CHASKA PLANNING COMMISSION
MINUTES
AUGUST 10, 2022

1. Call to Order

Chairperson Brass called the meeting to order at 7 pm.

2. Roll Call

Roll call was taken. Members present: Commissioners Olson, Gaare, Urbanski, Baswa, Aasen, and Chairperson Brass.

Members absent: Commissioners Lacey and Rylee.

Also present: Jacob Saufley, City Attorney, Nate Kabat, Community Development Director; and, Liz Hanson, City Planner.

3. Adopt the Agenda

Motion by Commissioner Urbanski, second by Commissioner Aasen, to adopt the agenda as presented.
Motion carried.

4. Visitor Presentation

No one appeared under Visitor Presentation.

5. Approve Previous Meeting Minutes

5.A. Approve the July 13, 2022 Planning commission Meeting Minutes

Commissioner Aasen asked for a correction to the roll call to note that he was present at the meeting.

Motion by Commissioner Aasen, second by Commissioner Baswa, to approve the minutes of the July 13, 2022 Planning Commission meeting, as amended.
Motion carried.

6. Consent Agenda

7. Action Items

7.A. PUBLIC HEARING: Recommend Approval of the Zoning Ordinance Amendment (ZOA) to Section 15.16 Planned Development Districts/City of Chaska/PC #2022-51

City Planner Hanson presented the item to the Commission.

Commissioner Olson asked why this action was necessary right now. He stated that the Commission had discussed the fact that there needed to be a deeper dive into the ordinance itself and questions coming in right now to make changes that are essentially removing the word 'shall' and replacing them with 'should'.

Community Development Director Kabat stated that the reason this is coming forward now is that the understanding during the preview process was that staff would be taking an immediate look at this portion, which is consistent with past practice. He explained that in the past when a variance has moved forward with support from the Planning Commission and City Council, it has been a signal that perhaps the ordinance should be looked at to see if it can be tightened up and clarified. He noted that Chaska has a long history of rarely bringing forth variances, because of past practice, which has allowed a lot of discretion and flexibility applied to how Planned Use Districts are developed and utilized with an eye toward the outcome rather than towards being exact to the language of the ordinance. He noted that there has been a recent change in the attorneys that have been involved as well as in his position, as the Community Development Director. He stated that this new group of people felt that while there is nothing inherently wrong with the past practice, it doesn't align with how the language is written in the Zoning Code. He stated that they have acted as though the Planned Use Districts were using 'should' in the past where it actually says 'shall'. He explained that what they are attempting to do with this change is better align the established practice over the past few decades with the language in the Code. He stated that to answer the question of why they felt it should be done now was that they previewed it while going through the variance process and staff felt that both the Commission and the Council were desirous of moving forward with these changes. He stated that there is the larger audit that they intend to move forward with and are working on, but their focus will be in taking a look at what the Comprehensive Plan and specific area plan, as well as the Zoning Code and the Subdivision Ordinance in order to take a look at how well they are aligned with those broader objectives. He stated that right now, there are some conflicting messages within the Zoning Code so the idea is to take a look at how to align the Zoning Code with practice, the goals outlined in the 'plans' and also take a look at the conflict points and try to figure out how to provide a bit more clarity.

Commissioner Olson asked if that simply meant the City was trying to change the language to match the actions versus changing the actions to match the language. He stated that the Zoning Code has not been changed for many years and it sounds like he is saying that staff has acted in a way that was differing from what the ordinance said.

Community Development Director Kabat noted that he would not say it was just staff, but also the Planning Commission and the City Council. He stated that those groups have been approving zoning in a way that really has an eye towards the outcome and applying a lot of flexibility. He stated that he is saying that this language amendment will align with the established past practices that have been in place for decades and reiterated that it was not just staff but included the Planning Commission and the City Council.

Commissioner Olson stated that, however, it was staff presenting to these bodies.

Community Development Director Kabat stated that was correct, but then the Planning Commission also made a recommendation to the City Council.

Commissioner Olson stated that those recommendations were based on the information staff presented to them. He asked what contradictory terms there are currently between the Comprehensive Plan and the current Zoning Code.

Community Development Director Kabat noted that is what the broader audit would be looking at in greater detail. He explained that the change they are recommending this evening is really about putting the flexibility into the Planned Use District that has already been applied through practice over the past few decades.

Commissioner Olson stated that he would say from his seat as a Commissioner, that they do not know what the practice is, but know what the Zoning Ordinance is, what everybody has access to, and how activities should be managed. He stated that up until these most recent apartment building projects, he does not think there have been many variances that have caused staff to say that there is an issue.

Community Development Director Kabat stated that what he is trying to explain is that there has been some shift in thinking on how to interpret the Zoning Code. He stated that in the past, if the current thinking was applied, there would have been many more variances that would have come forward. He stated that what staff is trying to do tonight is act on the direction that they believe they have heard from the Planning Commission and the City Council. He noted that he wanted to make it very clear that they were not intended to impose anything on the Commission.

Chairperson Brass stated that he appreciated that action was taken right away rather than waiting another 6 months to take a look at a problem that has come up at the last few meetings. He stated that what he is hearing staff say is that by both the Commission and the Council approving these things, it sort of sets the stage that perhaps the Ordinance doesn't align with what the practice has been.

Commissioner Gaare stated that another way to look at it is that there is no value added in the variance approval process.

Chairperson Brass stated that with a PDD, or what other cities call a PUD, there is a lot of discretion. He reiterated that he likes to take care of problems right away so he does not have a problem with the timing of this action. He gave the example of recent applications that had different retail parking proposals that were approved differently than what the Code says, because parking practices have supposedly changed. He stated that there is a huge loop hole in the usable open space issue that he pointed out in the last meeting. He noted that by changing these words, it gives the Commission discretion to determine if a use is reasonable or not.

Community Development Director Kabat noted that there is a provision including tonight that would change how the City would look at parking and provide more discretion and flexibility. He stated that they will continue to visit this issue through the audit process, but for now, this language change gives the City some ability for flexibility. He pointed out that the recommendations are not to remove any of the metrics that exist in the Planned District portion of the code such as FAR, setbacks, and open space. He explained that those things still continue to be there, but they end up being advisory. He stated that this language change does not remove the ability to look at these long standing targets but is looking at how they are evaluated, which he would argue is not really different than how it has been done in the past.

