GLENWOOD
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City of Glenwood
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STAFF REPORT

Application:	Requests relating to the removing two commercial buildings and rebuilding one commercial building. Approvals required include to exceed 25% impervious surface coverage in Shoreland Zone.Variance to exceed 25% impervious surface coverage in Shoreland Zone. The site today has 71.8% impervious coverage, above the 25% limit. The applicant desires to improve this property that would reduce the impervious coverage to 54.2% and manage the stormwater for impervious over 25% with swales and basins.
Applicant:	Studio E Architects
Applicant and Property Owner:	BROWNIES PROPERTY MGMT LLC
Agenda Item:	5A

Background Information:

- **Proposal:** The applicants are proposing to obtain a variance to exceed 25% impervious surface coverage in Shoreland Zone. The site today has 71.8% impervious coverage, above the 25% limit. The applicant desires to improve this property that would reduce the impervious coverage to 54.2% and manage the stormwater for impervious over 25% with swales and basins. Requests relating to the removal of two commercial buildings and rebuilding one commercial building.
- **Location:**
  - Property address: 520 State Hwy 28 W
  - Parcel number(s): 21-0889-000
- **Zoning:** B-1 Community Business / Shoreland Zoning for Lake Minnewaska, a Development Lake and Perkins Creek
- **Lot size:** Approx. 62,944 sq ft (1.44 acres) according to the survey provided.

  Existing Impervious Coverage: About 45,215.0 sq ft (71.83%)

  Proposed Impervious Coverage: About 34,151.0 sq ft (54.26%)
- **Septic System Status:** The property is served by city sewer and water.
- **Natural Features:**
  - Floodplain: The existing and proposed structures are not within an identified floodplain.
  - Bluff/Steep Slopes: The lot does not contain a bluff. The lot does not contain steep slopes that would impact the proposed improvement(s) to the property.

- Wetlands: There are wetlands that could be impacted by the proposed improvement(s) to the property.
- Current Shoreline Conditions: N/A

Staff Comments:

1. Applicant has worked with MN DNR on setbacks for Perkins Creek to the north, Pope County on delineated wetlands to the east of the property, Glenwood City Administer and Zoning Administer on stormwater management plan to significantly reduce the existing impervious surface coverage.

Staff Recommendation: Based on the findings of fact and discussion listed below, Staff recommends approval of the proposed Variance only if it is found that the standards for approval have been met.

If the application or some version of the application is approved, Staff would recommend consideration for the following conditions of approval (or tabling of the application to allow for review of revised plans consistent with the following):

1. Erosion and sedimentation control measures must be installed and maintained until the construction areas have been stabilized. These shall include at a minimum silt fences between any areas of disturbance (if there will be any) and the lake as well as to any neighboring properties which are downslope of the disturbed areas. Once disturbed areas are no longer being used for construction purposes, these shall be covered with mulch, erosion control blankets, hydroseed or other forms of temporary cover until vegetation is re-established.
2. The applicant shall maintain a permanent stormwater management plan designed to minimize the potential for ongoing erosion or sedimentation and to allow adequate time for infiltration or other treatment of rainwater from the lot prior to it flowing into the lake, wetlands, road right-of-way or onto adjoining properties. The plan should be implemented at the time of construction and maintained indefinitely.
3. Current and future property owners shall be responsible to identify and comply with all other local, state and federal regulations applicable to their proposed use and alteration of their property.

Applicable Statutes/Ordinances: See Appendix A.

Findings of Fact: The following findings of fact are presented by Staff for consideration by the Planning Commission:

1) Variances shall only be permitted when they are in harmony with the general purposes and intent of the official control.

Findings Supporting Approval

The proposed improvements would be in harmony with the general purpose and intent of the requirements because the applicant is significantly reducing the existing impervious surface coverage from 71% to 54% and adding management techniques to address stormwater runoff.

Findings Supporting Denial

The proposed improvements would not be in harmony with the general purpose and intent of the requirements because it exceeds the 25% impervious surface coverage limit within shoreland district.

2) Variances shall only be permitted when they are consistent with the comprehensive plan.

Findings Supporting Approval

The granting of the requested variance(s) is not inconsistent with the Comprehensive Plan because it would represent an anticipated use within the relevant zoning district(s). A stormwater management plan is required as part of the approval so as to address issues related to stormwater, the project will not require the removal of substantial numbers of trees and any grading and filling for the project can be adequately managed through the required erosion control practices.

Findings Supporting Denial

None.

3) The property owner proposes to use the property in a reasonable manner not permitted by an official control.

Findings Supporting Approval

The proposed use of the property is reasonable because the use is not changing and is a permitted use of motor service station.

