



**DATE:**           **October 19, 2020**

**TO:**             **City Council**

**FROM:**       **Nick Johnson, Planner**

**RE:**            **Update on Case #PL202000133 – Penn Lake CityHomes**

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The City Council held a public hearing on October 5, 2020 to consider a 15-unit townhome development located at 8525 and 8545 Penn Avenue South. The submitted application included the following requests:

- Comprehensive Plan Amendment (Reguiding from LDR to MDR)
- Rezoning (R-1 to R-3(PD))
- Preliminary Development Plan
- Final Development Plan
- Preliminary Plat (Type III)
- Final Plat (Type III)

Following the public hearing and discussion, the City Council approved the Comprehensive Plan Amendment and Rezoning applications. As part of the consideration of the Preliminary and Final Development Plan and Preliminary and Final Plat applications, the City Council directed staff to gather more information on four specific topic areas:

- 1) Traffic safety and access;
- 2) Wildlife/environmental impacts;
- 3) Water quantity and quality; and
- 4) Tree impacts/removal.

Staff completed follow-up analysis and investigation into these topic areas. Staff findings and response is detailed in the specific subsections that follow. In addition to the four topic areas identified at the October 5<sup>th</sup> City council meeting, the topic of construction management is also relevant given the concerns about soil removal and associated impacts. As such, staff has added construction management as a topic area of consideration to this memorandum.

### Traffic Safety and Access

As part of the overall staff review of the subject application, the City's Traffic Engineer reviewed the trip generation associated with the 15-unit townhome development, as well as any traffic impacts that could be created in the area.

**Trip Generation:** The site is expected to generate the following daily trips:

Daily Trips	AM Peak Trips	PM Peak Trips
110	7	8

Penn Avenue (Hennepin County) adjacent to the site is an arterial roadway carrying 13,500 cars per day, while 86<sup>th</sup> Street (Bloomington) along the southerly side of the property carries 5,700 vehicles per day, as illustrated:



Trips generated by the site are relatively low, especially in comparison to the surrounding road network. Trips generated by the site will be accommodated by the existing street network and are

not expected to create new safety, capacity or delay issues, nor are the trips expected to exacerbate any existing safety, capacity or delay issues.

**Neighborhood Traffic:** The subject property is adjacent to single family residential neighborhoods and concern has been expressed about additional traffic from the proposal traversing residential streets in the area to the northeast:



Local street volumes in the area range from 300 to 700 cars per day, which is on the average for residential streets in the city. It is possible that some traffic from the development could use local streets occasionally, however the number of trips generated from the project is small enough that such an occurrence would be imperceptible to local residents. It's also generally faster to most destinations using the collector/arterial system. Traffic patterns within the existing neighborhood support this, and none of the local streets appear to have persistent or observable concentrations of traffic, even from within the neighborhood.

**Site Circulation and Driveways:** As required in Chapter 22 of the City Code, the proposal includes a full access driveway on 86<sup>th</sup> Street as well as a right-in, right-out access on to Penn Avenue, although Hennepin County has not granted approval for the Penn Avenue access. Multiple access points as proposed and Code required are more desirable as they avoid

concentrating traffic on a single driveway, especially in the case of 86<sup>th</sup> Street, which is a key multi-modal corridor in the city (that includes both sidewalk and on-street bike lanes). However, because of the low trip generation from the site, the 86<sup>th</sup> Street driveway would work adequately if it were the sole access for a typical motor vehicle. However, maneuvering for larger delivery vehicles, weekly garbage trucks, and similar larger vehicles would have difficulty with a single access with no turn around. No significant queuing or delay is expected in either case, nor would an increase in bike or pedestrian crashes be expected so long as drivers and users exercise ordinary caution. The proposal also widens and moves the sidewalk away from the road, which creates a more comfortable experience for pedestrians.

