance, they are allowed .5 floor area ratio. The applicant does not feel that the market does not dictate that type of density on this type of development, nor do they feel that more than 100,000 of retail is appropriate, as is the same for residential. Mr. Henk said this development is funded entirely by private funds. To the applicant's knowledge, there has been no opposition to this development from Mendota Heights residents over the past several years. Chair Lally said other than the Council members and Planning Commission members on April 22<sup>nd</sup> and May 6<sup>th</sup>. Mr. Henk said he is only talking about residents coming up to the podium at these meetings.

Mr. Henk said they have listened to the comments of Staff and the Council and the Planning Commission throughout this application process and have considered them all, and have responded to many of these concerns. There are certain items they are unable to change. Mr. Henk said they are not proposing an urban village and does not know that there was ever any discussed with anyone with the City that is has to be an urban village. The ordinance calls for a mixed use PUD as allowing the combination of R-2, R-3, B-1 and B-2 zoning, and does not give a lot of parameters on style, density, how much residential vs. how much commercial, and it just sort of a general statement that allows the combination of those four zoning designations. Mr. Henk said this is a proposal for a mixed use suburban development incorporating both new and the existing buildings. Mr. Henk said he believes working around the existing building allows them to add additional dollars onto the new structures, keeping 46,000 of an existing building.

Mr. Henk said they have looked at ways, from day one, of utilizing the man-made ditch and the retention pond, and referred to a number of photos that go back to 1937 that showed before 1964 that this is a low swale that allows water to pass through and was channelized. That channel was cut in 1964 and in subsequent pictures, cotton wood and other vegetation has grown around it.

Commissioner McManus asked Mr. Henk what he would do if the City came and said they would be willing to compromise on the wetland. Commission McManus asked if the applicant could find a creative way to make this work for both parties. For instance, the applicant is adding a lot more impervious surface which will give more runoff into the pond. Mr. Henk said with the impervious surfaces, the existing retention pond that was put in is filled with cattails. Commissioner McManus asked if it was clear to the applicant that this is a wetland and that the City Council and the Planning Commission would like the applicant to take a creative look at that wetland or is that out of the question. Mr. Henk said it has been their first thought from day one that there is a water course coming through the property and there could be ways to put a trail along it, put buildings up against it, and when they worked on the topography of this, they found it to be very steep (10-1 slope) and is not usable to allow water to run through this and it is not a public amenity. This is on private property, and anyone going by it would be trespassing. Mr. Henk said because of the grade, and the lowness of the area, they would be raising the grade, and putting in large concrete walls to channelize. To do all this, they may have to purchase wetland credits. Commissioner McManus said they might not have to do that, maybe they will be able to get the permission to put that into a pipe. Mr. Henk said that was correct, and their thought process is asking whether they want to go through the expense of putting in a concrete pipe which would be very expensive. And do they want to pay \$80,000 to mitigate this and purchase wetlands in other areas of the county. Mr. Henk said they would rather put their money elsewhere, but the topography would not allow them to put this anywhere else. Commissioner McManus said he recalls they have things called bulldozers and that it is possible to mitigate the very steep banks and make them softer, and to perhaps plant things there, and has that been considered. Mr. Henk said the area that would take up, on a 3-1 slope at 15-ft, they would have to go back 45-ft on each side that would create that 100-ft green belt through the property and it does not make it an economically feasible development. Mr. Henk said they have concluded that they are stuck mitigating the wetland and forcing that into a pipe system.

Mr. Henk said he found only one reference in the entire zoning ordinance that talked about clustering, and found it deals in PUD's with residential development, and talks about PUD's being a campus and we can all talk for hours and hours on what a campus is. Even a college campus is different from one to the next, and there is a basic philosophical difference on urban campus clustering versus a more suburban take on it, which can be miles apart. With this development, they are required to put in 1,037 parking spaces; they are proposing that be reduced to 847 (20% cut) to create more green area. They believe 5 space per 1,000 sq. ft. is more appropriate than the 7 spaces per 1,000 sq. ft.

