

GENERAL INFORMATION

PL202400135 PL2024-135

Applicant:	MCDC Penn LLC (Owner) Penn Lake CityHomes LLC (Developer)
Location:	8525 and 8545 Penn Avenue South
Request:	Preliminary and Final Plat (Type III) to subdivide two lots into 15 townhome lots and one common lot
Existing Land Use and Zoning:	Vacant lots; zoned Townhouse Residential with a Planned Development Overlay R-3 (PD)
Surrounding Land Use and Zoning:	North, East and West – residential dwellings; zoned R-1 South – park; zoned R-1 (FH)
Comprehensive Plan Designation:	Medium Density Residential (MDR)

HISTORY

City Council Action:	10/05/2020 – Approved a Comprehensive Guide Plan Amendment to reguide from Low Density Residential to Moderate Density Residential and Rezoning of the site from R-1 to R-3(PD) (Case #PL2020-133).
City Council Action:	10/19/2020 – Approved a Preliminary and Final Development Plan for a 15-unit townhouse development and a Type III Preliminary and Final Plat to subdivide two properties into 15 townhouse lots and one common lot (Case #PL2020-133).
City Council Action:	05/10/2021 – Denied a Change of Condition related to the access requirements for a 15-unit townhouse development (Case #PL2021-50). The owner and applicant filed a lawsuit (File No. 27-CV-21-10098) challenging the denial. The District Court ordered the City to adopt a resolution approving the Change in Condition.
City Council Action:	08/08/2022 – Approved a Change of Condition related to the access requirements for a 15-unit townhouse development (Case #PL2021-50).

City Council Action: 07/15/2024 – Approved a 1-year extension of plat approval. The current plat proposal would replace this previously approved plat if approved (Case #PL2024-106).

CD Director Action: 07/31/2024 – Approved a 1-year extension of Final Development Plan approval from 08/08/24 to 08/08/25 (Case #PL2024-134).

CHRONOLOGY

Planning Commission	09/19/2024	Public hearing continued
Planning Commission	10/03/2024	Public hearing held, recommended approval (vote: 5-1)
Council	10/14/2024	Review scheduled (Consent Agenda)

DEADLINE FOR AGENCY ACTION

Application Date:	08/14/2024
60 Days:	10/13/2024
Extension Letter Sent:	Yes
120 Days:	12/12/2024
Applicable Deadline:	12/12/2024

STAFF CONTACT

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PROPOSAL

The applicant is seeking preliminary and final plat approval for PENN LAKE CITYHOMES to subdivide two existing residential parcels into 15 townhome lots and one common lot. This is a new and revised plat from the previously approved PENN LAKE CITYHOMES plat in Case #PL2020-133. That previously approved plat remains valid but that has not been recorded. The new plat includes multiple adjustments to lot lines relative to the previously approved plat, but does not increase the number of townhome units nor substantially change the originally approved site plan.

The proposed townhome development includes a four-unit building, five-unit building and six-unit building. All of the townhomes share a minimum of one common wall with the adjoining unit. The townhomes would be a mix of three and four-bedroom units. The primary, full access for the development would be provided from West 86th Street, while emergency vehicle access only would be provided from Penn Avenue (#PL2021-50).

BACKGROUND

On October 5, 2020, the City Council approved a Comprehensive Plan Amendment and Rezoning for the subject properties at 8525 and 8545 Penn Avenue South. On October 19, 2020, the City Council approved Preliminary and Final Development Plans and an associated Type III Preliminary and Final Plat to subdivide two lots into 15 townhouse lots and one common lot (Case #PL2020-133).

The applicant later applied to change a condition of approval related to Penn Avenue access requirements attached to the approved Final Development Plan (Case #PL2021-50). On June 10, 2021, the City Council denied the Change in Condition application for Case #PL2020-133. The applicant subsequently appealed the denial to the Second Judicial District Court. The case was heard on April 5, 2022, before Honorable John Guthmann, and a decision was issued on July 5, 2022, resulting in a reversal of the City decision. After the District Court decision, the City Council adopted a resolution approving the requested Change in Condition on August 8, 2022. The applicant was unable to obtain a building permit for the approved development during the time period of the court proceedings, so the two-year approval period for the Final Development Plan and associated Final Plat was tolled. As a result, a new two-year period of validity was granted starting on August 8, 2022. On July 31, 2024, the Final Development Plan approval was extended by one-year to August 8, 2025 (Case #PL2024-134).

Since the abovementioned zoning approvals were granted, a grading permit was issued for the property and grading and tree removal work has occurred on-site consistent with the approved grading plans. The grading work is not yet fully complete. However, the site continues to be monitored by Water Resources and Building and Inspections staff. Erosion control and soil stabilization are the primary areas of focus for this work.

Moving towards executing the remaining elements of the development, the applicant has since changed the initial floor plan layouts. The changes in floor plan layout requires the previously approved lot line locations to shift slightly to fit the units properly. This proposal is for a new Type III preliminary and final plat for the 15 townhome lots and one common lot. The previous plat has not been recorded with Hennepin County, so if approved, this proposal would replace the previously approved plat for the project. The applicant has also applied for a minor revision to Final Development Plans for the change in floor plan layouts (Case #PL2024-104). A minor revision to Final Development Plans is an administrative review and approval. The analysis and review for the Planning Commission and City Council only relates to the Preliminary and Final Plat application.

ANALYSIS

Land Use

The subject property is guided Medium Density Residential (MDR). Therefore, subdividing the property to create 15 townhome units and a common lot compliant with the R-3 zoning district does not conflict with the Comprehensive Plan.

