

## GENERAL INFORMATION

Applicant:	Knox & American I, LLC (Owner and Developer) Bloomington Housing and Redevelopment Authority (HRA) (Owner)
Location:	8000 Knox Avenue South, 8049 Morgan Circle and 1901 and 1951 American Boulevard West
Affected Locations:	8100 Knox Avenue South (Owner – KPS, LLC) 8050 Morgan Circle (Owner – Morgan Circle, LLC) 2000 West 82 <sup>nd</sup> Street (Owner – City of Bloomington)
Request:	<ol style="list-style-type: none"><li>1) Rezoning 8049 Morgan Circle, 1951 American Boulevard West, and a portion of 1901 American Boulevard West from C-5 to C-5(PD) (Amended Application – Case PL2019-40)</li><li>2) Preliminary Development Plans for two four-story multiple-family residential apartment buildings (248 total units) and an existing restaurant (Amended Application – Case PL2019-40)</li><li>3) Final Development Plans for two four-story multiple-family residential apartment buildings totaling 248 units and an existing restaurant (Amended Application – Case PL2019-40)</li><li>4) Variances to reduce the lot size and lot width of Lot 2, Block 1, Knox American Addition from 80,000 square feet to 78,691 square feet and from 250 feet to 191.7 feet (Case PL2019-40)</li><li>5) Platting Variance to defer payment of park dedication fees for Lot 2, Block 1, Knox American Addition until prior to the issuance of a building permit (Case PL2019-40)</li><li>6) Preliminary and Final Plat (Type III) of Knox American Addition - create three lots and four outlots (Case PL2018-255)</li></ol>
Existing Land Use and Zoning:	Restaurant (277 seats) and three vacant sites; zoned Freeway Mixed Use (C-5) and Freeway Mixed Use (Planned Development) (C-5(PD))
Surrounding Land Use and Zoning:	North – Retail shopping center (Southtown); zoned C-3 (PD) and C-5 (PD) South – Multiple-family residential; zoned RM-50 (PD)  East – Motor vehicle sales (Class I); zoned C-5(PD)

West - Drive-through restaurant and retail shopping center;  
zoned C-5

Comprehensive Plan Designation: Community Commercial

## **HISTORY**

- City Council Action: 08/30/1976 – Approved Conditional Use Permit and Final Site and Building Plans for the Red Lobster restaurant (Case #8159A-76)
- CD Director Action: 02/05/2004 – Approved an administrative reduction of the front landscape yard of 8000 Knox Avenue South from 20 feet to 12 feet (Case #8718A-04)
- City Council Action: 07/15/2013 – Approved the rezoning of 1901 and 1951 American Boulevard West, 8000 Knox Avenue South, and 8049 Morgan Circle from B-2 to C-5 (Case #10002A-13).
- City Council Action: 01/27/2014 – Adopted the Penn American District Plan (Case #10001B-13)
- Related Actions: 11/15/2010 – Approved the Preliminary and Final Development Plans for Phase I of the Penn American development (Case #10768AB-10)
- 10/07/2013 – Approved the Preliminary and Final Development Plans for Phase II of the Penn American development (Case #10911ABDE-13)

## **CHRONOLOGY**

- Planning Commission 11/08/2018 – Public hearing opened and continued (Case PL2018-255)
- Planning Commission 11/29/2018 – Recommended approval of Rezoning from C-5 to C-5(PD) and Preliminary and Final Plat of Knox American Addition, and recommended denial of Preliminary and Final Development Plans and a Conditional Use Permit for a development with two multiple-family apartment buildings, an existing restaurant, and a new two-story drive-through restaurant (Case PL2018-255) (APPLICATIONS WITHDRAWN EXCEPT FOR PLAT)

City Council	12/03/2018 – Application indefinitely continued at request of applicant (Case PL2018-255) (APPLICATIONS WITHDRAWN EXCEPT FOR PLAT)
Planning Commission	04/25/2019 – Recommended approval of Rezoning from C-5 to C-5(PD), Preliminary and Final Development Plans for two four-story multiple-family residential apartment buildings totaling 248 units and an existing restaurant (Red Lobster), and a Platting Variance to defer payment of park dedication fees for Lot 2, Block 1, Knox American Addition (Case PL2019-40)
Planning Commission	05/09/2019 – Recommended approval of Variances to reduce lot size and lot width of Lot 2, Block 1, Knox American Addition from 80,000 to 78,691 square feet and from 250 feet to 191.7 feet respectively (Case PL2019-40)
City Council	05/20/2019 – Public hearing scheduled

#### DEADLINE FOR AGENCY ACTION

##### **Case PL2018-255**

Application Date:	10/03/2018
60 Days:	12/02/2018
120 Days:	01/31/2019
<b>Applicable Deadline:</b>	<b>07/02/2019 (Extended by Applicant)</b>
Newspaper Notification:	Confirmed (05/09/2019 Sun Current – 10 day notice)
Direct Mail Notification:	Confirmed (500-foot buffer – 10 day notice)

##### **Case PL2019-40**

Application Date:	03/19/2019
60 Days:	05/18/2019
120 Days:	07/17/2019
<b>Applicable Deadline:</b>	<b>07/17/2019 (Extended by City)</b>
Newspaper Notification:	Confirmed (05/09/2019 Sun Current – 10 day notice)
Direct Mail Notification:	Confirmed (500-foot buffer – 10 day notice)

#### STAFF CONTACT

Nick Johnson, Planner  
Phone: (952) 563-8925 E-mail: nmjohnson@BloomingtonMN.gov

## BACKGROUND

On November 29, 2018, the Planning Commission held a public hearing for a similar development application for the third phase of the Penn American development. The application included two four-story multiple-family residential buildings totaling 248 units, the existing Red Lobster restaurant, a new two-story drive-through restaurant (Portillo's), and multiple private roadway improvements to serve the Penn American development (Case #PL2019-255). The Planning Commission recommended approval of the requests for rezoning, preliminary plat and final plat, while recommending denial of the preliminary and final development plans and conditional use permit.

Following Planning Commission consideration, the previous application was considered at the December 3, 2018 City Council meeting, but indefinitely continued at the request of the applicant. Since the indefinite continuance at City Council, the applicants have revised their plans to not include the new two-story drive-through restaurant in the northeast corner of the development while the remainder of the application remains substantially as previously proposed. The subject applications represents the revised development plan and supporting applications.

## PROPOSAL

In partnership with the Bloomington Housing and Redevelopment Authority (HRA), Knox & American I, LLC has submitted a revised application to construct two four-story multiple family residential apartment buildings with a total of 248 units. 50 of the proposed apartment units will be designated as affordable at 50% of Area Median Income (AMI) for a term of 26.5 years per the pending development agreement between the HRA and developer. In addition to the residential apartments, the development includes multiple private roadways to serve the next phase of the Penn American development. Enhanced streetscapes are proposed similar to Phases I and II located to the west. The proposed planned development (PD) includes the existing Red Lobster restaurant located at 1951 American Boulevard West. The northeast corner site (8000 Knox Avenue South and a portion of 1901 American Boulevard West), previously showing a new two-story drive-through restaurant, has been removed from the PD. No development plans are currently pending for the northeast corner site, which remains under HRA ownership and control. The civil and architectural plans for the residential apartment building remain the same as the previous development application (Case #PL2018-255).

In addition to the revised development plans, the applications includes the following components:

- **Rezoning** – Requested to extend the PD Overlay Zoning District over 1951 American Boulevard, 8049 Morgan Circle, and a portion of 1901 American Boulevard West.

- **Lot Size and Width Variance** – Related to the plat of Knox American Addition, a request to reduce the lot size and lot width of Lot 2, Block 1 from 80,000 to 78,691 square feet in area and from 250 feet to 191.7 feet in width respectively.
- **Platting Variance** – Requested to defer the payment of park dedication fees associated with Lot 2, Block 1, Knox American Addition until prior to the issuance of a building permit.
- **Preliminary and Final Plat (Type III)** – Plat of Knox American Addition would create three lots and four outlots.

These supplemental requests either relate to the revised development plan review and approval in the case of the rezoning, or relate to the unknown status of future development on the northeast site, which was previously proposed as a drive-through restaurant. While the subject development application focus is to construct the residential apartment buildings and private streets, the ancillary requests are necessary to move the project forward.