Chairperson Brass stated that he feels the proposed change gives the Commission more discretion on whether to approve developments or not.

Community Development Director Kabat noted that staff's perception of the proposed change is that this will put more onus on the developer for them to justify why they are suggesting other than what is recommended.

Commissioner Olson asked staff to elaborate on that point because he would see it as the opposite scenario and doesn't want this to turn into a 'wink, wink – nudge, nudge' scenario that just goes through.

Community Development Director Kabat stated that the way he envisions applying this is that if a developer is looking to diverge from the metrics and targets included in the Code there needs to be a good reason or justification for it.

Chairperson Brass stated that the metrics are still in place, but it would change it so there could be discretion and, for example, they would not have to go through hours of discussion over a variance that was just 5 feet.

Commissioner Urbanski stated that to simplify what this proposes is that a PDD is a unique project that has the developer work with the City to try to put together the best project that will fit, which means there needs to be a bit of give on both sides. He asked if this explanation was over-simplifying the proposed change to the language.

Community Development Director Kabat stated that this is often how they have approached things and agreed that this is the intent of a Planned District.

Chairperson Brass noted that in his professional career outside of the Planning Commission he has always felt that Planned Unit Developments such as this, give the cities more control.

Commissioner Olson asked how this verbiage compared to neighboring cities such as Chanhassen and Eden Prairie.

Community Development Director Kabat noted that he had not done a review to compare it against neighboring communities.

Commissioner Olson asked if it was reviewed when they were looking at communication.

Community Development Director Kabat stated that they can look at this and compare it but explained that the reason he approached the conversation about communication differently was because the direction they had received was that they did not feel their practice was adequate and wanted to learn from other communities that appeared to be doing it better. He explained that what he had heard in this situation was that the City didn't necessarily think its practice today was insufficient. He stated that he feels that the overall feeling was that they liked what they were doing, but the Code didn't seem to be aligning with that practice which is why, from this perspective, he didn't see a strong need to take a look at what others were doing.

Chairperson Brass confirmed with Community Development Director Kabat that this recommendation was done in conjunction with the City Attorney.

Commissioner Baswa asked who would have more flexibility with this proposed changes between the City staff, the developer, or the Commission.

Community Development Director Kabat stated that from City staff's perspective, their objective and approach would not significantly change. He explained that their approach is always on applying the Code, understanding the Comprehensive Plan, understanding the broader goals of the Council, translating that and then applying it to any development that comes in. He stated that what he thinks it does change is the discretion that the Planning Commission has in its recommendations to the Council and changes the evaluation that the Council can do on these developments. He reiterated that he really didn't think this changed the City's 'practices' because it really just makes the Code match the already established practice. He shared examples of projects in the City where he felt a lot of creativity was included in the process such as Clover Ridge and Chaska Commons.

Chairperson Brass opened the public hearing at 7:36 p.m.

Wade Sorenson, 1456 Sophia Drive, noted that he would like to start with the same question that was raised by Commissioner Olson on why this change was being talked about right now. He stated that he feels this is being addressed now because of the next item on the agenda rather than waiting for the larger more comprehensive look into this ordinance that is apparently supposed to happen later this year. He stated that he believed this was being brought up in a rushed fashion because of the project on the Kohls property. He stated that with reference to The Gallery Apartments, the issue that caused all the variances to be required has to do with how the site is defined because it was a 5.7 acre site that the City called a 24 acre site and, in his opinion, basically ended up playing tricks with the numbers. He stated that those 'tricks' led to issues with the open space, but he feels the real issue was actually the floor area ratio. He reiterated that he feels the issue that needs to be addressed is how the site is defined. He noted that he felt the City's challenges would continue until that issue is resolved. He stated that he would agree with the sentiment that the PDD code contains some ambiguities, but he feels these proposed changes do nothing to address that issue or even make them less ambiguous. He stated that he feels these changes will make it even more ambiguous. He stated that no where in the Code does it stay that it is supposed to be a flexible regulatory process. He stated that there were not examples from neighboring cities or examples given of what they need more flexibility on. He gave the example driving down his street at 50 mph, even though the speed limit is lower than that. He stated that it is the equivalent of him saying that just because he always drives at 50 mph he should be able to change the speed limit to 50 mph. He stated that it feels like that is what is happening in this situation when staff is suggesting changing the language to say 'should' and noted that he did not believe there was a rational reason to make these changes. He asked what the benefit would be of this change and stated that the Commission was here representing the residents of the City and he feels the oversight for the City is greatly diminished by these changes. He stated that he did not believe the Commission gained any power from these changes and any flexibility gained is for the developers. He reiterated that he believes these changes will diminish the oversight the Commission has and ultimately, the residents will lose protections. He explained that he strongly discouraged the Commission from supporting this proposed amendments.

There being no additional public comment, Chairperson Brass closed the public hearing at 7:41 p.m.

Chairperson Brass stated that he did not think these proposed changes would create more confusion and explained that he felt they would just add more discretion. He reiterated that he was intimately familiar with what other cities do and had done business with many cities that have this type of district. He stated that the intent is for flexibility and feels the idea that this diminishes his role and that the Planning Commission would have no authority following these changes he considers an insult. He stated that the Planning Commission still needs to vote to recommend approval or denial on every single application that comes before them. He stated that thinks it is the opposite of what Mr. Sorenson shared.

Commissioner Olson noted that Chairperson Brass had mentioned that in his professional life that he deals with this in other communities and asked if he was saying that other communities have similar requirements to the City.

Chairperson Brass stated that he is not a lawyer so he couldn't compare legal language, but noted that, he had experience with Plymouth, Burnsville, and Rogers with planned unit developments, which are a hassle because you can't just go in and conform to their I-2 district standards. He stated that instead you have to go in and convince the commission why they would want to support this and how it would fit the vision for their city. He stated that professionally when he looks at a piece of property and it says PUD, he groans, because he knows off the bat that everything will be open for discussion and there are no hard set rules. He stated that he thinks this actually makes things more difficult for developers.

Commissioner Olson stated that if the developer has good, rational reasons for exceeding the 'shalls' there would be a valid reason for a variance which he feels should be highlighted. He stated that he is looking at things from the finance side so he is looking at the black and white perspective.

