



DATE: November 28, 2018

TO: Planning Commission

FROM: Nick Johnson, Planner

RE: Update on Case PL2018-255 – Penn American Phase III

As a result of further internal staff discussion regarding the plat application, staff recommends modifications to the recommended conditions of approval. Should the Final Plat of KNOX AMERICAN ADDITION be approved, the timing of plat recording is complicated by the fact that existing easements, both temporary and permanent, on the subject properties are currently being utilized for the construction of a public stormwater management project. Recording the new plat would vacate or complicate the existing easements and agreements already in place that are necessary to complete the stormwater project. Staff recommends that two development plan conditions (Conditions #14 and #35) be revised and two plat conditions (Plat Conditions #6 and #7) be deleted to alleviate these procedural complications.

Condition #14 is the standard condition requiring that the plat be recorded prior to the issuance of any permits. Should the recording of the plat be delayed in order to allow for the completion of the stormwater project, the property owner would be unable to obtain any permits to initiate work of any kind. Given that the timing of the stormwater project is outside of the control of the applicants, staff recommends that the condition be revised to restrict the issuance of only building permits as opposed to all permits. The revised condition, as shown on the attached list, would allow for grading, utility or footing/foundation permits to be issued prior to plat recording, while the issuance of the building permits would still be delayed until plat recording. The intent of the revised condition is to allow for some site work to occur should the stormwater management project be delayed. Staff believes this change is appropriate in this case given the complications and complexity caused by the public stormwater management project.

Condition #35 and Plat Conditions #6 and #7 pertain to private common access and utility easement agreements for the subject properties. Condition #35 specifically applies to access and parking for the two restaurant sites, whereas the plat conditions apply to all the properties. These conditions are duplicative and procedurally problematic given the different timing requirements (Condition #35 must be complete prior to C/O, whereas Plat Conditions #6 and #7 must be completed prior to plat recording). These problems can be resolved by revising Condition #35 to apply to the entire site and by including utility and maintenance agreements in addition to parking, driveway and access agreements. In addition, staff recommends that Condition #35 be satisfied prior to the issuance of a building permit for the new structures as opposed to prior to

the issuance of Certificate of Occupancy. To accomplish this recommended change, Condition #35 must be renumbered to Condition #30. As such, staff recommends that Condition #35 (Revised Condition #30) be modified as shown in the attached list of revised conditions and Plat Conditions #6 and #7 be deleted. These condition revisions resolve the confusion between these duplicative and conflicting conditions.

Attached to this memorandum is a list of revised conditions. The proposed changes to the recommended conditions are shown in redline format. Staff will provide a clean copy of the revised conditions at the Planning Commission meeting. Staff recommends approval of the subject applications with the revised conditions. As such, staff recommends the following revised motions:

In Case PL2018-255, I move to recommend the adoption of an ordinance rezoning 8000 Knox Avenue South, 1901 and 1951 American Boulevard West, and 8049 Morgan Circle from C-5 to C-5(PD).

In Case PL2018-255, having been able to make the required findings, I move to recommend approval of a Preliminary Plat and the Final Plat of Knox American Addition, replatting four lots into three lots and four outlots at 8000 Knox Avenue, 1901 and 1951 American Boulevard West, and 8049 Morgan Circle, subject to the revised conditions and Code requirements listed in the staff memorandum dated 11/28/18.

In Case PL2018-255, having been able to make the required findings, I move to recommend approval of Preliminary and Final Development Plans for an existing 277-seat restaurant, two multiple-family residential apartment buildings with 248 total units, and a 330-seat drive-through restaurant located at 8000 Knox Avenue, 1901 and 1951 American Boulevard West, and 8049 Morgan Circle, subject to the revised conditions and Code requirements listed in the staff memorandum dated 11/28/18.

In Case PL2018-255, having been able to make the required findings, I move to recommend approval of a Conditional Use Permit of a 330-seat drive-through restaurant located at 8000 Knox Avenue, 1901 and 1951 American Boulevard West, and 8049 Morgan Circle, subject to the revised conditions and Code requirements listed in the staff memorandum dated 11/28/18.

RECOMMENDED CONDITIONS OF APPROVAL – REVISED 11/28/18

Case PL2018-255

Project Description: Rezoning of 1901 and 1951 American Blvd W, 8000 Knox Ave S, and 8049 Morgan Circle from C-5 to C-5(PD); Preliminary Development Plans for two four-story multiple-family residential buildings, a two-story restaurant, and an existing restaurant; Final Development Plans for two four-story multiple-family residential buildings totaling 248 units and a two-story drive-through restaurant; Conditional Use Permit for a restaurant; and a Type III Preliminary and Final Plat to create three lots and four outlots.

Address: 8049 Morgan Circle, Bloomington, MN
1901 and 1951 American Boulevard West, Bloomington, MN
8000 Knox Avenue South, Bloomington, MN

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 be obtained.
3. Prior to Permit Sewer Availability Charges (SAC) must be satisfied.
4. Prior to Permit Permits for the restaurant must not be issued until a development agreement between the Bloomington HRA and future property owner is signed that requires completion of the proposed housing phase.
5. Prior to Permit Access, circulation and parking plans must be approved by the City Engineer.
6. Prior to Permit Bicycle parking spaces must be provided and located throughout the site as approved by the City Engineer.
7. Prior to Permit Grading, Drainage, Utility and Erosion Control plans must be approved by the City Engineer.
8. 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.
9. Prior to Permit A Nine Mile Creek Watershed District permit must be obtained and a copy submitted to the Engineering Division.
10. 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).
11. Prior to Permit An erosion control surety must be provided (16.08(b)).