## ANALYSIS

### **Preliminary and Final Plat (Case #PL2018-255)**

The proposed plat, Knox American Addition, subdivides the four subject properties into three lots and four outlots. The underlying C-5 zoning district requires a minimum site area of 80,000 square feet and minimum site width of 200 feet for interior lots and 250 feet for corner lots. With exception of Lot 2, Block 1, Knox American Addition, the proposed lots comply with the dimension requirements of City Code due to the fact that the project is proposed as a planned development, allowing for the entire planned development to qualify as a site. In consideration of the whole planned development, the total site greatly exceeds the minimum area and width requirements. To address the substandard lot area and lot width of Lot 2, Block 1, the application includes variances to reduce lot size and lot width, which are discussed in a subsequent section of the report. The proposed plat also provides the necessary easements required by the City for drainage and utility purposes.

With the exception of the substandard lot that is subject to Variance requests, the proposed preliminary and final plat meets City Code requirements. The staff report recommends standard conditions of approval for plats as determined by the Engineering Division. In addition, two conditions on the plat have been recommended by staff since the action by the Planning Commission on 11/29/2018. First, a condition is suggested that requires that the appropriate procedures be followed to vacate the portion of Morgan Circle related to the extension of a private roadway to the south. Second, a condition is suggested that would require a permanent access agreement for 8050 Morgan Circle be provided to ensure that continued access to a public roadway is legally maintained. The Planning Commission recommended approval of the Preliminary and Final Plat of Knox American Addition at the 11/29/2018 meeting. It should be noted that staff did amend the narrative related to Finding #3 for preliminary plats in the staff report to be consistent with the revised application (Case PL2019-40), which included variances for lot size and lot width.

### **Variances**

Variances are requested to reduce the lot size and lot width of Lot 2, Block 1, Knox American Addition from 80,000 to 78,691 square feet and from 250 to 191.7 feet respectively. The applicants have chosen to remove the Lot 2, Block 1, Knox American Addition from the planned development due to the uncertainty regarding a future user of the lot. In addition, if the lot were included in the planned development, greater deviation would be necessary beyond what is being requested for insufficient nonresidential floor area ratio (FAR). The downside of this approach is the need for lot area and lot width variances for the northeast side to be a stand-alone lot in the C-5 zoning district. The applicant cites two reasons for the variance: 1) the necessary quantity of land dedicated to public right-of-way, and 2) the inclusion of the lot in the PD would increase other nonconformity with the Zoning Code.

As part of the platting process, a property may be required to dedicate land area to public right-of-way to accommodate existing and future street and utility infrastructure. In the case of the subject properties, right-of-way dedication is necessary for American Boulevard West and Knox Avenue South, particularly in the northeast corner due to future right-turn lane improvements. The total right-of-way dedication is 4,816 square feet according to an exhibit provided by the applicant. In addition to the right-of-way dedication associated with this property, another consideration is that northwest and northeast sites associated with the Knox American Addition plat are proposed to have a common lot line with a shared access easement along the shared boundary. Once the future development plans for the northeast site are solidified, it is likely there will be some form of shared parking agreement as well given the integrated design of these sites. While the Code requires that the lot be evaluated as a stand-alone parcel, it is unlikely to function like a stand-alone development in the future. This is a unique circumstance specific to the phased and integrated nature of the Penn American development. If the northeast site was included in the planned development, there would be no conflict with lot area and width requirements. However, inclusion of the lot raises other issues of nonconformity with the City Code, specifically the nonresidential FAR requirements of the C-5 zoning district.

Planning Commission and staff have evaluated the proposed variances according to the required findings of City Code (Sec. 2.85.04(g)) and recommend approval. Further discussion of the requested variances related to lot size and width for Lot 2, Block 1, Knox American Addition is located in the findings section. Variance approval allows the plat to be recorded with Lot 2, Block 1 being created as a stand-alone lot outside the planned development. It is possible this property could be reintegrated into the Penn American Phase III planned development (PD) once definitive development plans are presented.

### **Platting Variance**

The applicants are requesting a platting variance to defer the payment of park dedication fees associated with Lot 2, Block 1 of the plat of Knox American Addition. A definitive development plan is uncertain for this property at this time. Beyond preparing the site for future development, there are benefits to platting the subject lot now, as a shared access easement is proposed along the

shared boundary of the Red Lobster site. The City has approved platting variances to defer the payment of park dedication fees until prior to the building permit in other cases when the development outcome was uncertain or phasing is proposed. Staff recommends approval of the platting variance to defer park dedication fees until prior to the building permit. A condition is recommended that would require payment of park dedication fee prior to the issuance of any building permit for Lot 2, Block 1, Knox American Addition. Further discussion regarding the platting variance is found in the findings section that follows.

### **Rezoning**

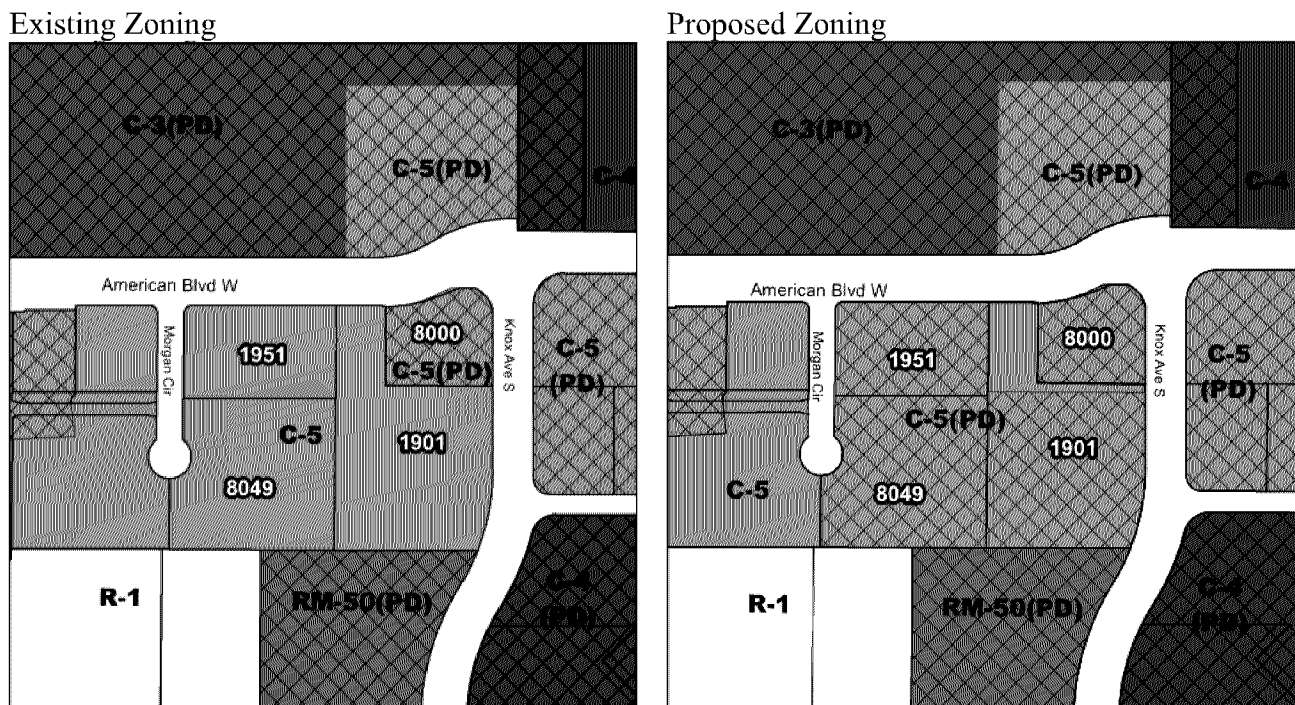
The applicants request a rezoning from C-5 to C-5(PD) to apply the Planned Development (PD) Overlay District to 1951 American Boulevard West, 8049 Morgan Circle and a portion of 1901 American Blvd. West. The request does not apply to 8000 Knox Avenue South, which is not part of the requested planned development applications and is already subject to the PD Overlay District and currently constitutes a separate planned development. The previous request for rezoning considered on November 29, 2018 (Case #PL2018-255) was recommended for approval by the Planning Commission. The Planning Commission recommendation on the rezoning request should match the recommendation on the corresponding Preliminary and Final Development Plans as they work in concert with one another. The proposed rezoning is illustrated in Figure 1. Rezoning carries a higher level of discretion than quasi-judicial actions. Although there are no explicit findings that must be made in conjunction with a rezoning, appropriate considerations include:

- Whether the proposed district is consistent with the Comprehensive Plan and the District Plan;
- How the proposed district differs from the existing district; and
- Whether there is a public benefit in the change.