Chairperson Brass noted that they could just not any PDDs in the City and everything is just hard because you cannot think of code to cover every scenario. He stated that instead of doing that, this gives the Commission and City staff discretion to consider these projects while representing the citizens.

Commissioner Olson stated that from the finance world, there is a standard and everybody is measured on that standard and if there is a variance, he would like it brought forward for a vote, but noted that he felt it should be measured the same way. He stated that the last two projects that had variances were approved by the majority of the Commission and asked how that process was not working and why this amendment was necessary. He stated that it appears as though staff feels there is something coming down the pike that makes this change necessary rather than leaving as it is and continuing to follow the process that worked the last two times. He stated that he feels those last two projects were looking for variances because of the wetlands and not because the land was a PRD. He stated that his preference would be that if there is a valid reason for a variance and it bypasses the 'shall' then it should come back.

Chairperson Brass noted that he was under the impression that these changes were just for the PDD districts so there will be variance requests that come for other districts.

City Planner Hanson stated that was correct.

Commissioner Olson asked what was undeveloped right now that would not go into a PRD or PDD district. He stated that he feels this would be making a rash decision to change minor wording that will open up more concerns as the City continues to grow rather than addressing the core issues of what the differences are between the Comprehensive Plan and the Zoning Ordinance.

Chairperson Brass stated that he feels that is a different matter.

Commissioner Olson stated that staff had stated that it was restrictive, which he feels is the whole point of the Zoning Ordinance, so the City can say what developers can do and what they cannot do.

Chairperson Brass stated that he thinks it comes back to the intent that PDDs are, in nature, discretionary by City staff. He reiterated his earlier point that he is in support of taking care of issues earlier rather than waiting for more issues to arise.

Commissioner Olson stated that he feels the City already has a process to be able to handle that situation with the variance process.

Chairperson Brass stated that then it goes back to having two hour discussions on these issues.

Commissioner Gaare stated that it goes back to her point that there is no value added in this particular category of having variances.

Commissioner Baswa stated that the numbers are not changing and staff will still present the information surrounding the requirements and Code. He stated that the Commission will have the opportunity to look into each situation and have the discretion to say whether they feel it will be good for the community or not. He stated that he understands that they have the flexibility to give a variance, but since this is not changing any of the numbers, for example going from 35 feet down to 25 feet, he does not have many concerns.

Commissioner Urbanski stated he the thinks this proposed revision allows the Commission to have more common sense when looking at projects especially for unique properties or developments that don't fall into the typical design of concept. He stated that he feels it gives the Commission some leeway and allows them to have a discussion early on with the developer rather than when they pursue a variance. He stated that he thinks this will make the process easier but the City will still get good projects with more communication on the front side.

Chairperson Brass stated that he feels it will still be the Commission and City's 'say' on what gets to happen.

Commissioner Gaare agreed and stated that staff will still make recommendations to the Commission and the Commission will still make recommendations to the Council, so the process will not change.

Commissioner Olson noted that being directly affected by the last two projects, how the process worked, and how the City presented it to the Commission and the Council, left some distaste for him. He stated that part of it was the practice and not following the words that were in the Zoning Ordinance and even though those words were brought up to the Commission and the Council, staff had continued their practice. He stated that this is the part where it needs to be clear that they are changing the words to match the practice and not vice versa. He stated that he feels that is a disservice for the Commission and feels staff is choosing to go with the path of least resistance. He stated that now the Commission will get to deal with developers for these large projects that have no boundaries. He stated that he feels the decision made today will last for decades because the previous decision lasted for decades and now they are looking to make changes specifically for two recent projects that came through the City, as well as the next one on the agenda. He stated that none of these three projects fit the City's mold and asked if that was because of zoning requirements or if it was because the developers are aggressive and City staff is not following the words from the ordinances and are simply following their practice. He stated that in his opinion, this change is too soon and doesn't really solve any problem but opens the door for people to come in and do whatever they want.

Commissioner Gaare stated that each application will still be voted on.

Chairperson Brass stated that he did not believe that developers would be able to come in and do whatever they want because there are still metrics in place. He stated that he understands that Commissioner Olson sees this as more of a black and white issue, but things change and this code was written many years ago. He stated that there will be more comprehensive changes when the audit continues and expects there to be changes for things such as parking and retail because that industry has changed. He stated that if this change moves forward and there ends up being a problem with it, the City can go back and change it again, if necessary.

Commissioner Aasen noted that he sees the advantage for the City because it won't hold them strictly to something and then they end up with something that they don't really want. He stated that he feels this language change will give them the ability to deny something.

Commissioner Olson stated that staff's actions has not been matching their words. He asked how the information regarding this public hearing was communicated to the public.

City Planner Hanson explained that it was required to go to the newspaper.

Commissioner Olson stated that means it went to the Chaska Herald for last Thursdays delivery and asked if that was the only communication that happened.

Chairperson Brass noted that he thinks it was also public on certain social media pages.

Commissioner Olson stated that information was just posted today.

Motion by Commissioner Baswa, seconded by Commission Urbanski, to recommend approval of the Zoning Ordinance Amendment that would modify Section 15.16 of the Zoning Ordinance to read as the attached draft Ordinance.

Motion carried 5-1 (Commissioner Olson opposed).

7.B. PUBLIC HEARING: Recommend Approval of the Preliminary Site and Building Plan and Zoning Ordinance Amendment (ZOA) for Hazeltine Plaza Apartments/Trident Development/PC #2022-48

City Planner Hanson presented the item to the Commission and noted that this is scheduled to come before the Council on August 15, 2022.

Commissioner Olson asked if he was correct that in order for there to be an apartment on this site the PCD would need to be amended.

City Planner Hanson stated that the permitted uses need to include this.

Community Development Director Kabat clarified that in code, the PCD district allows for residential uses and this specific PCD-15 did not list multi-family housing as a permitted use.

Chairperson Brass asked why there would be a motion to make this PCD-15 if it doesn't have the use permitted.

Community Development Director Kabat explained that the specific district PCD-15 does not include residential or multi-family as a permitted use. He stated that PCD-15 is a bit more restrictive than what code would allow for a PCD.

Chairperson Brass noted that he understood now that this was to allow multi-family use and noted that many cities are doing this kind of pedestrian friendly area with apartments and retail together.