**In Summary:** Traffic generated from the site is fairly low and is not expected to create new safety, capacity or delay issues, nor is it expected to exacerbate any existing problems. The proposal is not expected to create observable traffic impacts for the surrounding neighborhoods, and the existing transportation network can accommodate trips from the development. Site driveways should meet applicable standards for sight distance and can be made serviceable for emergency vehicles. An access onto Penn Avenue in addition to West 86th Street is desirable, but the site can function with a single public access onto 86th Street for typical automobile traffic. If emergency only access is proposed, this does not eliminate the concern for the larger vehicles serving the proposed development.

### **Environmental and Wildlife Impacts**

During the public hearing portion of the meeting, multiple speakers asked why the proposed project had not received some form of formal environmental review. According to State Law (MN Rules 4410.4300), the threshold for mandatory environmental review of a residential development project with attached units not consistent with the Comprehensive Plan is 150 total dwellings. The subject development, a 15-unit townhome project, is well below the thresholds for mandatory environmental review. Under these circumstances, it is atypical for a Responsible Government Unit (RGU) to require an Environmental Assessment Worksheet (EAW) or other form of environmental review for development activity. Similar past developments have not prepared an Environmental Assessment Worksheet.

From a historic perspective, the subject location's land type or ecoregion would be consistent with that of central hardwood forest and prairie. According to historical aerial photography, the area around Upper and Penn Lake has been farmed for an extended period of time. Single-family residential development around the Penn Lake area began in the early 1950s. Farming activities and subsequent residential development are likely largely responsible for the reduction of overall wildlife habitat in the broader area.

City staff visited the development site on October 8, 2020 to attempt to locate evidence of sensitive wildlife habitat. The site has a number of mature trees, most of which is proposed to be removed. Staff did not observe any nests or other structures that would be characteristic of eagles or other birds of prey. Based upon limited research, staff would anticipate that some larger predatory birds would nest or perch closer to Upper and Lower Penn Lake to be in close proximity to food supply rather than the subject properties. Additionally, the Minnesota River

Valley is a more ripe location for eagle or predatory bird habitat given the taller trees and increased food supply. Staff does not anticipate that disturbance to the subject property would represent or result in significant loss or damage to sensitive habitat.

### **Water Quantity and Quality**

The City's stormwater standards require new developments to restrict their stormwater runoff rates below that of the existing conditions, retain the first 1.1" of runoff, and provide water quality treatment. Staff has reviewed the stormwater calculations provided by the engineer for this development and based on that report the city's stormwater standards are able to be met. The stormwater calculations provided show the site will retain 13,083 cubic feet (cf) of runoff generated by the developed site. This retention volume helps the site decrease runoff rates and volume as well as provide water quality treatment. The tables below show existing and proposed conditions of the site for discharge rate and volume discharged off-site to the Penn Lake system.

Discharge Rate	Storm Event		
	2-yr (2.83")	10-yr (4.24")	100-yr (7.5")
Existing (cfs)	0.87	3.22	10.61
Proposed (cfs)	0.31	1.13	4.66

Discharge Volume	Storm Event		
	2-yr (2.83")	10-yr (4.24")	100-yr (7.5")
Existing (cf)	2,396	6,882	21,519
Proposed (cf)	741	2,004	15,072

With the site designed to decrease both stormwater runoff rate and volume there will be less water flowing to the Penn Lake system and it will be discharged at a slower rate. As a result there are no anticipated impacts to water level for the Penn Lake system.

City stormwater standards also require new developments to provide water quality treatment by removing a minimum of 60% of the total phosphorus (TP) and 90% of the Total Suspended Solids (TSS) on an average annual basis. The stormwater quality calculations provided by the engineer for this development indicate an improvement to water quality discharging from the site, which should benefit the Penn Lake system as well as downstream resources, including Nine Mile Creek and ultimately the Minnesota River.