The purpose of the Planned Development Overlay District is to promote creative and efficient use of land by providing design flexibility in the application of development standards. The subject application is seeking flexibility in the application of development standards to promote a creative use of land. The underlying zoning (C-5) and guidance (Community Commercial) are proposed to remain unchanged. As a result, the proposed rezoning is consistent with the Comprehensive Plan and does not differ from the existing underlying zoning district. The public benefit associated with the rezoning to the Planned Development Overlay District is to allow for the development of affordable and life-cycle housing, uses that the City's Comprehensive Plan, the Penn American District Plan and One Bloomington Strategic Plan explicitly promote and encourage.

From a process standpoint, the rezoning approval to add the Planned Development Overlay District over the subject properties must occur prior to the approval of the Preliminary and Final Development Plans. Staff recommends approval of the requested rezoning action.

**Figure 1 – Proposed Rezoning from C-5 to C-5(PD)**



### **Land Use**

The proposed uses associated with the Preliminary and Final Development Plans are multiple-family residence and restaurant (existing). The uses are permitted and conditional limited uses respectively. In this case, the designation of the restaurant use as “limited” in the Zoning Code reinforces the requirement that restaurant uses are allowed in the C-5 zoning district when combined with other allowed uses. While permitted, residential uses in the C-5 district are subject to requirements for the inclusion of non-residential uses as specified in Section 21.302.02 of the City Code. Standards specify the required amount of nonresidential floor area required. The existing restaurant does not require a new Conditional Use Permit (CUP). The previous request for a CUP for the new drive-through restaurant has been withdrawn.

### **Penn American District Plan**

The Penn American District Plan was adopted in January of 2014. The Plan was intended to define a development vision and guide public investment for the District. As part of the Plan, the City envisions the District becoming:

*A vibrant, attractive, mixed-use, high-density activity center that serves as an amenity for the surrounding neighborhoods and the City as a whole.*

To achieve this end, the Plan includes a variety of goals and strategies that are relevant to the



review and consideration of development within the District. Throughout the review and in the findings, staff considered the guidance of the District Plan. Some of the goals and strategies are referenced as applicable to specific components of the development proposed. The subject application, submitted in partnership with the Bloomington HRA as was done in both Phases I and II, represents the third phase of the Penn American development.

### **Code Compliance**

Table 1 provides an analysis of the proposed development and associated site improvements according to the development standards of the C-5 zoning district and other performance standards throughout the City Code. Areas of noncompliance or nonconformance, as well as requests for deviation or flexibility, are identified in the table below. Additional discussion regarding conformance to various performance standards or requests for flexibility are provided in specific sections of the staff report.

**Table 1: City Code Compliance Analysis**

<b>Standard and Code Section</b>	<b>Proposed</b>	<b>Meets Standard?</b>
<b>Minimum Site Area</b> – 80,000 square feet (Sec. 21.301.01(d))	PD – 262,214 sq. ft. NE site – 78,691 sq. ft.	Variance requested – see further discussion
<b>Minimum Site Width</b> – 200 feet for interior lots, 250 feet for corner lots (Sec. 21.301.01(d))	PD – 263 feet NE site – 191.7 feet	Variance requested – see further discussion
<b>Minimum Building Area</b> – 20,000 sq. ft. (Sec. 21.301.01(d))	170,187	Yes, except for the Red Lobster building, which is legally nonconforming
<b>Building Setback Along Public Streets</b> 10 feet minimum, 20 feet maximum (Sec. 21.301.02(e))	22.4 feet (setback to Knox Ave)	Deviation requested – see further discussion
<b>Min. Building Rear Yard (South) Setback</b> - 20 feet (Sec. 21.301.02(e))	31.7 feet	Yes
<b>Parking Setback (Along Street)</b> 20 feet (Sec. 21.301.06)	4.8 feet (existing condition to American Blvd)	Deviation requested – see further discussion
<b>Parking Setback (Side/Rear Yard)</b> 5 feet (Sec. 21.301.06)	0 feet	Shared access/parking proposed

Standard and Code Section	Proposed	Meets Standard?
<b>Impervious Surface Coverage</b> Restaurant sites – Maximum 95 percent Residential site – Maximum 85 percent (Sec. 21.301.01(d))	Red Lobster – 85.3% Residential – 67.0%	Yes
<b>Floor Area Ratio (FAR)<sup>1</sup></b> – Minimum 0.75 given the proposed residential, Maximum 1.5 (Sec. 21.301.01(d))	1.04	Yes
<b>Minimum Nonresidential FAR<sup>1</sup></b> – 0.25 (Sec. 21.302.02(b))	0.03	Deviation requested – see further discussion
<b>Max Building Height</b> – No Limit (Sec. 21.301.10(b)(1)(A))	Maximum of four stories /57.8 feet	Yes
<b>Mixed Use Structure Height</b> – At least 60% of the building footprint must rise to two stories or 25 feet in height (Sec. 21.301.03(b)(3))	100% rises to two stories or higher	Yes
<b>Exterior Building Materials</b> Glass, stucco, stone, brick, architectural concrete, and metal (Sec. 19.63.08(c)(1))	Brick and metal	Deviation requested – see further discussion
<b>Residential Unit Min. Floor Area</b> Efficiency Units: 400 square feet One-Bedroom: 650 square feet Two-Bedroom: 800 square feet (Sec. 21.301.01(c)(3))	Efficiency: 522 SF One-Bedroom: 700 SF Two-Bedroom: 1,017 SF	Yes
<b>Storage Space</b> – One lockable storage space per dwelling unit: w/o bicycle storage – 175 cubic feet, w/bicycle storage – 96 cubic feet (Sec. 21.302.09(d)(7))	125 storage units at 96 cubic feet or greater w/ bike storage	Deviation requested – see further discussion
<b>Street Enclosure</b> – 50% of the primary street and 30% of the secondary street must be enclosed by buildings (Sec. 21.301.02(f)(3))	Primary (north) – 87% Secondary (east) – 74%	Yes
<b>Windows</b> – Ground level of building façade must consist of 50% windows for primary façade and 25% windows for secondary façade (Sec. 21.301.03(b)(1))	Primary (north) – 38% Secondary (east) – 29%	Deviation requested – see further discussion

Standard and Code Section	Proposed	Meets Standard?
<b>Street Entrances</b> – Each building adjacent to on-street parking must include at least one entrance on street side of buildings open to the public (Sec. 21.301.03(b)(2))	Public entrances to residential building provided to West 80 <sup>th</sup> ½ Street	Yes
<b>Parking Quantity Required</b> – 590 spaces (Sec. 21.301.06(d))	491 spaces	Deviation requested – see further discussion
<b>Parking Stall Size</b> – 9 feet by 18 feet for 90 degree parking (Sec. 21.301.06(c)(2)(C))	9 feet by 18 feet	Yes
<b>Drive Aisles</b> – 24 feet for 90 degree parking (Sec. 21.301.06(c)(2)(C))	24 feet	Yes
<b>Sidewalks</b> – Five feet in width, seven feet when perpendicular to surface parking (Sec. 21.301.04)	Seven feet	Yes
<b>Trash and Recycling Collection Area</b> Residential – 1,263 square feet (Sec. 21.301.17 and MN Admin Rules 1303.1500)	1,596 square feet	Yes
<b>Tree Requirement<sup>2</sup></b> – 79 trees (Sec.19.52)	90 trees	Yes
<b>Shrub Requirement<sup>2</sup></b> – 197 shrub units (Sec. 19.52)	480 shrub units	Yes

Note 1: FAR calculations do not include outlot areas planned for private roadways and utilities

Note 2: Developable Landscape Area calculations do not include outlot areas planned for private roadways and utilities

### **Nonresidential Uses**

The City Code (Sec. 21.302.02(b)) requires a minimum level of nonresidential floor area within several mixed use zoning districts including the C-5 District to ensure a mixed use development is truly mixed use in nature and to promote convenient community access to goods and services. The minimum required nonresidential floor area ratio of development in the C-5 zoning district is 0.25, which given the site size translates to 65,553 square feet in this case. The subject application is requesting a deviation to reduce the nonresidential FAR to 0.03 (8,536 square feet of nonresidential floor area/262,214 square feet of site area), a significant reduction of the nonresidential floor area requirement. In this case, the existing Red Lobster restaurant qualifies as a nonresidential use. The requested deviation would represent the most significant deviation from the nonresidential floor area requirements approved to date. However, the subject development is unique in that it represents the third phase of a mixed use development which includes a significant amount of commercial goods and services. Within Phases I and II of the Penn

American development, the following commercial development has occurred:

- Phase 1 – 14,091 square feet of retail space (includes multiple restaurants)
- Phase II
  - 108-room extended stay hotel (63,150 square feet)
  - 9,126 square feet of retail space
  - 200-seat restaurant (6,223 square feet)
  - Grocery store (28,605 square feet)

The first two phases of the Penn American development have created significant opportunities to provide commercial goods and services to the subject development and surrounding community. Moreover, the immediate neighborhood includes a high level of retail and service uses, most notably at the Southtown development across American Boulevard to the north. It is in this context that the request for significant deviation from the nonresidential floor area requirements in the C-5 zoning district should be evaluated. Table 2 provides an overall nonresidential FAR analysis of the Penn American development. If Phase III of the Penn American development was part of the same planned development (PD) as the first two phases, the overall nonresidential FAR would be 0.24, just below the Code-required amount. This is not feasible since the parcels are not contiguous, but the analysis provides important context in consideration of the requested deviation.