Commissioner Olson stated that this property has been sitting there a long time. He asked about sidewalks and noted that nothing was shown in the diagrams around the breezeway and asked if there would be a crosswalk.

City Planner Hanson stated that is not currently shown but is probably something that can be looked at more closely.

Commissioner Olson stated that knowing the parking lot is there he feels they should definitely consider a crosswalk somewhere on that side of the loop.

Chairperson Brass stated that he had seen something with rebranding for places like Kohl's and Sephora and asked if the developer had worked out something with them in order to get approval.

City Planner Hanson stated that may be the case but noted that they would be working with City staff on the signage, not the developer.

Commissioner Olson asked what efforts had been made by the staff to adhere to the .5 floor area ratio. He noted that it is coming in at .69 and assumed that there had not been any change from the concept phase.

Community Development Director Kabat stated that City staff has evaluated this and found that this is an area that is much more densely developed with a commercial presence that is there. He stated that from their perspective, what is being presented from a foot print, massing, and scale as it related to the site itself and the development as a whole, does not result in a project that is significantly out of line with what is experienced out there. He stated that another thing to think about is that if this were to develop as it is currently permitted with a commercial use it would be a very similar floor to area ratio with that type of proposal.

Commissioner Olson stated that the PCD does not have a floor to area ratio mechanism.

Community Development Director Kabat stated that this was correct but in the PCD zoning language it says that for a residential use they would defer to some key areas within the PRD section of the code and one of those areas is the floor area ratio. He noted that if the zoning amendment for the previous agenda item had not passed, they would be in a position when this comes for final approval where they would be talking about a variance.

Chairperson Brass stated that with the floor area ratio being higher, they were still able to comply and exceed the common open useable space.

Community Development Director Kabat stated that this was true and they were also providing a much greater parking ratio than has been allowed for other multi-family projects.

Commissioner Olson asked if there had been any discussion about reducing the parking lot size since they are exceeding what has become the 'norm' for other developments.

Community Development Director Kabat noted that while they are exceeding the 'norm', they are meeting the City's requirements. He stated that they have talked about it, but the developer right now is planning to keep it as planned. He stated that the City never wants to encourage a developer to implement more parking than they really need, but the developer is in a position to determine the market requirements for their project.

Chairperson Brass asked if the developer anticipated having parking for Kohl's to spill over.

Community Development Director Kabat stated that the developer can speak to this but the way the City has worked with them is to think about how you design the parking if someone is heading to Kohl's this does not seem like a desirable place for them to park. He stated that they have made that attempt through landscaping and the way the developer has situated the entry points as well as putting a significant amount of parking underground and on the first floor on the southside of the building.

Chairperson Brass opened the public hearing at 8:38 p.m.

Roger Fink, Trident Development, thanked City staff for assisting their design team to come up with what they believe is a very attractive land plan for this unique site. He introduced other members of the Trident Development team and explained that Trident has successfully accomplished two other housing developments in the City is recent years, with Chaska Heights senior living, and Lake Jonathan Flats. He stated that this project required them to collaborate and communicate more with neighboring businesses including Kohl's and the Hazeltine National Golf Course. He stated that they have met and discussed this project with Hazeltine's leadership team a few months ago to introduce the concept to them and have kept them updated with the revisions. He stated that they have been able to have an ongoing dialogue with them which has been very favorable. He stated that they have not experienced any opposition from any of the area retail users, which is encouraging. He stated that they wanted to try to find a housing plan that is complementary to their businesses and would make for a high quality housing option for the City. He stated that they feel their proposed design is very attractive and noted that they have introduced the Chaska brick into the exterior elements but would like to use utility brick. He gave examples of where this type of brick had been used on other projects in the area. He asked the Commission to carefully consider offering some flexibility for them to be able to use this type of brick. He explained that if that is not allowed he believes their solution would be to reduce the overall amount of brick on the building and replace it with LP siding.

Chairperson Brass asked if the proposal was to use the utility brick on the lower level of the south side near the garage area and then sort of fade away as it moves north.

Mr. Fink stated that the wainscotting for the lower level is where the split face block will be located. He stated that the more vertical elements that have the pale yellowing color is the utility brick they are talking about. He explained that it is just like the brick that can be seen on the walls in the Council chamber, but it is slightly larger.

Chairperson Brass stated that looks like Chaska brick to him.

City Planner Hanson stated that it is Chaska brick but explained that the brick that can be seen in the Council chambers is 'modular' and utility brick is much larger in scale than this brick.

Commissioner Urbanski asked about the size of a modular style brick.

Mr. Fink explained that modular is a bit larger than his cell phone and can be seen on the Kohl's department store, the monument sign right in front of their proposed building, and the 212 medical building. He stated that their intent is to create a building that has architecture that is complementary and consistent with the other architectural elements in the area. He reiterated that it is the same exact brick material, but is just formed in a slightly larger format.

Chairperson Brass asked about the different calculations for building materials.

City Planner Hanson stated that there would be a 12% difference, so if it were not allowed, basically 12% of the brick would be eliminated and changed to LP smart siding in order to get them to 80% Class 1 materials. She then corrected herself and noted that the developer would still need to provide 3 separate Class 1 materials so their argument is if they provide more of the LP smart side they would get to the 80% metric. She stated that if they changed the utility brick to modular it would be fine. She stated that their argument is that the utility brick should basically be classified as Class 1 material to meet the requirements based on the scale of the building.

Community Development Director Kabat clarified that if the Commission agreed with the proposed brick, and were willing to consider it Class 1, they would be fine. He explained that the issue that this is up against is that as the Zoning Code is currently written, in the design materials requirements, the proposed brick is not considered a Class 1 material, which means it would effectively be a variance type situation.

Chairperson Brass stated that it is still brick and is the same exact brick, but just in a larger size.

Community Development Director Kabat noted that the City's materials requirements in the zoning code are very specific to parse out those things which came out of a process that was gone through with the Council and the Planning Commission a few years ago. He stated that there is a line that has to be drawn somewhere and that was where it was drawn at that time.

City Planner Hanson stated that the City went through the revision in 2014 which is when they made the classification with modular being Class 1 and utility brick being Class 2.

Mr. Fink reiterated that if they cannot use the utility brick, they would plan to reduce the amount of brick seen in the renderings and then use the LP siding product.