Mr. Henk said the County is suggesting they put in a 100- ft. width strip of green space in the development. Mr. Henk said that is just not economically feasible. On top of that, the master conceptual plan that the County has put together showed the area by McDonalds has been nixed down and he does not believe McDonalds would allow this, and therefore the greenway would not

work. Mr. Henk said they have sat down with Al Singer from the County to work through this, and they will be working through park dedication fees to add the bike trail along South Plaza Drive. There is not one there now, only the one along Dodd Road, and this will connect the trail to the CDA housing trail.

Mr. Henk said they have been a good corporate citizen in the community over the years, hosting numerous events. The Pastors have been long time residents, and they feel they are proposing a quality development. Mr. Henk said they agree with 32 of the 33 conditions and took questions from the commission.

Commissioner Field said he has no questions at this point, and feels the applicant has taken their position. He said he may disagree with them, and has nothing new at this time.

Commissioner Hennes asked what the one condition was that they do not agree with. Mr. Henk said it was the condition #25, which was for the 100-ft greenway through the property. Commissioner Hennes asked Mr. Henk if he honestly believes that the rest of the conditions are resolvable. Mr. Henk said he does.

Commissioner Hennes said when he looks at the site, he wonders how realistic the timeframe is and asked the applicant if there was any more certainty today than there was previously. Mr. Henk said they are looking at the first phase completion in late '09, early '10. Mr. Henk said there have been a number of serious discussions with housing developers, and market conditions shows 2011 – 2012 could be the earliest to start. Mr. Henk referred to a schedule sheet in the packet.

Commissioner Viksnins asked what changes have taken place since the last proposal. It is his understanding that there are no changes to the creek, and that the changes would be economically unfeasible. Mr. Henk said it is also unfeasible physically with the contours and grades. Commissioner Viksnins said the bridge has also been ruled out on the minimal impact proposal. Mr. Henk said that is because how it breaks up the two segments, and they lose a building. By moving the two buildings off Highway 110, they are already reducing the one building and giving up a value of about \$750,000.

Commissioner Viksnins asked if it was clear to the applicant that the City Council has made that a significant issue? Mr. Henk said he thinks they would like to see it preserved, and the applicant would not mind it being preserved either, but it can't physically remain because of the topography of the property. Commissioner Viksnins asked if it were clear that this could be a deal-breaking issue and the Council may take the view that they will look for a developer to figure out how to do it. Mr. Henk said they understand that as well.

Commissioner Viksnins asked if there has been any change with regards to the clustering, putting aside the grandiose concept of the urban vs. suburban. Are these buildings closer now than they were before. Mr. Henk said by moving the two buildings further away from Highway 110, the buildings are closer. Commissioner Viksnins asked if there have been any other clustering of buildings other than the two restaurants. Mr. Henk said there have not, and said they have been dealing with a 50,000 sq. ft. building in the center of the property, as well as curb cuts and requirements with Walgreen's for parking, and working with residential developers to juggle that portion.

Commissioner Viksnins asked if it was clear that the City Council has made clustering a significant issue. Mr. Henk said he has not had many discussions up until this time on whether this should be an urban development or look exactly like across the street. Commissioner Viksnins said the applicant has been told repeatedly by the City Council and the Planning Commission that they want this project contracted so that there is less parking, and the buildings are closer together allowing people to walk from one place to another. Commissioner Viksnins asked Mr. Henk if he understands that this has been a stated goal of this city in terms of this development. Mr. Henk said they are reducing the parking by 20%. Commissioner Viksnins said his question is "do you understand that this has always been a major goal of this project", and will use the urban village shorthand because that is what people are using, and asked if Mr. Henk understands that this is what the city is trying to accomplish for this site. Mr. Henk said he really does not know that they have heard that. Commissioner Viksnins said he, for one, will tell Mr. Henk that this could also be another deal breaker. Mr. Henk said he does understand that, and he pointed out that may be three or four deal breaking issues – urban village clustering, trying to deal with the ditch through the property, and the county greenway. Mr. Henk said they need to get over the wetlands hurdle.

Commissioner Viksnins said he believes the applicant understands the importance of his questions.