**Table 2 – Nonresidential FAR Analysis of Penn American Development**

Phase	Residential Floor Area	Nonresidential Floor Area	Land Area	Nonresidential FAR
Phase I	279,128 SF	14,733 SF	156,396 SF	0.09
Phase II	-	113,540 SF	141,625 SF	0.80
Phase III	264,054 SF	8,536 SF	262,214 SF	0.03
Total	543,128 SF	136,809 SF	560,235 SF	0.24

The Planned Development Overlay District allows for flexibility from performance standards when such flexibility provides public benefit. In this case, the provision of a significant amount of affordable housing (50 units at 50% Area Median Income) is a substantial benefit for the community. Given that the housing proposed within the subject development is such a critical component of the overall success of the Penn American development, staff is supportive of the requested deviation in this case. It should be noted that that requested deviation also meets the intent of the PD Overlay District, as the request would ensure coordination of a phased development.

### **Building Design**

The two four-story residential buildings have a nearly identical footprint, with minor variations occurring on the first floor and with the unit mix. The full building footprint has residential dwellings on floors one and two, whereas the residential units on floors three and four are

contained within two separate north-south oriented wings, each served by a separate elevator. Both buildings have interior courtyards, as well as balconies and ground level patios. The structures are 57.5 feet in height at their tallest points. The subject property is not limited by a maximum height restriction according to the City's Height Limits Map. The proposed roof is a flat design. Regarding the floor plan, the basement level includes a one-level underground parking garage, bicycle and tenant storage, and trash and recycling facilities. The first floor contains various resident amenities (lounge or club room, fitness, etc.) and the office. Communal laundry facilities are provided on floors two and three.

The proposed primary exterior building materials of the residential buildings are metal and brick. The metal panels must meet minimum performance standards as described in the City's Exterior Materials and Finish Policies and Procedures Guide. Performance criteria include thickness, durability, warranty, and other information. The applicant is requesting a deviation through the PD Overlay District to allow for a metal panel with a lesser finish warranty than what is acceptable per the City's policy. The metal panel with the lesser warranty would only be utilized for building elevations facing the interior courtyards, none of which face public or private streets. Based on the fact that the residential project includes the provision of 50 units of affordable housing at a level of 50 percent Area Median Income (AMI), and that the material is proposed on interior elevations only, staff is supportive of the requested deviation.

In addition, the structure design standards in the C-5 zoning district (Sec. 21.301.03(b)) require the ground level (between two and ten feet) of primary and secondary building facades to consist of a minimum amount of glass – 50 percent for primary (W 80<sup>th</sup> ½ Street), and 25 percent for secondary (Knox Avenue South) elevations. The intent is to promote safety by placing eyes on the street and to activate pedestrian streets. The ground level of the northern elevation (primary) is 38 percent glass, and the eastern elevation (secondary) is 29 percent glass. The applicant is requesting a deviation through the PD Overlay District to the transparency requirements for the northern elevation. Given the residential context and how these spaces are programmed, staff is supportive of the deviation.

### **Landscaping, Screening and Lighting**

Based on the developable landscaping area for the site, City Code requires 79 trees and 197 shrubs. The applicant is proposing to provide 90 trees. The shrub requirement is exceeded, as 480 units of shrubs are proposed. The building foundation planting requirement as specified in the City's supplemental landscaping policy (50% of foundation facing public street frontages) is met. Regarding parking island trees, City Code requires all parking lot islands to have one deciduous tree. The applicant is requesting PD flexibility to allow two smaller parking islands within the inner surface parking courtyard of the residential buildings to not have trees. Staff is supportive of this deviation since a planted median with six trees is provided in between the two north-south rows of parking. However, one other parking lot island within the surface parking lots serving Red Lobster does not have a tree. The landscape plan must be updated to include trees in all parking lot islands, unless flexibility is expressly approved through the PD Overlay District. Should the

development be approved, the landscape plan must be revised to include trees in all parking lot islands.

Regarding screening, the surface parking areas are adequately screened per the requirements of City Code. In addition, roof-top equipment is proposed for both the residential buildings and restaurant. City Code requires the screening of roof-top equipment. The architectural plans show that screening will be utilized as needed.

The applicant has submitted a lighting plan for the surface parking areas. Photometric plans were previously prepared for the underground parking garage, but not included in this application submittal. Parking intended for the residential use must be a minimum of 1.0 foot-candle (which can be reduced to 0.5 foot-candles along the perimeter 25 feet of the parking lot), whereas lighting for a restaurant use is twice the illumination requirement. Lighting for the surface parking areas appears to be compliant. The underground parking garages must meet a minimum of 3.0 foot-candles (which can be reduced to 1.5 foot-candles along the perimeter 25 feet of the underground lot). The lighting for underground parking garages that was previously reviewed appeared compliant. However, the vehicle entrance and exists to the underground parking garage must have a minimum of 25.0 foot-candles within 35 feet of the opening. The lighting plan did not appear to meet that standard per the previous review. Staff is recommending a condition that the development comply with the City's exterior lighting requirements.

### **Access, Circulation, and Parking**

Primary access to the development is provided from American Boulevard West and Knox Avenue South, an arterial and collector roadway respectively. Access from Penn Avenue (CASH 32) is also feasible via West 81<sup>st</sup> Street, Newton Avenue, and West 80<sup>th</sup> 1/2 Street. Site circulation is primarily defined by the extension of West 80<sup>th</sup> 1/2 Street from Morgan Circle to Knox Avenue South, completing the connection to Penn Avenue. The extension of this roadway is a significant development for the Penn American District as envisioned in the District Plan. The development also includes the construction of a segment of West 81<sup>st</sup> Street from Morgan Circle/Avenue to Knox Avenue South. The West 81<sup>st</sup> Street connection will be limited to right-in, right-out and would remain incomplete until the roadway is constructed behind 8050 Morgan Circle. Since the proposed W 81st Street alignment is offset from 81st Street to the east, the restriction will need to remain in place permanently. However, left turns could possibly be permitted onto Knox Avenue from W. 80- 1/2 Street in the future and such a change might need to be pursued if access to the regional system changes significantly, as alluded to above. Overall the internal circulation and site access being proposed is satisfactory. Similar to Phase I and II of the Penn American development, the proposed roadways offer enhanced streetscapes for pedestrian traffic.

The application proposes to construct 491 parking spaces as follows: 194 underground parking stalls, 179 surface parking stalls, and 118 on-street parking stalls. The proposed surface parking (179 stalls) is provided primarily in two areas: 1) the Red Lobster parking area (115 stalls) and 2) the multiple-family residential parking area in between the two buildings (64 stalls). Street surface parking is provided primarily on West 80<sup>th</sup> 1/2 Street, but also on Morgan Circle and West

81<sup>st</sup> Street as well, all of which are planned as private roadways. The City Code requires 590 parking spaces to be provided. Tables 3 provides a breakdown of the various uses within the development and their respective parking requirement.