12. 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).
13. 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).
14. 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 any building permits ~~(22.03(a)(2))~~.
15. Prior to Permit Permanent roadway and utility easements must be provided for improvements constructed on 8100 Knox Avenue South, 2000 West 82nd Street and 8050 Morgan Circle and proof of filing must be provided to the Engineering Division.
16. Prior to Permit A Construction Management Plan must be submitted for review and approval by the City.
17. Prior to Permit Haul Route and Construction Traffic Control Plans must be approved by the City Engineer.
18. Prior to Permit An external grease interceptor must be provided if the proposed tenant will have food preparation and service that will produce fats, oils, grease or wax in excess of 100 mg/L. The external grease interceptor design must be approved by the Utilities Engineer. A grease interceptor maintenance agreement must be filed with the Utilities Division, if an external grease interceptor is installed.
19. Prior to Permit Food service plans for the restaurant use must be approved by the Environmental Health Division (City Code Sec. 14.360).
20. Prior to Permit An odor control system meeting the approval of the Environmental Health Division must be provided for the drive-through restaurant.
21. Prior to Permit Indoor trash and recycling storage facilities compliant with City Code (Sec. 19.51) and the MN Building Code must be provided within both the multiple-family residential buildings and the drive-through restaurant. Revisions are required for the drive-through restaurant.
22. Prior to Permit Landscape plan must be modified to add 6 trees within parking islands as approved by the Planning Manager and landscape surety must be filed (Sec 19.52).
23. Prior to Permit Exterior building materials must be approved by the Planning Manager (Sec. 19.63.08). The primary exterior building material of the proposed drive-through restaurant must be brick and/or stone.
24. Prior to Permit Modify the east elevation of the drive-through restaurant to meet City Code requirements (Sec. 21.301.03(b)(1)).
25. Prior to Permit Parking lot and site security lighting plans must be revised to satisfy the requirements of Section 21.301.07 of the City Code.
26. 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).
27. 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).

28. Prior to Permit Modify drive-through plans to ensure the drive-through and all screening features will be at least two feet from the sidewalks along American Boulevard and Knox Avenue.
29. Prior to Permit The applicant shall share the expense of signal retiming of the intersections of Knox Avenue South and American Boulevard West and Morgan Avenue South and American Boulevard West as approved by the City Engineer.
- ~~30. Prior to Permit Private common parking, driveway, access, utility and maintenance agreements as approved by the City Engineer must be filed with Hennepin County and proof of filing provided to the Engineering Division.~~
31. Prior to C/O Buildings shall 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.
32. Prior to C/O Fire lanes must be posted as approved by the Fire Marshal (MN State Fire Code Sec. 503.3).
33. Prior to C/O Prior to occupancy, life safety requirements must be reviewed and approved by the Fire Marshal.
34. 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.
35. Prior to C/O Tier 1 Transportation Demand Management plan must be submitted and approved by the City Engineer (Sec. 21.301.09(b)(2)).
- ~~35. Prior to C/O Private common parking, driveway and access agreements between the two restaurant sites must be filed with Hennepin County and proof of filing provided to the Engineering Division.~~
36. 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 both the multiple-family residential buildings and drive-through restaurant.
37. Ongoing Alterations to utilities must be at the developer's expense.
38. Ongoing All construction related drop-off, pickup, loading, unloading, staging, stockpiling, and parking must occur on site and off public streets.
39. Ongoing Three foot high parking lot screening must be provided along American Boulevard West as approved by the Planning Manager (Sec. 19.52).
40. Ongoing Five foot high artistic perimeter screening must be provided to screen the drive-through from both American Boulevard West and Knox Avenue South as approved by the Community Development Director (Sec 21.301.02 (f) (7) (D)).
41. Ongoing All rooftop equipment must be fully screened (Sec. 19.52.01).
42. Ongoing Signs must be in compliance with the requirements of Chapter 19, Article X of the City Code and Uniform Design Plan.
43. Ongoing A uniform sign design must be submitted for approval by the Planning Manager prior to the issuance of sign permits (Section 19.109).
44. Ongoing Development must comply with the Minnesota State Accessibility Code.
45. Ongoing The residential buildings must maintain a minimum of 125 storage units that are compliant with City Code (Sec. 21.302.09(d)(7)).
46. Ongoing Proposed modifications within the public right-of-way, including loading areas, are not allowed unless specifically approved by the City Engineer.

The following conditions are recommended related to the Plat of Knox American Addition:

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 A private common utility easement agreement must be provided and recorded with Hennepin County as approved by the City Engineer.~~
- ~~7. Prior to Recording A private common driveway and access easement agreement must be provided and recorded with Hennepin County as approved by the City Engineer.~~
- 8.6. Prior to Recording Park dedication must be satisfied.