Chair Lally said one of the comments that has been brought up by both the Council and the Planning Commission was that the creek was an amenity, but Mr. Henk just said this was not true. Mr. Henk said their position is that the creek is not an amenity because it was their first thought on how to utilize this, and they could not find a solution because of the amount of grade changes. Mr. Henk said they will be mitigating man made wetlands. Chair Lally said the wetlands act the same whether it be man made or

natural. Mr. Henk said that was correct, and still does not see this as a public amenity. Chair Lally said the wetland rules apply to wetlands on private and public property. Mr. Henk said that was correct. Chair Lally said the proposal is to remove over 40,000 sq. ft. in the development. Mr. Henk said 20,000 sq. ft. is the existing retention pond that was put in during the 1970's with the original development and the other 20,000 is the linear ditch, and there is about 1,000 ft. that was identified somewhere else on the property holds some water and cattails. Primarily, it is the existing retention pond that will be replaced with a new one and the channel, which has been replaced with the 90,000 elsewhere in the county.

Commissioner Povolny said he has no further questions.

Commissioner Norton asked for discussion on the exterior elevations of the building and for clarification of what materials are on what spots, primarily on the existing building. Mr. Henk reviewed those elevations and materials.

Commissioner Norton asked for discussion on proof of parking and whether it was considered by the development team. Mr. Henk said the whole idea of proof of parking is to allow areas to add future parking should it be needed, and leave those areas green for now. Mr. Henk said this has already been reduced by 20%. The 5 parking spaces per 1,000 sq. ft. is now what the retail tenants are looking for. Parking for the restaurant spaces is at 12 per 1,000. Mr. Henk said a lot of national chains look for a minimum of 140 parking spaces no matter what, and they are not close to that. Fifteen spaces per 1,000 seems to be the standard for restaurants.

Commissioner Norton said if the hours of operations are limited for tenants, will that be a sticking point for Walgreen's? Mr. Henk said they are not planning to be open 24 hours at this point, but they may want to have that option stated in the lease agreement. City ordinances will supercede the lease and Walgreen's will have to follow ordinances. Commissioner Norton thanked Mr. Henk for his materials and answering a number of questions raised. Commissioner Norton said he would be remiss in not stating that in the past, he has expressed an interest in having the buildings being clustered more, and he understands the applicant's position in regards to that, and in previous meetings, it was explained why clustering of the buildings was not in the interest of the development. Commissioner Norton said this has been an issue raised in the past.

Commissioner McManus said he does not believe he has any more questions, and said the applicants have worked hard. Commissioner McManus said the applicant is working harder to sell this than working to compromise. Commissioner McManus said the architecture looks good, and he remembers he was critical of it before. Commissioner McManus said he believes some clustering could occur if the applicant is willing, and would not be losing parking. Commissioner McManus said he wants the applicant to remember that the City has a ditch, and that ditch is only 40 years old. That ditch has been man made, but it's still the City's ditch. Commissioner McManus said if the City wants this ditch, they are going to keep it.

Commissioner Norton said asked if the masonry products will be a face brick or full masonry brick. Mr. Henk said it is a full cap brick.

Commissioner Norton said the idea of the painted block is something that some people have some issues with, and he may be one of them, not knowing how this will look in the end and how it will weather. Commissioner Norton asked if other products have been explored, maybe the EFIS or some sort of thin brick to apply to that area. Mr. Henk said this would be too fragile a material for the heavy use around the loading docks. Commissioner Norton said there are areas on the east side of the building and the south side of the building that would not be a loading dock. Mr. Henk said he would not agree with that as everything on the south where the painting is being proposed is the loading area. Chair Lally asked for confirmation that only the loading dock areas will be painted block. Mr. Henk said that was correct, except that some portions on the east side will be painted but will have heavy landscaping in front of it.

Chair Lally opened the public hearing.

Edward Paster, Chairman and CEO Paster Enterprises, said a lot of questions were asked tonight which Howard and Ken could not answer because they did not have the history. Mr. Paster said he will address the ones he can remember. Mr. Paster said he moved into Mendota Heights 38 years ago and raised his family here. Mr. Paster said he is the guy that painted the building, which was a big improvement from what was there before. Mr. Paster said before he purchased the shopping center, it was all concrete block, front, back and sides, with an aluminum and glass enclosure on the side walk. Mr. Paster had that removed and had two architects competing on plans to remodel this shopping center, which was originally built by Shiehy and Company.