**Table 3 – Parking Quantity Analysis**

Use Description	Standard	Proposed	Stalls Required
Existing Restaurant (Red Lobster)	1 space per 2.5 restaurant seats	277 seats	110.8
Multiple-family dwellings	-	248 units	-
Studio/One Bedroom	1.8 space per dwelling unit (1 inside a garage)	154 units	277.2 (154 inside a garage)
Two Bedroom	2.2 spaces per dwelling unit (1 inside a garage)	94 units	206.8 (94 inside a garage)
Party Room	1 space per 100 sq. ft.	2,003 sq. ft.	20.0
Standard Residential Parking Requirement			504 (248 inside a garage)
C-5 Zoning District Residential Parking Reduction – 5%			(25.2)
Total Residential Parking Requirement			478.8 (248 inside a garage)
<b>Total Parking Requirement</b>			<b>590</b>
<b>Total Parking Provided</b>			<b>491</b> <b>(194 in a garage)</b>
<b>Parking Deficit</b>			<b>99 (16.7%)</b>

The applicants are requesting a deviation (16.7%) from the Code-required quantity of parking. The basis of the parking deviation is two-fold: 1) a parking study was performed by Alliant Engineering which concluded that the amount of parking proposed is adequate, and 2) the proximity of the development to mass transit, most notably the planned Orange Line BRT. The parking study, dated July 20, 2018, originally contemplated two development alternatives for the northeast corner site – a hotel (124 rooms) and a 200-seat restaurant. An addendum to the parking study was produced on April 17, 2019 that addressed the removal of the drive-through restaurant and associated surface parking in the northeast corner of the development. The parking study addendum concluded that the proposed quantity of parking, 491 spaces, is adequate to serve the development proposed. In addition to calculating the amount of parking required by Bloomington City Code, the parking study utilizes two methodologies to analyze the parking demand of the proposed development – 1) the ITE Parking Generation Manual, and 2) the Local Parking Model. The ITE Parking Generation Manual estimate a maximum parking demand of 422 parking spaces,

whereas the Local Parking Model, based on local data collection, estimates a maximum total parking demand of 345 parking spaces and a maximum hourly demand of 314 parking spaces. Based on this evaluation, the quantity of parking provided is adequate. The study also notes that the peak periods of parking demand is different for the residential vs. restaurant use. Staff is supportive of the requested deviation for total parking quantity.

City Code also requires one parking stall per dwelling unit be provided within an enclosed garage. A total of 248 dwelling units are proposed within the two residential buildings, whereas only 194 underground garage stalls are proposed, representing a deficit of 21.8 percent. The applicant is requesting a deviation related to the garage parking requirement. Because the proposed residential building includes a significant number of affordable units, the site is served by high frequency transit service, and the site is immediately adjacent to a planned bus rapid transit line (Orange Line BRT), staff is supportive of the requested deviation. Historically, multiple-family residential buildings with an affordable housing component have lower rates of auto ownership. In addition, the high level of transit service available to the site supports a lower quantity of garage parking. While the Opportunity Housing Ordinance is not yet in effect, once it goes into effect in September, it will provide an automatic 30% parking reduction to a residential project with this level of affordability.

In both the parking study performed by Alliant Engineering and the evaluation by City staff, there is an assumption that surface and on-street parking is shared amongst the users. This is a typical arrangement for urban development and a technique employed in both Phase I and Phase II of the Penn American development. As such, the applicant will need to provide the City a shared access agreement for Lot 1 and Lot 2, Block 1, Knox American Addition. A recommended condition is included requiring a shared access and parking agreement be recorded. Finally, the application is requesting a deviation for a reduced parking setback for the existing Red Lobster surface parking lot to American Boulevard West. As a result of the additional right-of-way dedication, the parking are is located 4.8 feet from the north boundary. Given that this is memorializing an existing condition, staff is supportive of the deviation. Requiring removal of the existing condition would result in a loss of site parking that would negatively impact existing and future development. Staff will evaluate any utility conflicts with proposed landscaping.

### **Streets**

Three private roadways are proposed to be constructed as part of the subject development. Both West 80<sup>th</sup> ½ Street and West 81<sup>st</sup> Street would be extended from Morgan Circle/Avenue to Knox Avenue. In addition, the cul-de-sac of Morgan Circle is proposed to be abandoned and associated right-of-way vacated. Morgan Circle would be extended southward to connect to West 81<sup>st</sup> Street. It is likely this street segment will be renamed Morgan Avenue. All of these facilities are to be owned and maintained privately. The majority of these facilities are contained within outlots as proposed in the plat (Knox American Addition). However, a portion of these roadways and associated improvements do encroach into neighboring properties. In order to construct these facilities as shown, private easements must be obtained. The neighboring property owners have provided support for the project subject to the acquisition of the necessary easements. Staff is



recommending a condition that permanent street and utility easement be provided to address any outstanding encroachments as shown on the plans. Without these easements, construction of the development as shown is not feasible. From a phasing standpoint, West 80<sup>th</sup> ½ Street must be open as approved by the City Engineer prior to the issuance of a certificate of occupancy for the residential buildings.

### **Stormwater Management**

Stormwater will be managed to meet the City's and Watershed District's requirements for stormwater rate control (quantity), stormwater quality and volume. The Stormwater Management plan calculations and narrative have been reviewed and appear to meet the requirements in the City of Bloomington Comprehensive Surface Water Management Plan. A maintenance plan has not yet been provided and will be required to be signed and filed at Hennepin County. This site is located within the Nine Mile Creek Watershed District, so an additional permit will be required.

### **Utilities**

The development is proposed to be served by both City sanitary sewer and water facilities. The utility plans are still under review in Engineering. The development is located in close proximity to a significant trunk waterline that it critical to utility operations and service in the area. The utility plans will need to be designed in a manner that protects this trunk waterline and ensures safe and efficient maintenance in the future. The utility plans must be approved by the City Engineer prior to the issuance of a building permit.

### **Traffic Analysis**

Table 4 includes the estimated trip generation from the site resulting from the proposal.

**TABLE 4 - Estimated Trip Generation**

Use	ITE Code	Daily Trips	AM Peak Trips	PM Peak Trips
Apartments	221	1,349	89	109
Restaurant (exist.)	932	1,210	133	116
	<b>New Trips</b>	<b>1,349</b>	<b>89</b>	<b>109</b>
	<b>TOTAL</b>	<b>2,559</b>	<b>222</b>	<b>225</b>

Primary access to/from the site will be American Boulevard via Knox Avenue, Morgan Avenue and from site driveways along American Boulevard. Knox Avenue will also be a significant site access as it leads directly to 82<sup>nd</sup> Street and then to the regional system via 35W. Most traffic accessing

American Boulevard will distribute to Penn Avenue or east over to Lyndale Avenue, then to the regional system (I-494).

The intersections closest to the site that will see new trips are Morgan Avenue @ American Boulevard, and Knox Avenue @ American Boulevard. These two signalized intersections have sufficient capacity to handle the increased traffic with minor changes to the signal timing to accommodate the increased side street traffic in the AM peak. Moving away from the site, the development will add some trips to a number of intersections along American Boulevard, Penn Avenue, 82<sup>nd</sup> Street and the interchanges with 35W and I-494. These intersections have been studied previously as part of the original Penn/American District Plan and the City has continued to make the needed improvements to maintain adequate levels of service in anticipation of development taking place in the area (for example, adding an eastbound to southbound right turn lane at Knox @ American). The only exception being the intersection @ American Boulevard at Penn Avenue, which has been approaching LOS E during evening rush hour in recent years (with LOS A being no delay and LOS F being high/excessive delay). There are plans to add an eastbound to southbound right turn lane and an additional northbound left lane at the intersection to improve operations, however the opportunity to implement the change with redevelopment has not materialized to-date. Nevertheless, that issue existed well prior to the current development and the current proposal will not contribute significant traffic to the issue.

One area of uncertainty with respect to traffic is the final configuration of the I-494/35W interchange. The modeling completed in the district to-date has made a series of assumptions based on what was planned for the interchange, including for example, eliminating the ability for northbound 35W traffic to connect to the 494 then exit onto Penn Avenue. The State is currently working through the design for the interchange and not all previous details about that design may end up in the final product. That could lead to meaningful changes in traffic circulation on local streets, especially within the district, resulting in a new set of mitigation measures that would be needed to handle the changes. Modeling and scoping for the interchange is currently underway, which will include looking at the impacts of various alternatives on the local street system. Staff will ensure that the modeling is updated to reflect the current land use changes.

#### **Transit and Transportation Demand Management (TDM)**

The previous application (Case #PL2018-255) required a Tier 1 TDM plan be prepared, requiring a TDM study be prepared by a qualified traffic consultant. This requirement related to the previously proposed new restaurant (nonresidential development) seeking flexibility from the standard parking requirements. As a result of the removal of the new nonresidential development with the revised application, a Tier 1 TDM Plan is no longer necessary.