Chairperson Brass asked if he was understanding correctly that if the Commission says yes to this brick that it would come back as a variance.

City Planner Hanson stated that it would have to come back as a variance.

Commissioner Olson asked how this project, with regard to materials, compared to Jonathan Flats.

City Planner Hanson stated that Jonathan Flats did modular brick and LP smart siding.

Chairperson Brass noted that right next store is a world class golf resort where the Ryder Cup has been held. He asked if they had any objections to the planned materials when the developer had met with them.

Mr. Fink stated that they have had no objections from them to their proposed exterior materials. He stated that they shared the same renderings with them and stressed that they were looking for a timeless façade that wasn't trendy and would maintain the quality and affluence of the area with durable and maintenance free material.

Chairperson Brass asked if Hazeltine had any objections to this project or what issues that the two sides have had to work through.

Mr. Fink stated that they have met with the Hazeltine leadership team during the concept phase and gathered a number of concerns and questions about certain aspects of the concept. He stated that as they further developed their plan, they implemented quite a few of those concerns such as the security aspects of Hazeltine. He stated that, for example, they took the roof top terrace and oriented it to enjoy the view of The Loop golf course and not Hazeltine and explained that they also wanted to see an exterior design that was timeless and quality which he believes they have met. He stated that there were also conversations about screening and berming so the size and scale of the building wouldn't be quite so obvious from their first hole tee box. He stated that they are currently in conversation with Hazeltine about ways to create a visual berm with some evergreen plantings.

Commissioner Baswa asked how the different building materials would look, if the developer was not able to get a variance from the City.

City Planner Hanson stated that if that is something that the Commission wants to see, in order to base their decision on this information, staff will work on getting that from the developer during the next step.

Chairperson Brass asked if his understanding was correct that this utility brick has been used at places like Kohl's and PetSmart.

City Planner Hanson stated that was correct and noted that Kohl's and some of the other buildings within Chaska Commons were constructed before the ordinance was in effect, but there are areas in the City where that type of brick has been implemented.

Commissioner Urbanski asked if staff was somewhat opposed to this because it doesn't meet our Code versus that they just didn't think it would like right.

City Planner Hanson stated that it was more from a consistency standpoint. She stated that the City went through a pretty rigorous process in 2014 and then also updated the code to include the multi-family building design materials several years after 2014. She stated that there is something that could be said about scale appropriateness and the City has heard that on other projects, but staff has landed on a consistency standpoint of classifying modular brick as Class 1 and utility brick as Class 2. She stated that the thought is that they have to go off of what was put in place.

Chairperson Brass asked if the developer had also done Chaska Heights and the Jonathan Flats.

Mr. Fink stated that was correct and noted that they had used modular brick at Jonathan Flats, but in a much smaller amount, which means they had a much greater quantity of glass and LP.

Chairperson Brass asked if modular brick was cohesive with what was used in that retail area.

City Planner Hanson stated that it was cohesive and that strip center has more modular brick.

Mr. Fink stated that when they brought the concept plan forward to the Commission and the City Council the requirement for them going forward was to make sure they complied with the requirements of the PCD-15 design standards. He stated that he thinks they have worked really hard to find solutions where they comply with each of those requirements and believes this is really the only area of the PCD-15 design standards where they are asking for a bit of flexibility.

Chairperson Dahlke closed the public hearing at 9:02 p.m.

Chairperson Brass stated that he is pretty impressed by the overall project. He stated that it appears to be a nice, good looking project. He is glad they have included a tot lot and have planned for more useable open space than what is required. He stated that with regard to the brick, he thinks he agrees with the applicant. He noted that he understands that a variance will be needed, but feels it is situational and would be cohesive in the area and will look nice because it is still brick, just in a slightly larger format.

Commissioner Olson asked about #5 of the suggested conditions and noted that he was a bit confused by the wording.

City Planner Hanson explained that condition #5 was just further emphasizing the Code and that in order for it to be considered Class 1 it would need to be a modular face brick or a natural stone which means it would adhere to the zoning requirements. She stated that condition #4 is, in essence, the same.

Chairperson Brass asked if the Commission wanted to make a motion to recommend approval, but agree with the applicant on the proposed building materials if that meant removal of condition #5 or both #4 and #5.

City Planner Hanson stated that they would effectively remove Condition #5, because Conditions #4 would stay in place for the other pieces that are being proposed.

Community Development Director Kabat noted that the Commission could add a condition that the applicant successfully obtained a variance for the building materials.

Commissioner Olson asked if the City had ever granted a variance for building materials since this code was created in 2014.

City Planner Hanson stated that the City has not.

Commissioner Olson stated that he is on the opposite side of Chairperson Brass on this issue, because this portion of the Code has not even been in place for a decade and feels this is the kind of situation for which it was created. He stated that the developer knew this information and still decided to provide something that did not meet City Code. He stated that to him, it goes back to the issue of 'black and white' because there really isn't any gray in this situation because it is fairly fresh. He stated that the neighboring properties used different materials because they were grandfathered in. He noted that he did not think there would be a drastic difference between the size of the two bricks, but the City has been very clear about what falls into each category. He stated that his biggest problem with this proposal is the foot print because he feels it is too big. He stated that it is a beautiful design and likes that there will be useable space, but reiterated that, in his opinion, it is still too big. He stated that he felt the developer should adhere to the .5 Floor Area Ratio.

Chairperson Brass noted that his understanding was that no variance would be needed for the proposed floor area ratio because they were going to PCD-15.

Community Development Director Kabat stated that assuming the Council would implement the recommendation from the earlier agenda item, there would not be a variance needed. He stated that if the Council decides they want to go counter to the Commission recommendation then a variance would need to be brought forward at Final.

Commissioner Olson stated that brings him back to a statement made by Councilmember Hubbard that they have to be careful with what they agree to on the concept side of things because things like the size and the footprint will not change through the three steps of the process. He stated that the change to the zoning ordinance has not yet been approved by Council and the current requirement is for .5 Floor Area Ratio. He stated that there are also no wetlands or unique features to the lot that have been sticking points in other projects, such as The Gallery and Clover Ridge Apartments recently. He stated that he feels that this one is clear cut and that there is no reason not to adhere to the .5 Floor Area Ratio other than the fact that the developer wants a larger building and City staff seems to see that as an opportunity to have more apartments which means more tax base. He that two sides are working together to make this project as big as possible versus following the existing zoning requirements that are in place.