Code Compliance

The proposed development complies with all the Code requirements. Table 1 provides a Code analysis of items that meet or exceed City Code.

Table 1: City Code Analysis – Regulations in Compliance

Standard	Code Required	Provided
Site area (min.) (Sec. 21.301.01)	20,000 square feet	81,887 square feet
Minimum site width (Sec. 21.301.01)	120 feet	270 feet
Impervious surface coverage (max.) (Sec. 21.302.08(c)(13)(B))	80 percent	63 percent
Density (max) (Sec. 21.301.01)	8 units/acre	7.98 units/acre

Preliminary and Final Plat

The proposed plat, PENN LAKE CITYHOMES, would subdivide the two subject properties into 15 townhome lots and one large common lot. All common area would be owned and maintained by a Homeowners Association (HOA). This platting approach is common for townhome developments.

Staff supports the Preliminary and Final Plat application, subject to all recommended conditions. Should the plat be approved, it must be recorded with Hennepin County prior to issuance of any footing/foundation permit or building permits.

The applicant must satisfy the City's parkland dedication fee requirements prior to the plat being released for recording. The park dedication amount cited at Post-Application Development Review Committee was based on a 15-unit proposal.

Hennepin County Comments

Penn Avenue is a Hennepin County roadway, so Hennepin County also reviews the plat and provides comments to the applicant. Hennepin County requires a 40-foot right-of-way dedication for Penn Avenue, which has been provided on the plat.

Planning Commission

The Planning Commission held a public hearing to consider the subject application on October 3, 2024. No one spoke at the public hearing. Following discussion, the Planning Commission recommended approval of the Preliminary and Final Plat on a 5-1 vote (Commissioner Isse voted no on the motion).

OUTREACH

Outreach/Notification

- Mailed Notice (10-day notice – 500-foot buffer)
- Newspaper Notice (10-day notice – 09/05/24 Sun Current)
- Public Hearing Notice Online
- E-Subscribe Group Notification
- Inclusion on Development Map
- Public Hearing Held at Planning Commission – 10/3/24

FINDINGS

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

Required Finding	Finding Outcome/Discussion
(1) The plat is not in conflict with the Comprehensive Plan.	Finding Made - The subject property is guided Medium Density Residential (MDR). Therefore, subdividing the property to create 15 townhome units and a common lot compliant with the R-3 zoning district does not conflict with the Comprehensive Plan.
(2) The plat is not in conflict with any adopted District Plan for the area.	Finding Made – The plat is not located in an area subject to a district plan.
(3) The plat is not in conflict with city code provisions.	Finding Made – Subject to the recommended conditions of approval, the plat is not in conflict with City Code provisions.
(4) The plat does not conflict with existing easements.	Finding Made - The plat is not in conflict with any existing easements and establishes new easements for drainage and utilities and sidewalk/bikeway usage.
(5) There is adequate public infrastructure (roads, utilities, storm water systems, emergency services, schools, etc.) to support additional development potential created by the plat.	Finding Made – The site is adjacent to a major collector road and minor arterial road, both of which have adequate capacity. The sanitary sewer and water systems proposed to serve the site also have adequate capacity. There is adequate public infrastructure to support the additional development potential created by the plat.

(6) The plat design mitigates potential negative impacts on the environment, including, but not limited to: topography; steep slopes; trees; vegetation; natural occurring lakes, ponds, rivers and streams; susceptibility of the site to erosion, sedimentation or flooding; drainage; and storm water storage needs.	Finding Made - Stormwater management systems, consistent with the City of Bloomington Comprehensive Surface Water Management Plan must be installed to address drainage and stormwater needs. The plat design mitigates potential negative impacts on the environment.
(7) The plat will not be detrimental to the public health, safety or welfare.	Finding Made – The development potential created by the plat must comply with City Engineering standards and City Code. The plat is not anticipated to be detrimental to the public health, safety, or welfare.
(8) The plat is not in conflict with an approved development plan or plat.	Finding Made - The applicant has submitted a minor revision to the final development plan for the change in floor plan layout. The plat does not conflict with the revision to the approved development plan.

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.	Finding Made - The Final Plat is consistent with the Preliminary Plat and the preliminary plat findings.

RECOMMENDATION

The Planning Commission and Staff recommend approval using the following motion:

Motion by _____, seconded by _____ to approve the Preliminary Plat and adopt Resolution No. 2024-___ a resolution approving a Final Plat for PENN LAKE CITYHOMES, subject to the conditions and Code requirements attached to the staff report.

RECOMMENDED CONDITIONS OF APPROVAL

Case PL2024-135

Project Description: Type III Preliminary and Final Plat to subdivide two lots into 15 townhome lots and one common lot at 8525 and 8545 Penn Ave S

Address: 8525 & 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.

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| 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 | Public drainage and utility easements must be provided as approved by the City Engineer. |
| 4. | Prior to Recording | A public 10-foot sidewalk and bikeway easement must be provided along the public street frontage as approved by the City Engineer. |
| 5. | Prior to Recording | Park dedication requirements must be satisfied prior to the City releasing the plat for recording. |
| 6. | Prior to Recording | Private driveway/access easement/agreement and private utility easement/agreement must be provided and approved by the City Engineer. The agreements must be filed with Hennepin County and proof of filing provided to the Engineering Division following the recording of the plat. |
| 7. | Prior to Recording | Right-of-way dedication is required on the final plat as approved by the City Engineer. |
| 8. | 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 permits. See §22.03(a)(2) |
| 9. | Ongoing | Approval of the plat supersedes and replaces all previously approved plats for the site. |