#### **Fire Prevention and Public Safety**

Emergency vehicle access will be a critical component to the high density residential area of this project. The access and circulation design must meet or exceed the minimum standards for Fire Prevention and be maintained in accordance to the approved plan including a surface to provide all

weather driving capabilities, minimum 20 foot wide clear access and turning radius to accommodate BFD Ladder 1. Apparatus access roads shall be asphalt or concrete and support a minimum of 80,000 pounds.

The applicant shall ensure the proposed landscaping plans do not interfere with access to the building. The applicant proposes adequate water supply with a hydrant within 50 feet of the fire department connection and within 150 feet of any exterior wall. Hydrants will be approved by the Utilities and Fire Prevention Divisions. The building must be addressed plainly and visible from the street or road using numbers that contrast with the background. The numbers must be a minimum of four inches, be Arabic numbers or alphabetic letters with a minimum stroke width of 0.5 inches. A Knox box will be required at the main entrances and other areas as designated by the Fire Prevention Division. Provide for emergency responder radio coverage throughout the complex and in all structures per the requirements of Appendix L in the 2015 Minnesota State Fire Code.

Any changes made to the current plans, including building location, access roads, water supply and addressing, shall be reviewed by the Fire Marshal to insure continued compliance with the Fire Code.

### **Miscellaneous**

Staff has reviewed the application for other miscellaneous standards and issues related to Code compliance. There are a number of aspects of the development that do not fall under the review categories above. Staff would offer the following comments on the following miscellaneous items:

- **Trash and Recycling** - The proposed development has been reviewed for compliance to the City's refuse requirements (Sec. 21.301.17). New developments are required to provide internal facilities for the storage of trash and recycling. The multiple-family apartment buildings both provide compliant facilities in the underground level for the storage of trash and recycling, complying with the ordinance.
- **Residential Storage Requirements** – The City Code (Sec. 21.302.09(d)(7)) requires a minimum amount of storage area outside of the unit be provided for each dwelling in the proposed multiple-family residential apartment buildings. The applicants are requesting a deviation to reduce the residential storage requirement to provide enough storage area to provide up to 125 storage units at a minimum of 96 cubic feet each, approximately 50 percent of the overall storage requirement. The flexibility request is consistent with other similar residential buildings that have been approved in the recent term. While the Opportunity Housing Ordinance is not yet in effect, once it goes into effect in September, it will provide an automatic 50% reduction in required storage space. Staff is supportive of the deviation request on the basis that bicycle storage is planned in both buildings and additional storage can be provided at individual parking spaces. Staff recommends a condition that a minimum of 125 individual storage compartments be provided within the two residential buildings.

- **Signage** – No building identification signage is shown on the proposed residential buildings. Staff is recommending a condition the development comply with Article X – Sign Regulations, Chapter 19 of the City Code.

Conditions to the staff report have been recommended to address these outstanding miscellaneous issues.

### **Status of Enforcement Orders**

The properties are not subject to an open enforcement orders.

### **Public Correspondence**

Metro Transit submitted an email to City staff with a number of review comments for the proposed development. The review comments focus on the need for future bus layover areas and other design modifications to the development that would allow for improved bus circulation and operations within the development area. City staff has met with Metro Transit to discuss the review comments as part of routine meetings centered on the future Orange Line Bus Rapid Transit (BRT) facility. After reviewing the requested design changes, City staff does not believe that the majority of the comments can be accommodated. The proposed roadways are private, as opposed to public right-of-way, and are intended to have a more compact, pedestrian oriented design. City staff will continue the dialogue with Metro Transit as part of the Orange Line BRT discussions to determine if any design modifications are possible that would improve transit operations but not deter from the vision and design of the Penn American Phase III development. The Planning Commission was not supportive of the design modifications requested by Metro Transit.

### **Planning Commission Review**

The Planning Commission held public hearings on the subject applications on November 8<sup>th</sup> and 29<sup>th</sup>, 2018 and April 25<sup>th</sup> and May 9<sup>th</sup>, 2019. With the exception of the applicant, no one spoke at the April 25<sup>th</sup> or May 9<sup>th</sup>, 2019 public hearings. The testimony received at the hearings in 2018 was focused on the proposed drive-through restaurant (Portillo's) located in the northeast corner. Based on the revised application, the prior testimony is not germane to the current application. The Planning Commission discussion focused on a few different topics, including the vacant northeast corner lot, the Metro Transit review comments (as noted above), and general support for the project. The full discussion of the Planning Commission discussion can be found in the attached minutes. The Planning Commission unanimously recommended approval of all the applications (Cases PL2018-255 and PL2019-40) associated with the Penn American Phase III development.

## FINDINGS

### Required Variance Findings – Section 2.85.04(g)(1)(A-F)

Required Finding	Finding Outcome/Discussion
(A) The variance is in harmony with the general purposes and intent of the ordinance.	<b>Finding Made</b> – Minimum lot size and width requirements are intended for the creation of usable and appropriate lots that can efficiently and safely accommodate different types and sizes of development according to the standards of the underlying zoning district. The sites must be large enough to accommodate not only the proposed structures, but supporting improvements such as parking, drive aisles, sidewalks, landscaping, etc. The subject site is unique in that it is integrated into a broader development that allows for future opportunities for the sharing of access and parking facilities. As a result, the lot size and width proposed is adequate. The variance is in harmony with the general purpose and intent of the ordinance.
(B) The variance is consistent with the Comprehensive Plan.	<b>Finding Made</b> – The site is guided Community Commercial. The approval of the plat and associated variance will allow for the site to be developed at a future date in a manner consistent with the vision and guidance of the Penn American District Plan. The variance is consistent with the Comprehensive Plan.
(C) The applicant for the variance establishes that there are practical difficulties in complying with the zoning ordinance. Economic considerations alone do not constitute practical difficulties	<b>Finding Made</b> – American Boulevard and Knox Avenue South are arterial and collector roadway facilities respectively, necessitating a higher level of public right-of-way dedication than a typical development site. In addition, the inclusion of Lot 2, Block 1, Knox American Addition in the associated planned development is discouraged due to an increased level of nonconformity to other zoning performance standards. The applicant has established that there are practical difficulties in complying with the zoning ordinance.
(D) The property owner proposes to use the property in a reasonable manner not permitted by the zoning ordinance.	<b>Finding Made</b> – The creation of a slightly substandard lot in terms of lot area and width that is integrated within a mixed use development through the creation of shared access along the west boundary is a reasonable use not permitted by the zoning ordinance. Including the property into the broader planned development for the purposes of alleviating lot area and width nonconformities conversely would increase other nonconformities to other performance standards in the zoning ordinance.

Required Finding	Finding Outcome/Discussion
(E) The plight of the landowner is due to circumstances unique to the property not created by the landowner.	<b>Finding Made</b> – Increased public right-of-way dedication associated with American Boulevard West and Knox Avenue South is unique to the subject property. In addition, including vacant land within the proposed planned development associated with the Knox American Addition plat would increase other nonconformities related to underlying C-5 zoning district performance standards. The plight of the landowner is due to circumstances unique to the property not created by the land owner.
(F) The variance if granted will not alter the essential character of the locality.	<b>Finding Made</b> – The subject site is proposed to be platted and designed as an integrated mixed-use development with shared parking and roadway facilities, similar to Phases I and II of the Penn American development. The approval of a variance to reduce the lot area and width of Lot 2, Block 1, Knox American Addition will not jeopardize or detract from the usability or development potential of the subject lot due to the opportunities for shared facilities with the surrounding development. The variance will not alter the essential character of the locality.

**Required Platting Variance Findings – Section 22.07(d)(1-5)**

Required Finding	Finding Outcome/Discussion
(1) An unusual hardship exists that justifies the platting variance.	<b>Finding Made</b> – Typically, a lot is platted in conjunction with a definitive development plan. In this case, the future development plan for Lot 2, Block 1, Knox American Addition is uncertain and remains unknown at this time. The calculation of park dedication fees are informed by the development type and intensity proposed for a property. The subject lot is proposed to be platted to provide for a shared access easement and prepare the site for future development. An unusual hardship exists that justifies the platting variance.
(2) The unusual hardship is not the result of actions of the applicant.	<b>Finding Made</b> – Uncertainty with regard to the intensity of future development on a portion of the platted property combined with the need to plat Lot 2, Block 1, Knox American Addition in order to create a shared access easement is a result of the unique requirements of this development parcel and is not a result of actions of the applicant.
(3) The platting variance requested is the minimum variance necessary to address the unusual hardship.	<b>Finding Made</b> – The platting variance requested is the minimum variance necessary to defer collection of parking dedication fees to the time when the type and intensity of the development is known. This request defers the calculation and payment until the issuance of a building permit. As that time, the park dedication fee will be fulfilled by the developer.