Mr. Paster gave a brief history on the tenants that occupied the shopping center. Mr. Paster said the current design is a good design by the standards of thirty years ago, and was a big improvement of what was there. Mr. Paster said the original design was

not very good consisting of concrete break off block. At that time, the pylon sign was put up and the reason it was so tall is because of the shopping center being down so low.

Mr. Paster said his company has worked really hard over the years to bring it up to the standards of today, recognizing that everything has a time and a place. This shopping center had its time, and now it is time to do something new. Mr. Paster said they are not the people across the street, and not asking for any money from the city, and not asking for any roads and sidewalks to be built, and not asking for public areas for concerts. Mr. Paster said the development across the street is very beautiful, and remember when the City Council was fighting with the owners of the Sand Hills there, and what a terrible, ugly, disgusting thing it was across the street. It is magnificent what the City has there today.

Mr. Paster said the City paid for it, the citizens contributed to it, and he is not asking for anything other than the City to allow them to go ahead and get into the next phase of the development. Mr. Paster said he is not going to build the village, but wants to just fix up an old shopping center and spending a lot of money to get it to a state that will be acceptable to the public, to their customers, and to their tenants. Mr. Paster said there are certain rules that they play by, and are dictated by their tenants and customers. Mr. Paster said it is their job to respond to what those people say the want. Mr. Paster said it is his customers to vote with their feet and their dollars; if they give the customers what they want, those customers will come back with their dollars. Mr. Paster said if they don't, the customers will go somewhere else. Mr. Paster said the shopping center is not a static building, it's a living, breathing entity that responds to what the people want.

Mr. Paster said they have clustered their buildings as appropriate, and if people don't have a place to park, they will not shop. Mr. Paster said he does not see much issue with the two pharmacies being in close proximity. Mr. Paster said he is asking for approval of what has been presented and they have spent a lot of money on the best experts in the field. Mr. Paster said he loves being in the area, and wants to remain in the area.

Mr. Paster said he originally wanted a straight line shopping center, not the clustering that Mr. Henk has persuaded him to agree to. Mr. Paster said there were a lot of arguments on this, but he is giving way to new trends.

Chair Lally said he does not believe anyone doubts Mr. Paster's love for Mendota Heights with the amount of work he has put into this mall over the last thirty years, but disagrees with Mr. Paster's comments that the applicant is not asking for anything. Chair Lally said the applicant is asking for a wetlands permit, PUD approval, and a change in zoning, amongst other things. Chair Lally said he is seeing the same, or very similar plan coming back repeatedly after numerous reviews and comments from the City Council and the Planning Commission, as well as City Staff. Chair Lally said the process will continue until the City Council and Planning Commission and Staff are comfortable that their concerns are being met.

Chair Lally said he never sees the parking lot full. Mr. Paster said that is because they have good tenants, but not enough of them now. Chair Lally said a portion of the parking lot is also rented to the flower market. Chair Lally said if there were a planned approach to parking where some of it remained as grass and then as needed would be converted, that may be something that the City Council has expressed a wish for. Having this approach will keep more green space until more parking is needed.

Mr. Paster said there is a lot of green space next door at the Dodge Nature Center and across the street at the golf course. Chair Lally said he understands that, and now a lot of that green space in on this property. Mr. Paster said he acknowledges Chair Lally's comments and thanked the Commission for listening. Mr. Paster said he would remind everybody that this is a suburban shopping center that is what they do. Mr. Paster said as part of the PUD, they are required to put in some housing, Mr. Paster said he did not want to do that, but they are doing so to comply, as they are doing the same with the office space. Mr. Paster said all he wanted to do is provide a shopping center with retail and service, and they have come a long way from the original plan to meet the request of the City.

Seeing no one else come forward wishing to speak, Chair Lally asked for a motion to close the public hearing.