Commissioner Urbanski stated that he has been able to learn a lot about brick tonight, but noted that he would really like to see what they look like in person. He stated that before he makes a final decision he would like to go and compare and contrast the materials. He stated that he loves the building and is happy that they have been able to get feedback and work with the surrounding entities.

Commissioner Baswa stated that, in his opinion, the Commission can leave that condition as it is and ask the developer to come up with how it will look with the siding before a decision is made regarding flexibility. He stated that they should probably go back to Hazeltine and see how they feel about the look and feel of it as well. He stated that for some reason a decision was made that one type of brick was Class 1 and the other was Class 2 and suggested that perhaps they could get more information and those details and more information on the brick. He noted that he is also happy to see that they included a tot lot.

Commissioner Gaare stated that at first she was a bit concerned about the size, however the more she thinks about it, she feels that this area needs to be developed. She noted that she does not have an opinion one way or the other on the brick. She stated that she feels this is a unique circumstance because of its location but noted that she felt this is a great use for that space.

Commissioner Aasen stated that he also thinks it looks like a great project. He stated that it may be a bit large but it is in a commercial area, so he thinks it fits well. He stated that he thinks the colors of the proposed building material look great.

Chairperson Brass stated that he agreed and even if the City said that they wanted to stick with the .5 Floor Area Ratio, the only change would be one story coming off because the actual footprint would stay the same, but would fall within the height requirements. He reiterated that he agreed with the applicant regarding the brick and feels like what they are proposing matches the area. He noted that a lot has changed in 10 years and noted, for example, that nobody could have guessed that Amazon would take over so much retail and that instead of junior box store it would make sense to put an apartment building next to Kohl's. He suggested that perhaps the developer could come back and show the difference between the two building possibilities with the other materials at address that at the final stage of the process. He asked if the Commission could keep the brick question undetermined at this time and still move it forward.

Community Development Director Kabat stated that while the Commission was talking, the developer sent a few photographs that showed the building materials and suggested that City Planner Hanson could share those with the Commission. He stated that it may provide enough information to help the Commission with their decision.

City Planner Hanson displayed the photos that were sent by the developer.

Mr. Fink explained that the photos depicted the exterior elevation of the Kohl's store which shows a variety of different brick colors, but the dark brownish red colored and lighter brick on the corners was the utility brick material. He stated that the yellowish brick is Chaska brick but is in the utility size.

Chairperson Brass stated that he saw the city attorney shake his head when he asked his question about tabling just the brick issue.

City Attorney Saufley explained that at the preliminary stage, the Commission should really set the conditions that they want to see carried forward and noted that they can always remove conditions later in the process.

Commissioner Urbanski confirmed that this means that the Commission could recommend approval, as it is written, but that the applicant could still come back and ask for a variance.

Chairperson Brass stated that he believed that was correct and suggested that they leave things the way they have been presented.

Motion by Commissioner Urbanski, seconded by Commission Gaare, to recommend approval of the Hazeltine Plaza Housing Development – Preliminary Site & Building Plan and Zoning Ordinance Amendment (ZOA) (PC#2022-48), subject to the following conditions:

1. Approvals shall be based on the following graphic exhibits:
    a. Narrative (pgs 1-4), submitted by Trident Development, LLC, dated July 5, 2022 and revised August 1, 2022
    b. Trip Generation Study (pgs 1-5), prepared by SSTS, dated July 19, 2022
    c. Cover (pg C1), prepared by Carlson McCain, dated August 1, 2022
    d. Existing Conditions Survey (pg C2), prepared by Carlson McCain, dated July 1, 2022
    e. Removals Plan (pg C3), prepared by Carlson McCain, dated August 1, 2022

   f. Site Plan (pg C4), prepared by Carlson McCain, dated August 1, 2022
   g. Turning Analysis (Fire/Snow Storage) (pg C4.1), prepared by Carlson McCain, dated August 1, 2022
   h. Turning Analysis (Loading Dock) (pg C4.2), prepared by Carlson McCain, dated August 1, 2022
   i. Utility Plan (pg C5), prepared by Carlson McCain, dated August 1, 2022
   j. Utility Plan (Storm Sewer) (pg C5.1), prepared by Carlson McCain, dated August 1, 2022
   k. Grade Plan (pg C6), prepared by Carlson McCain, dated August 1, 2022
   l. Stormwater Pollution Prevention Plan (pgs C7-C7.1), prepared by Carlson McCain, dated August 1, 2022
   m. Details (pgs C8-C8.4), prepared by Carlson McCain, dated August 1, 2022
   n. Landscape Plan (pgs L1-L5), prepared by Carlson McCain, dated August 1, 2022
   o. Tree Preservation Plan (pg TP1), prepared by Carlson McCain, dated August 1, 2022
   p. Photometric Plan, prepared by Berd Electric, dated August 4, 2022
   q. Exterior Materials, prepared by KW Architects, dated July 20, 2022
   r. Exterior Elevations (pgs 1-2), prepared by KW Architects, dated July 20, 2022
2. Compliance with the zoning PCD-15 (ord. nos. 802 and 946).
3. Compliance with applicable zoning requirements, in particular Chapter 15.28 (Special Regulations).
4. Compliance with section 15.28.120 Building Design/Materials for Multi-Family Residential, and to be addressed at final submittal.
5. Provision that if masonry is used that they are natural stone and/or full face modular brick in order to be considered Class I materials.
6. Provision of adequate sound proofing of the drive-under/breezeway to ensure noise does not conflict with residents.
7. Coordinate with the City Engineer to ensure that adequate sight-lines are preserved at all access points to Hundertmark Road.
8. Adherence to the following building setbacks as found in PCD-15:
   a. Hundertmark Road: 100 feet from centerline
   b. From southernmost property line: 30 feet
   c. From northernmost property line: 25 feet
9. Adherence to the following parking setbacks as found in PCD-15:
   a. Hundertmark Road: 10 feet from right-of-way
   b. Hazeltine Boulevard: 10 feet from right-of-way
   c. Interior Property Lines: 5 feet
10. Coordination with the City Engineer for the provision of public utilities to the site.
11. Provision of a storm water management plan meeting City and Carver County WMO standards.
12. Provision of a construction traffic plan to be coordinated and approved by the City Engineer.
13. Provision of review and approval of Kohl’s per the existing Reciprocal Easement Agreement.