<b>Required Finding</b>	<b>Finding Outcome/Discussion</b>
(4) The platting variance will not conflict with the purpose and intent of the City Code.	<b>Finding Made</b> – The purpose and intent of the park dedication fee will still be met, as park dedication fees will be satisfied in the future. The request is only to defer the calculation and payment until the issuance of a building permit. At that time, the park dedication requirements will be fulfilled.
(5) The platting variance will not have a substantially detrimental impact on neighboring property owners or the public welfare.	<b>Finding Made</b> – The variance will not have an impact on neighboring property owners or public welfare, as the park dedication fees will be paid at the time a building permit is issued.

**Required Preliminary Plat Findings – Section 22.05(d)(1-8)**

<b>Required Finding</b>	<b>Finding Outcome/Discussion</b>
(1) The plat is not in conflict with the Comprehensive Plan.	<b>Finding Made</b> – The subject property is guided Community Commercial. The proposed plat will allow for the development of the third phase of the Penn American mixed-use development, which includes 248 units of housing. The proposed plat is consistent with the Comprehensive Plan.
(2) The plat is not in conflict with any adopted district plan for the area.	<b>Finding Made</b> – The subject property is located within the Penn American District. The proposed plat is not in conflict with the Penn American District Plan.
(3) The plat is not in conflict with City Code provisions.	<b>Finding Made</b> – Subject to the approval of variances for lot size and lot width for Lot 2, Block 1, Knox American Addition and to Planned Development approval, the plat is not in conflict with the provisions of the City Code.
(4) The plat does not conflict with existing easements.	<b>Finding Made</b> – Easements on the existing plat that must remain are carried forward with the proposed plat. The proposed plat must accommodate all necessary easements as approved by the City Engineer. The plat does not conflict with existing easements.
(5) There is adequate public infrastructure (roads, utilities, storm water systems, emergency services, schools and the like) to support the additional development potential created by the plat.	<b>Finding Made</b> – The subject property is well served by public infrastructure, including arterial and collector roadways and transit. There is adequate public infrastructure to support the development.
(6) The plat design mitigates potential negative impacts on the environment, including, but not limited to, topography; steep slopes; trees; vegetation; naturally occurring lakes, ponds, rivers and streams; susceptibility of the site to erosion, sedimentation or flooding; drainage; and storm water storage needs.	<b>Finding Made</b> – No negative impacts to the environment are anticipated as a result of the plat. The development on the subject property must comply with all applicable stormwater management requirements and other applicable laws.

(7) The plat will not be detrimental to the public health, safety or welfare.	<b>Finding Made</b> – The plat will allow for the future development of affordable housing in the Penn American development, supporting overall goals of the City’s Comprehensive Plan and One Bloomington Strategic Plan. Adequate public facilities to serve additional high density development on this site are provided. The plat will not be detrimental to the public health, safety or general welfare.
(8) The plat is not in conflict with an approved development plan or plat.	<b>Finding Made</b> – The proposed plat is not in conflict with the approved development plan or plat.

**Required Final Plat Findings - Section 22.06(d)(1):**

Required Finding	Finding Outcome/Discussion
(1) The plat is not in conflict with the approved preliminary plat or the preliminary plat findings.	<b>Finding Made</b> – The final plat is consistent with the preliminary plat and preliminary plat findings.

**Required Preliminary Development Plan Findings - Section 21.501.02(d)(1-6):**

Required Finding	Finding Outcome/Discussion
(1) The proposed development is not in conflict with the Comprehensive Plan.	<b>Finding Made</b> – The housing and street extension components of the development further multiple goals of the Comprehensive Plan including the placement of high density housing near transit, services, amenities and employment; the provision of affordable housing; and the extension of a pedestrian oriented streets in accordance with the master street plan of the City.
(2) The proposed development is not in conflict with any adopted District Plan for the area.	<b>Finding Made</b> – The housing and street extensions proposed further multiple goals of the Penn American District Plan including the placement of high density housing near transit, services, amenities and employment; the provision of affordable housing; and the extension of a pedestrian oriented streets in accordance with the street plan set forward by the District Plan. The development is not in conflict with the District Plan.
(3) All deviations from City Code requirements are in the public interest and within the parameters allowed under the Planned Development Overlay Zoning District or have previously received variance approval.	<b>Finding Made</b> – All deviations associated with the development either relate to existing conditions or serve the public interest in so far as they make the residential, affordable housing and street extension components of the development feasible.



Required Finding	Finding Outcome/Discussion
(4) Each phase of the proposed development is of sufficient size, composition and arrangement that its construction, marketing and operation is feasible as a complete unit without dependence upon any subsequent unit.	<b>Finding Made</b> – The developer plans to construct the entire proposed planned development at one time. The proposed development is not dependent on a subsequent unit.
(5) The proposed development will not create an excessive burden on parks, schools, streets, and other public facilities and utilities which serve or are proposed to serve the planned development.	<b>Finding Made</b> – Based on review of the infrastructure impacts and the fact that the development is proposed at a lower floor area ratio than the minimum required by the zoning district, the proposed development is not anticipated to create an excessive burden on parks, schools, streets, and other public facilities or utilities that are proposed to serve the planned development.
(6) The proposed development will not be injurious to the surrounding neighborhood or otherwise harm the public health, safety and welfare.	<b>Finding Made</b> – The proposed development is compatible with surrounding uses and not anticipated to be injurious to the surrounding neighborhood or otherwise harm the public health, safety and welfare.

**Required Final Development Plan Findings - Section 21.501.03(e)(1-7):**

Required Finding	Finding Outcome/Discussion
(1) The proposed development is not in conflict with the Comprehensive Plan.	<b>Finding Made</b> – The housing and street extension components of the development further multiple goals of the Comprehensive Plan including the placement of high density housing near transit, services, amenities and employment; the provision of affordable housing; and the extension of a pedestrian oriented streets in accordance with the master street plan of the City.
(2) The proposed development is not in conflict with any adopted district plan for the area.	<b>Finding Made</b> – The housing and street extensions proposed further multiple goals of the Penn American District Plan including the placement of high density housing near transit, services, amenities and employment; the provision of affordable housing; and the extension of a pedestrian oriented streets in accordance with the street plan set forward by the District Plan. The development is not in conflict with the District Plan.
(3) The proposed development is not in conflict with the approved preliminary development plan for the site.	<b>Finding Made</b> – The application includes a new Preliminary Development Plan to be established for the development area. The proposed development is not in conflict with the approved Preliminary Development Plan should it be approved.

Required Finding	Finding Outcome/Discussion
(4) All deviations from city code requirements are in the public interest and within the parameters allowed under the Planned Development Overlay Zoning District or have previously received variance approval.	<b>Finding Made</b> – All deviations associated with the development either relate to existing conditions or serve the public interest in so far as they make the residential, affordable housing and street extension components of the development feasible.
(5) The proposed development is of sufficient size, composition and arrangement that its construction, marketing and operation is feasible as a complete unit without dependence upon any subsequent unit.	<b>Finding Made</b> – The developer plans to construct the entire proposed planned development at one time. The proposed development is not dependent on a subsequent unit.
(6) The proposed development will not create an excessive burden on parks, schools, streets, and other public facilities and utilities which serve or are proposed to serve the planned development.	<b>Finding Made</b> – Based on review of the infrastructure impacts, the proposed development is not anticipated to create an excessive burden on parks, schools, streets, and other public facilities or utilities that are proposed to serve the planned development.
(7) The proposed development will not be injurious to the surrounding neighborhood or otherwise harm the public health, safety and welfare.	<b>Finding Made</b> – The proposed development is compatible with surrounding uses and not anticipated to be injurious to the surrounding neighborhood or otherwise harm the public health, safety and welfare.

## RECOMMENDATION

Planning Commission and staff recommend approval of the subject applications through the following motions:

In Case PL2019-40, I move to adopt an ordinance rezoning 8049 Morgan Circle, 1951 American Boulevard West, and a portion of 1901 American Boulevard West from C-5 to C-5(PD).