**Commissioner Hennes moved, seconded by Commissioner Norton, to approve close the public hearing.**

**AYES           7**  
**NAYES         0**

**Commissioner Viksnins moved, seconded by Commissioner McManus, to recommend denial of the application based on the fact there are too many outstanding issues.**

### Further Discussion

Commissioner McManus asked how the process went into a PUD in the first place. The owner of the property could have asked for variances and probably would have gotten a great deal of what he wanted instead of going through this lengthy process of negotiating with the City. Mr. Grittman said in the land use plan, this property is guided mixed use PUD so the comprehensive plan called for a development on this site to be PUD. Secondly, the number of variances that would be required to do this would have needed hardships shown, which is usually a difficult thing to do.

Commissioner McManus said the Pastors could have been able to do some renovations to this building, noting some variances would possibly be denied. Commissioner McManus said if the City turns down the PUD, is there any other option or does everyone wait until circumstances change. Is it possible for the Pastors to simply renovate? Mr. Grittman said adding a building would require subdivision and back to be PUD design issue. Renovating the existing building would probably not require the PUD.

Commissioner Povolny said all of a sudden, everyone is sitting here saying that this is not what the City wants, and asked if there was a group of people that sat together to draw up plans that got to this point. Commissioner Povolny said the applicant came to City asking for a PUD, and then the City started asking for housing, office, restaurant, and now it is starting to look more like a village. Commissioner Povolny asked why the applicant did not start out that way, and is very confused about this whole process, and what the others want to see. Commissioner Hennes said he is confused as well, and that he likes this plan. Commissioner Povolny said he likes this plan a lot as well. Commissioner Hennes said his biggest concern is that there are 33 supposedly unresolved issues and that is why he is troubled in voting for this – he questions whether these 33 issues can be resolved, and there are more issues to come. Commissioner Hennes said the clustering is fine, and doesn't know how one would cluster any more than that. Commissioner Hennes said he has no problem losing the ditch, because he believes it is a ditch, and does not see how it is possible to make any improvements to the site with the expansion of the ditch. Commissioner Hennes said he also believes the trail can be workable by following what the applicant has suggested. Commissioner Hennes said he likes what was done with the landscaping, and overall there have been some improvements made. Commissioner Hennes said he believes that if this was truly developed as proposed, he will wish that the McDonalds site could look as good as this.

Commissioner Hennes said for the most part, he likes what is being proposed, acknowledging his concerns on the conditions and how long it will take to pull this all together.

Commissioner Povolny said the market will justify how fast it goes. If the City never lets this get built, the City will be looking at the same thing for along time. Somebody else can come in and do a different project, but everyone needs to remember that the Pastors are the ones that own it, and they are coming forward looking for make improvements.

Commissioner Hennes said he is also concerned that if this does not move forward in one fashion or another, it will just go down hill. It needs improvements now and will need more over the years.

Commissioner Povolny said if he owned it, and was planning on doing something with this, he would not put a lot of money into it until he was ready to do what he wants to do. Commissioner Povolny said he does not like the way it looks at all, but now the owners are here to do something about it, and they have accommodated some of the changes that they were asked to do. But to deny this, and keep what is currently there, the City will be looking at something at lost worse for a lot longer.

Chair Lally said there was reference in the Planner's Report of an October 22, 2007 meeting and an October 31, 2007 memo which set forth suggestions and recommendation which have only been partially addressed or completely ignored. It is not as though this list came up just at the May meeting, the list of concerns have been around for some time, and coupled with the comments made by Commissioner Hennes about the number of items still outstanding or will need to have some agreement with City Staff, these 33 items are a lot of items to hope to be resolved when there has not been a lot of movement on the suggestions and recommendations that were initially given to the applicant.

Commissioner Povolny said the Commission can sit and hash over this and change, change, change. This will give the applicant two weeks to either get it done, or get it denied. Commissioner Povolny said he would like to see the Council finish this up.

Commissioner Povolny said there are 33 issues, one which the applicant can't deal with, which Commissioner Povolny said he can deal with. Commissioner Povolny said that came in late and it was not part of the initial deal. Commissioner Povolny said he would like to see this happen.