Motion carried 5-1 (Commissioner Olson opposed)

Motion by Commissioner Olson, seconded by Commissioner Urbanski, to recommend approval of the Zoning Ordinance Amendment (ZOA) to PCD-15 to allow for multi-family use.

Motion carried.

<u>7.C. Recommend Approval of the Concept Plan for CloudHQ/CloudHQ/PC #2022-41</u>

City Planner Hanson presented the item to the Commission and noted that this will come before the City Council on August 15, 2022.

Chairperson Brass noted that this was not a public hearing, but the Commission could allow people to make brief statements on the concept plan.

Commissioner Olson noted that per the 2040 Comprehensive Plan, there is a portion of this that is considered the green belt and asked how that was being addressed. He stated that City Planner Hanson talked about addressing the screening on the west edge and asked if that meant reducing the size of the building to be able to continue the berming around the west end. He stated that she spoke about potential development to the west side that is not even being considered right now. He asked about staff's stance on the west side of the building and what was being recommended.

City Planner Hanson explained that the recommendation there is not to implement the same berm that is on the north and east sides. She stated that the west side is essentially being emphasized to include a well landscaped edge so it isn't just left open.

Commissioner Olson confirmed that they just assume it will be trees as the only barrier and potential rural residential to the west.

Community Development Director Kabat explained that part of what was driving the difference is that as development has occurred, the berming has been required. He gave the example of the berming proposed on the north edge of this site does not exist at all because it is completely flat. He stated that if, when the time comes, and there is development in the green belt, the buffering and screening would be evaluated based on whatever the project is proposing, but it would be their responsibility. He stated that prior to a project coming in, they do not know what screening or berming may be necessary.

Commissioner Olson asked about the impact for hitting the green belt.

Community Development Director Kabat stated that there is no green belt on this property.

Commissioner Olson stated that there is according to the 2040 Comprehensive Plan.

Community Development Director Kabat stated that this property is not guided for green belt.

Commissioner Olson clarified that if you look at it, a portion of it is guided for green belt and referenced Exhibit 4.8 in the 2040 Comprehensive Plan. He stated that he understands that this is the concept phase, but would like this to be addressed later in the process because there is some differing information about the property. He asked about the 30 foot berm and how the drainage would be addressed on the residential side of things.

City Planner Hanson explained that what they are planning to do right now is to incorporate a swale on the north side of the berm to collect the drainage from the berm and neighboring properties which would get collected into the overall stormwater system of the project.

Commissioner Baswa stated that the berm is very close to the property line so it feels like that should be considered, and questioned whether it would just end up being something that whoever comes in later may need to deal with it.

Commissioner Olson stated that he thinks a key part of this is planning and thinking ahead.

Commissioner Baswa agreed because no one is there right now and the Commission is here to think about the future residents, whoever they may be.

Commissioner Olson stated that he agreed, but acknowledged that it is still very early in the process so he is hopeful that this will be able to be addressed. He stated that he understands that this is a 30 foot berm and the illustrations show full vegetation which is probably 10-15 years in the future. He stated that he would recommend that they take a look at the height of the berm versus what is actually being planted because some of the illustrations are a bit skewed because planting for the future means that you will spend the next 10-15 years looking straight into the back of the data center. He noted that the proposed building looks beautiful for a 1.4 million square foot facility, but it is a very large building that will be in their back yard and will essentially be a straight shot out their second story window. He stated that even if there is coverage there, he hopes that at the Preliminary stage they come back with a recommendation that will solve an immediate solution for coverage rather than something that will be 10-15 years down the road.

Commissioner Baswa asked who would take care of the trees and gave the example of putting in 20 evergreen greens and a problem develops with some of the trees not surviving. He asked that there be a plan in place for that situation.

Chairperson Brass asked if there was anyone in the audience who would like to address the Commission, but reiterated that this was not a public hearing.

Bret Burnett, Development Manager, CloudHQ, stated that they are excited to be in the City. He gave some brief background information on the company since they are new to Chaska. He noted that in addition to the design elements that they are proposing, they feel there are many other aspects of this project that will be of benefit to the community, such as an increase in property tax base, and an increase in jobs partnered with a limited demand for public services such as schools, police, fire and rescue. He stated that while the building will take 1-2 years total to complete, however, much of the work will be specialized and take place inside the building which will reduce noise during the construction phase. He gave an overview of what he saw as financial benefits to local businesses from bringing in the construction workers for this project. He noted that this facility will also create 75-100 permanent jobs and technical positions. He shared what he saw as other advantages to the project and noted that they think it is an ideal fit for this location. He introduced a few members of their development team who were present if the Commission had any specific questions.

Commissioner Urbanski asked about the community meetings that were held.

Mr. Burnett explained that they held a community meeting back in February and offered participation virtually as well. He stated that there was limited attendance, but there was some participation via Zoom and many of the questions were related to the timing of the project and when the berm would be built. He stated that the berm is one of the first things that they are planning to complete. He stated that they also had general questions about things like the power infrastructure, but in general, there did not seem to be any major objections from the community.

Commissioner Gaare asked about the size of the facility near a populated area and if he had a comparison with their company. She asked if there was a building of this size that was fully operational in a residential area that he could compare this project to.

Mr. Burnett stated that CloudHQ does not have a building of this size right next to residential properties, but they are getting ready to build one in Loudon County Virginia. He stated that there are a number of facilities that have been done in the Chicago area that are right next to large residential communities. He stated that they do extensive studies with noise and landscaping early in the planning stages, so they are able to design their equipment to meet all the noise codes of the different jurisdictions so they have not had any complaints at their facilities located near residential areas. He stated that the landscaping plans are worked out during the planning process and noted that they have been well received fitting into the residential areas. He stated that they have a lot examples, but none are quite as large as the one proposed in Chaska.

Commissioner Olson asked how they made the determination to have one large building versus a number of smaller buildings.