Water Quality - Annual runoff load		
	TP (lbs)	TSS (lbs)
Existing	0.82	149.1
Proposed	0.21	16.3

Localized flooding at the intersection of Penn Circle and Penn Avenue South has been known to occur in the past, primarily in the southbound lanes of Penn Avenue where there is only one catch basin. This type of flooding occurs when the runoff from the street exceeds the capacity of

the storm drains. In general the sizing and location of storm drains along a road varies depending on the amount of traffic on a road and the speed limit, but is typically based on a 10-year storm (i.e. a storm that has a 10% chance of occurring in any given year). For this level of storm event, the reduced rate from the site will actually improve the performance of the catch basins. Short-term, localized flooding should continue to be expected during higher intensity events that exceed the capacity of the storm drains. However this localized flooding is not expected to be significantly increased by the proposed development due to the decrease rate and volume leaving the site. Additionally, the City's hydrologic and hydraulic modeling does not identify this area of Penn Avenue as a flood-prone area. This is an indication the in-place storm sewer pipes have adequate capacity to convey a storm event with a 1% chance of occurring in any given year (the 100-year storm).

Both Upper and Lower Penn Lake are listed by the Minnesota Pollution Control Agency (MPCA) as impaired for nutrients. As a result the City has been assigned a waste load allocation to reduce the amount of nutrient being conveyed to the lake. Implementing stormwater standards for re-development activity is one of the Best Management Practice's the City uses to meet the requirements of the MPCA. As discussed above, the proposed development will decrease both the total phosphorus and total suspended solids being conveyed to the Penn Lake system.

The Minnesota DNR is not involved in this project as there is no work proposed below the ordinary high water level. The Corps of Engineers is also not involved, as there is no work proposed in a navigable waterway. The proposed development will be required to obtain a permit from the Nine Mile Creek Watershed District. As a result, the proposed development will also be subject to an engineering review performed by the Watershed District to determine if the proposed stormwater management for the site is in compliance with the Watershed Districts stormwater rules. In general the stormwater management standards for the Watershed District are equal to or slightly more restrictive than the City's stormwater standards.

Stormwater management for the proposed development is managed through several stormwater basins that provide infiltration, water quality treatment, and rate control. For the proposed stormwater management system to function as designed into the future maintenance activity will be required. Routine maintenance activities such as cleaning out pre-treatment structures and managing vegetation should be expected on an annual basis while more extensive maintenance such as removal of accumulated sediment and restoring infiltration capacity will need to be monitored and addressed as necessary. Both the City and the Nine Mile Creek Watershed District require a stormwater maintenance agreement to be filed with Hennepin County that outlines the maintenance activity that will be performed to ensure the stormwater systems continues to function as designed.

### **Tree Removal**

The City Forester conducted an inspection of the existing trees on-site on October 8, 2020. It was confirmed that approximately 50 percent of the existing trees on site are varieties that are currently on the City's prohibited list (Sec. 18.03 of the City Code) – ash and boxelder. Of the remaining significant trees, some are of varieties that are deemed less valuable from an

ecological perspective, such as Silver Maple. The most valuable stands of significant trees are red pine, spruce and other evergreen varieties along the western and southern boundary, apple trees in the center of the site, and two trees along the eastern boundary of particular interest - a 28-inch white oak tree and a white pine. Staff would request the developer consider adjustments or revisions to the proposed grading plan to preserve significant trees of value along the eastern boundary if feasible.

### **Construction Management**

To lessen overall impacts and duration of construction, staff has communicated to the developer to consider design refinements that would result in less overall soil or fill having to be removed from the site. In addition, Staff is recommending a new condition of approval that a Construction Management Plan be submitted for Planning Manager, Building Official and City Engineer approval prior to any site disturbance or construction activity. The quantity of the soil proposed to be removed to accommodate the subject development warrants additional attention on the specific methods and protocols necessary to maintain a safe and orderly construction process. Specific issues of interest include identifying a dedicated haul route, permitted construction hours, dust control, interim ground cover for exposed soils (if necessary), and vehicle staging and parking. The Construction Management Plan would outline procedural and operational parameters for construction activities to limit impacts on surrounding properties and streets.