Commissioner McManus said he believes the architectural is looking pretty good and they have made some changes, agreeing that there is no way this property can be turned into a downtown center as there is across the street. Commissioner McManus said he gets the feeling that for this project manager, this is not personal. He knows what he wants, and there is not a lot of room for negotiations, and that the City is being sold a project. Commissioner McManus said this is not how PUD's work, because the other side has to have some of the things they want. Commissioner McManus said he does not feel the City is getting some of the things they want.

Commissioner Viksnins said it is not always clear to him whether their role on the Planning Commission is to independently make some decisions or try to predict what the City Council would say about this, but ultimately it is their decision. Commissioner Viksnins said it seems to him that the City Council feels there are at least two very major concerns and it was heard from the applicant that, for a variety of reasons, they think that for physical obstructions or economical reasons, they are not prepared to address those concerns. Commissioner Viksnins said he does not see how the City Council is ever going to vote in favor of this proposal unless these two major issues are dealt with (clustering and creek), not just once, but repeatedly. Commissioner Viksnins said no matter how pretty the outside of the building is, that is not the critical issue. The critical issue is addressing the hot issues for the Council.

Chair Lally said he believes their role is independent of the Council, and the Council has given feedback that they take the recommendations of the Planning Commission very seriously.

Commissioner Hennes said with all due respect to the Council, the Planning Commission needs to vote their own mind on this.

Commissioner Field said this is a challenging case and the existing facility creates its own obstacles to the site. Once the existing building is staying, a lot of problems, challenges and opportunities flow from that. Commissioner Field said he has gone throughout this process from a position being very disappointed with the applicant, and the weigh in manner in which they respond to things; at the same time, stepping away from the emotional response and look at some of the challenges posed by the site. Commissioner Field said this is difficult and the applicant has come along way in terms of addressing the architectural. Commissioner Field said he continues to maintain somewhat of a disappointment on the ditch and believes there is a better way to deal with this. The applicant has been responsive to some of the needs to the setbacks along Highway 110. Commissioner Field said he is not thrilled with them, but the applicant has made some adjustments. The housing is going to be a bigger challenge and a greater hurdle, the economical model is favoring the development of the front property and there is no guarantee as to when the back property will be developed. Commissioner Field said an improvement on this site is better than the current state of the facility today, and obviously everyone wants something similar to what is across the street, and would like to have the green space continuity with the McDonalds set back more. Commissioner Field said he would like to see the applicant come up with something better for the ditch. Commissioner Field said Mr. Paster put it well in saying this is their business, and they have done what they can do. Commissioner Field said he would not want to bring this to the City Council with what has been seen so far, but that is the group that has to be sold on this.

Commissioner Norton said he agrees with many of the comments from Commissioner Field, as well as many of the others. Commissioner Norton said he has been frustrated by certain things throughout the process, at the same time everyone needs to recognize that this is a difficult process because there is some competing interest from the City vs. the developer who is looking to support their industry, but without some sort of give and take between the two groups, a resolution will be very difficult to come by. Commissioner Norton said although this project is not something he would do, acknowledging the fact he is not a developer, he has his own ideas this particular development could take and some changes could be made. Commissioner Norton said he believes what he is seeing is good, and there are many wonderful things about the development. In the grand scheme of things, a lot of changes that have been made have been positive.

Commissioner Norton said he recognizes that people want different things, and to that end, there are 33 conditions that are outlined by the Staff. Commissioner Norton said many of them can be satisfied relatively easily and quickly (numbers 4 thru 12). Commissioner Norton said he feels that with a project of this size, 33 conditions is not that many. There have been variances granted to single family homes that contained at least a dozen conditions on numerous occasions.

Commissioner McManus said whatever the Planning Commission decides, this project will be on that corner for up to 60 years, and he wants to be sure the options have been explored and that the little as well as big issues are in the process of being addressed before this is approved. Commissioner McManus said he believes some of the little ones have been going around for awhile and he would like to see some more progress.

Commissioner Povolny asked Commissioner McManus if he wants to see the whole project die because of 33 questions that need to be resolved. Commissioner McManus said he does not want to see that, but he has not detected a great deal of give and take