Mr. Burnett stated that the previous application, was with a different development group, and was for smaller buildings. He explained that it was similar to other facilities that developer had done in the area and was in their niche for their customers. He explained that CloudHQ is catering to the largest internet companies in the world, thus they need a lot more space which is why there is a need for a bigger building. He stated that given the particular site constraints, for example the previously agreed to 30 foot berm, the 300 foot setback, and the existing power line, there is not a lot of room to grow horizontally which forced them to go to two stories. He explained that give the amount of ancillary space that is not data haul space, they need to have a lot of cooling equipment and back-up power, so the facilities essentially have no ability to 'go down'. He stated that this is the program that they have been successful with and are driven by the large scale customers needing this much space.

Chairperson Brass asked details of how CloudHQ operates their business.

Mr. Burnett stated that CloudHQ are basically lessors of shell space and provide infrastructure in a building for cloud service providers, such as Amazon and Google, to bring in their equipment. He stated that they are essentially in the same business as Digital Realty, which is a company that many people have heard about. He stated that they primarily do single-tenant hyperscale leases which tend to be some of the larger cloud providers.

Commissioner Urbanski asked about the lifespan on this type of building.

Mr. Burnett stated that they plan for them to be 50 years, but in reality thinks they can go longer than that.

Chairperson Brass asked if the biggest noise producers would be the fans.

Mr. Burnett stated that the cooling units and the generators are fully enclosed so there is a lot of mitigation measures that can be put in on those units to limit the noise. He stated that the good thing about the data center is that they are only emergency use generators because there are other backup electrical systems in place that are used before they have to move to the generator. He explained that the air cooled chillers that were shown on the site plan emit noise, but they have a menu of various mitigation techniques that can be used. He stated that part of the preliminary packet will be getting a noise study completed, which will tell them the baseline based on the proposed equipment and compared those to what is in the City Code.

Commissioner Olson stated that it is obvious that they have done a good job on the design side but feels there is still some sort to be done with some of the finer points including more screening and addressing noise and visual aspects for the neighbors.

Motion by Commissioner Gaare, seconded by Commissioner Aasen, to approve the Concept Plan for CloudHQ (PC #2022-41), subject to the following conditions:

1. Approvals shall be based on the following graphic exhibits:
    a. Narrative (pgs 1-4), prepared by Kimley-Horn, dated July 8, 2022
    b. Existing Property Aerial Image, prepared by CloudHQ, undated
    c. Proposed Chaska Site Plan, prepared by CloudHQ, undated
    d. Site Influences, prepared by Kimley-Horn, undated
    e. Architectural Façade Details, prepared by CloudHQ, undated
    f. Ref. Rendering 1 – Main Façade & Entry, prepared by CloudHQ, undated
    g. Ref. Rendering 2 – Side Façade, prepared by CloudHQ, undated
    h. Render #1 – View from East, prepared by CloudHQ, undated
    i. Site Section #1, prepared by CloudHQ, undated
    j. Render #2 – View from North, prepared by CloudHQ, undated
    k. Site Section #2, prepared by CloudHQ, undated
    l. Render #3 – View from Northwest, prepared by CloudHQ, undated
    m. Site Section #3, prepared by CloudHQ, undated
    n. Alta/NSPS Land Title Survey (pgs 1-2), prepared by EFNEFN, undated
2. Adherence to the City Engineer's memo dated August 10, 2022.
3. Provision of proposed fencing to match existing fencing in development, and to be addressed at preliminary submittal.
4. Provision of a Lighting Plan that meets Sections 15.28.250 of the Zoning Ordinance.
5. Provision of specification sheets for all onsite lighting, including but not limited to wall lighting and parking lot lighting, and to be submitted at preliminary.
6. Installation of berm and its landscaping to be completed prior to or at same time of the building's site construction.
7. Provision to further evaluate landscaping and berming for the west edge and southeast edges of the site, and to be addressed at preliminary.

8. Provision of detailed profile of the mechanical areas, including ground and roof, to ensure compliance with Section 15.28.120.H. (Screening of Mechanical Equipment).
9. Compliance with applicable zoning requirements, in particular Chapter 15.28 (Special Regulations).
10. Provision of a storm water management plan meeting City and Carver County WMO standards.
11. Provision of an acoustical analysis on the proposed exterior mechanical equipment.
12. Provision of a Conditional Use Permit (CUP) for the proposed substation and to be obtained prior to issuance of a building permit for the CloudHQ building.
13. Provision that City Council adopts Final AUAR prior to preliminary submittal.
14. Provision of a parking need analysis and proof of parking exhibit to be submitted at preliminary.

Motion carried.

Commissioner Olson reiterated that before Preliminary he would ask that the City clear up the green belt disconnect that appears to be present.

Community Development Director Kabat explained that he had not fully understood Commissioner Olson's question when he brought it up earlier in the meeting. He noted that he had pulled up a map and now understands what he was referring to and explained that staff would be prepared to talk about it in the future.

<u>8. Other Business</u>
<u>8.A. Receive Other Meeting Minutes</u>

Chairperson Brass
- Noted that he and Community Development Director Kabat had spoken about a possible, smaller scale, workshop on various issues.

Community Development Director Kabat explained that during his time as the Assistant City Administrator in Chaska he was the staff liaison to the Human Rights Commission. He stated that the Human Rights Commission, after they had some turnover, were interested in getting more training on topics like governance and their mission. He stated that it occurred to him that it may be a similar situation to the Planning Commission with a new Chair as well as a few new Commissioners and felt it may be of interest to this group. He stated that there is a third party individual that they have worked with in the past who does this kind of training. He stated that this individual would talk about governance, data practices, open meeting law, and other things that may be more pertinent to the Planning Commission like the Comprehensive Plan and the Zoning Code. He stated that he wanted to offer this resource to the Planning Commission if they felt it would be useful. He stated that he would envision it being a 90 minute presentation and with about 30 minutes set aside for discussion.

There was Consensus of the Commission to hold a workshop meeting, as proposed.

Chairperson Brass suggested that staff send out information via e-mail for scheduling this training.

Commissioner Olson

- Commented that he had the opportunity to go to Moorhead last weekend and listen to the State Honor Band that has two individuals from the City who made it as well as one choral member. He stated that he highly recommended that people take a chance to listen to them because they are definitely talented.

10. Adjourn

Motion by Commissioner Urbanski, second by Commissioner Aasen, to adjourn the meeting at 10:17 pm.
Motion carried.