### **Recommendation**

A revised list of conditions has been prepared. The recommended conditions of approval are attached to this staff memorandum.

Staff recommends approval of the Preliminary and Final Development Plans and Preliminary and Final Plat through the following motions:

Motion by \_\_\_\_\_, seconded by \_\_\_\_\_, in Case #PL2020-133, having been able to make the required findings, I move to approve Preliminary and Final Development Plans for a 15-unit townhome development located at 8525 and 8545 Penn Avenue South, subject to the conditions and Code requirements attached to the staff memorandum dated October 19, 2020.

Motion by \_\_\_\_\_, seconded by \_\_\_\_\_, in Case #PL2020-133, having been able to make the required findings, I move to approve the Preliminary Plat and adopt a resolution approving the Final Plat of PENN LAKE CITHOMES, creating 15 townhome lots and one common lot located at 8525 and 8545 Penn Avenue South, subject to the specific plat conditions listed in the resolution.

If any member of the City Council has any questions, they can contact Nick Johnson, Planner, at (952) 563-8925 or [nmjohnson@bloomingtonmn.gov](mailto:nmjohnson@bloomingtonmn.gov).

**RECOMMENDED CONDITIONS OF APPROVAL****Case** PL2020-133

**Project Description:** Comprehensive Plan amendment to reguide 8525 and 8545 Penn Avenue from Low Density Residential to Medium Density Residential; Rezone 8525 and 8545 Penn Avenue from R-1 to R-3(PD); Preliminary and Final Development Plans for 15 townhomes; and Type III Preliminary and Final Plat to subdivide two lots into 15 townhome lots and one common lot

**Address:** 8525 and 8545 Penn 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 be obtained.
3. Prior to Permit Sewer Availability Charges (SAC) must be satisfied.
4. Prior to Permit Project Phasing Plan be submitted and approved.
5. Prior to Permit A Construction Management Plan must be submitted for review and approval by the City prior to any grading or site disturbance.
6. Prior to Permit Access, circulation and parking plans must be approved by the City Engineer.
7. Prior to Permit The development must include access to Penn Avenue South as approved by the City Engineer and Fire Marshal. Approval for the access must be obtained from Hennepin County prior to site disturbance or development activity.
8. Prior to Permit Grading, Drainage, Utility and Erosion Control plans must be approved by the City Engineer.
9. 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.
10. Prior to Permit A Nine Mile Creek Watershed District permit must be obtained and a copy submitted to the Engineering Division.
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 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).
15. Prior to Permit Landscape plan must be approved by the Planning Manager and landscape surety must be filed (Sec 19.52).
16. Prior to Permit Townhome structures must comply with the articulation and design standards specified in Section 21.302.08(c)(10) of the City Code.
17. 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 a footing/foundation or building permit (22.03(a)(2)).
18. 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.
19. Prior to C/O Prior to occupancy, life safety requirements must be reviewed and approved by the Fire Marshal.
20. Ongoing All construction stockpiling, staging and parking must take place on site and off adjacent public streets and public right-of-way.
21. Ongoing Three foot high screening must be provided and maintained along the guest parking stalls as approved by the Planning Manager (Sec. 19.52).
22. Ongoing Alterations to utilities must be at the developer's expense.
23. Ongoing Fire lanes must be posted as approved by the Fire Marshal (MN State Fire Code Sec. 503.3).
24. Ongoing Development must comply with the Minnesota State Accessibility Code (Chapter 1341).
25. Ongoing Site lighting must comply with Section 21.301.07 of the City Code. All lighting, other than architectural, decorative or landscape lighting, on the northeast building's east elevation must have 90-degree cutoff fixtures to reduce light pollution.
26. Ongoing Signs must be in compliance with the requirements of Chapter 19, Article X of the City Code and Uniform Design Plan.

The following conditions of approval are recommended for the Preliminary and Final Plat of PENN LAKE CITYHOMES:

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 Penn 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.