In Case PL2019-40, having been able to make the required findings, I move to approve the Preliminary and Final Development Plans for an existing 277-seat restaurant and two four-story multiple-family residential apartment buildings with 248 total units located at 1901 and 1951 American Boulevard West and 8049 Morgan Circle, subject to the conditions and Code requirements listed in the staff report.

In Case #PL2019-40, having been able to make the required findings, I move to adopt a resolution approving variances to reduce the lot size and lot width of Lot 2, Block 1, Knox American Addition from 80,000 to 78,691 square feet and from 250 to 191.7 feet, subject to the condition listed in the resolution.

In Case PL2019-40, having been able to make the required findings, I move to adopt a resolution approving a platting variance to defer the payment of park dedication fees associated with Lot 2, Block 1, Knox American Addition until prior to the issuance of a building permit, subject to the condition listed in the resolution.

In Case, PL2018-255, having been able to make the required findings, I move to approve the Preliminary Plat and adopt a resolution approving the Final Plat of Knox American Addition, subject to the conditions listed in the resolution.

## RECOMMENDED CONDITIONS OF APPROVAL

Cases PL2018-255 and PL2019-40

**Project Description:** Rezone 8049 Morgan Circle, 1951 American Boulevard West and a portion of 1901 American Boulevard West from C-5 to C-5(PD); Preliminary Development Plans for two four-story multiple-family residential buildings and an existing restaurant; and Final Development Plans for two four-story multiple-family residential apartment buildings totaling 248 units and an existing restaurant; Variances to reduce the lot size and lot width of Lot 2, Block 1, Knox American Addition from 80,000 square feet to 78,691 square feet and from 250 feet to 191.7 feet respectively; Platting Variance to defer payment of park dedication fees for future development phases; and Preliminary and Final Plat (Type III) for Knox American Addition.

**Addresses:** 1951 and 1901 American Boulevard West, 8049 Morgan Circle and 8000 Knox Avenue South

The following conditions of approval are arranged according to when they must be satisfied. In addition to conditions of approval, the use and improvements must also comply with all applicable local, state, and federal codes. Codes to which the applicant should pay particular attention are included below.

1. Prior to Permit A Site Development Agreement, including all conditions of approval, must be executed by the applicant and the City and must be properly recorded by the applicant with proof of recording provided to the Director of Community Development.
2. Prior to Permit A building permit for all required changes to accommodate the proposed use must be obtained.
3. Prior to Permit Sewer Availability Charges (SAC) must be satisfied.
4. Prior to Permit Access, circulation and parking plans must be approved by the City Engineer.
5. Prior to Permit Bicycle parking spaces must be provided and located throughout the site as approved by the City Engineer.
6. Prior to Permit Grading, Drainage, Utility and Erosion Control plans must be approved by the City Engineer.
7. Prior to Permit Storm Water Management Plan must be provided that demonstrates compliance with the City's Comprehensive Surface Water Management Plan. A maintenance plan must be signed by the property owners and must be filed of record with Hennepin County.
8. Prior to Permit A Nine Mile Creek Watershed District permit must be obtained and a copy submitted to the Engineering Division.
9. Prior to Permit A National Pollutant Discharge Elimination System (NPDES) construction site permit and a Storm Water Pollution Prevention Plan (SWPPP) must be provided if greater than one acre is disturbed (State of MN and Federal regulation).
10. Prior to Permit An erosion control surety must be provided (16.08(b)).
11. Prior to Permit A Minnesota Pollution Control Agency (MPCA) Sanitary Sewer Extension or Modification Permit must be obtained or notification from the MPCA that this permit is not required must be submitted to the City (State of MN).

12. Prior to Permit A Minnesota Department of Health (MDH) watermain review and approval must be obtained or notification from MDH that this permit is not required must be submitted to the City (State of MN).
13. Prior to Permit The properties must be platted per Chapter 22 of the City Code and the approved final plat must be filed with Hennepin County prior to the issuance of building permits (22.03(a)(2)).
14. Prior to Permit Permanent roadway and utility easements must be provided for improvements constructed on 8100 Knox Avenue South, 2000 and 2200 West 82nd Street and 8050 Morgan Circle as approved by City Engineer and proof of filing must be provided to the Engineering Division.
15. Prior to Permit A Construction Management Plan must be submitted for review and approval by the City.
16. Prior to Permit Haul Route and Construction Traffic Control Plans must be approved by the City Engineer.
17. Prior to Permit Landscape plan must be approved by the Planning Manager and landscape surety must be filed (Sec 19.52).
18. Prior to Permit Exterior building materials must be approved by the Planning Manager (Sec. 19.63.08).
19. Prior to Permit Parking lot and site security lighting plans must be provided to satisfy the requirements of Section 21.301.07 of the City Code.
20. Prior to Permit Utility plan showing location of existing and proposed water main and fire hydrant locations must be approved by the Fire Marshal and Utilities Engineer (City Code Sec. 6.20, Minnesota State Fire Code Sec. 508).
21. Prior to Permit Building must be provided with an automatic fire sprinkler system as approved by the Fire Marshal (MN Bldg. Code Sec. 903, MN Rules Chapter 1306; MN State Fire Code Sec. 903).
22. Prior to Permit Private common driveway and access agreements as approved by the City Engineer must be filed with Hennepin County and proof of filing provided to the Engineering Division.
23. Prior to C/O Buildings must meet the requirements of the Minnesota State Fire Code Appendix L (Emergency Responder Radio Coverage) adopted through City Ordinance to have approved radio coverage for emergency responders based upon the existing coverage levels of the public safety communication systems.
24. Prior to C/O Fire lanes must be posted as approved by the Fire Marshal (MN State Fire Code Sec. 503.3).
25. Prior to C/O Prior to occupancy, life safety requirements must be reviewed and approved by the Fire Marshal.
26. Prior to C/O The developer must submit electronic utility as-builts to the Public Works Department prior to the issuance of the Certificate of Occupancy.
27. Prior to C/O 80th 1/2 Street must be approved to be open for traffic by the City Engineer prior to issuance of certificates of occupancy for the multiple-family residential buildings.
28. Ongoing Alterations to utilities must be at the developer's expense.
29. Ongoing All construction related drop-off, pick-up, loading, unloading, stockpiling, staging and parking must take place on site and off adjacent public streets and public right-of-way.

- 30. Ongoing Three foot high parking lot screening must be provided along American Boulevard West as approved by the Planning Manager (Sec. 19.52).
- 31. Ongoing All rooftop equipment must be fully screened (Sec. 21.301.18).
- 32. Ongoing All trash and recyclable materials must be stored inside the principal buildings (Sec. 21.301.17).
- 33. Ongoing Signs must be in compliance with the requirements of Chapter 19, Article X of the City Code and Uniform Design Plan.
- 34. Ongoing Development must comply with the Minnesota State Accessibility Code (Chapter 1341).
- 35. Ongoing The residential buildings must maintain a minimum of 125 storage units that are compliant with City Code (Sec. 21.302.09(d)(7)).
- 36. Ongoing Proposed modifications within the public right-of-way, including loading areas, are not allowed unless specifically approved by the City Engineer.

The following condition of approval is applicable to the Platting Variance application:

- 1. Ongoing Park dedication fees must be paid prior to the issuance of a building permit on Lot 2, Block 1, Knox American Addition. Park dedication fees on all other lots must be paid prior to the recording of the plat.

The following condition of approval is applicable to the Variance application:

- 1. Ongoing The lot size and lot width variances for Lot 2, Block 1, Knox American Addition are limited to those as shown in the approved plans in Case #PL2019-40.

The following conditions of approval are applicable to the Preliminary and Final Plat applications:

- 1. Prior to Recording A title opinion or title commitment that accurately reflects the state of title of the property being platted, dated within 6 months of requesting City signatures, must be provided.
- 2. Prior to Recording A consent to plat form from any mortgage company with property interest must be provided.
- 3. Prior to Recording Right-of-way on American Boulevard West and Knox Avenue South must be dedicated to the public as approved by the City Engineer.
- 4. Prior to Recording Public drainage and utility easements must be provided as approved by the City Engineer.
- 5. Prior to Recording Public sidewalk and bikeway easements must be provided along all street frontages as approved by the City Engineer.
- 6. Prior to Recording Park dedication must be satisfied, except for Lot 2, Block 1, Knox American Addition, which must be satisfied prior to the issuance of a building permit.
- 7. Prior to Recording Morgan Circle must be vacated according to the procedures outlined in City Code Section 10.15.
- 8. Prior to Recording A permanent access agreement must be provided for 8050 Morgan Circle granting access to a public roadway as approved by the City Engineer.