Findings Supporting Denial

None.

4) The plight of the landowner is due to circumstances unique to the property not created by the landowner.

Findings Supporting Approval

The plight of the landowner is due to factors that they did not create because the need for the variance(s) is due largely to the location of the existing commercial use within a shoreland district that borders creek to the north and wetlands to the east. The applicant employed design techniques to significantly improve the existing situation.

Findings Supporting Denial

None.

5) The variance, if granted, will not alter the essential character of the locality.

Findings Supporting Approval

The essential character of the area would not be altered because both the current area and the proposed use are commercial in character.

Findings Supporting Denial

None.

6) Economic considerations alone do not constitute practical difficulties.

Findings Supporting Approval

Economic considerations are not the only reason the applicant cannot meet the requirements of the ordinance because there are non-economic factors involved, as mentioned above.

Findings Supporting Denial

None.

7) No variance may be granted that would allow any use that is not allowed in the zoning district in which the subject property is located.

Findings Supporting Approval

The proposed use is identified as a permitted, conditional or interim use in the zoning district where the applicant's property is located.

Findings Supporting Denial

None.

Appendix A

Applicable Statutes and Ordinances

Minnesota Statutes

462.357 (2016) OFFICIAL CONTROLS: ZONING ORDINANCE.

Subd. 6. **Appeals and adjustments.**

Appeals to the board of appeals and adjustments may be taken by any affected person upon compliance with any reasonable conditions imposed by the zoning ordinance. The board of appeals and adjustments has the following powers with respect to the zoning ordinance:

(1) To hear and decide appeals where it is alleged that there is an error in any order, requirement, decision, or determination made by an administrative officer in the enforcement of the zoning ordinance.

(2) To hear requests for variances from the requirements of the zoning ordinance including restrictions placed on nonconformities. Variances shall only be permitted when they are in harmony with the general purposes and intent of the ordinance and when the variances are consistent with the comprehensive plan. Variances may be granted when the applicant for the variance establishes that there are practical difficulties in complying with the zoning ordinance. "Practical difficulties," as used in connection with the granting of a variance, means that the property owner proposes to use the property in a reasonable manner not permitted by the zoning ordinance; the plight of the landowner is due to circumstances unique to the property not created by the landowner; and the variance, if granted, will not alter the essential character of the locality. Economic considerations alone do not constitute practical difficulties. Practical difficulties include, but are not limited to, inadequate access to direct sunlight for solar energy systems. Variances shall be granted for earth sheltered construction as defined in section 216C.06, subdivision 14, when in harmony with the ordinance. The board of appeals and adjustments or the governing body as the case may be, may not permit as a variance any use that is not allowed under the zoning ordinance for property in the zone where the affected person"s land is located. The board or governing body as the case may be, may permit as a variance the temporary use of a one family dwelling as a two family dwelling. The board or governing body as the case may be may impose conditions in the granting of variances. A condition must be directly related to and must bear a rough proportionality to the impact created by the variance.

394.36 (2016) NONCONFORMITIES

Subd. 5.Existing nonconforming lots in shoreland areas. (a) This subdivision applies to shoreland lots of record in the office of the county recorder on the date of adoption of local shoreland controls that do not meet the requirements for lot size or lot width. A county shall regulate the use of nonconforming lots of record and the repair, replacement, maintenance, improvement, or expansion of nonconforming uses and structures in shoreland areas according to this subdivision.

(b) A nonconforming single lot of record located within a shoreland area may be allowed as a building site without variances from lot size requirements, provided that:

(1) all structure and septic system setback distance requirements can be met;

(2) a Type 1 sewage treatment system consistent with Minnesota Rules, chapter 7080, can be installed or the lot is connected to a public sewer; and

(3) the impervious surface coverage does not exceed 25 percent of the lot.

(c) In a group of two or more contiguous lots of record under a common ownership, an individual lot must be considered as a separate parcel of land for the purpose of sale or development, if it meets the following requirements:

(1) the lot must be at least 66 percent of the dimensional standard for lot width and lot size for the shoreland classification consistent with Minnesota Rules, chapter 6120;

(2) the lot must be connected to a public sewer, if available, or must be suitable for the installation of a Type 1 sewage treatment system consistent with Minnesota Rules, chapter 7080, and local government controls;

(3) impervious surface coverage must not exceed 25 percent of each lot; and

(4) development of the lot must be consistent with an adopted comprehensive plan.

(d) A lot subject to paragraph (c) not meeting the requirements of paragraph (c) must be combined with the one or more contiguous lots so they equal one or more conforming lots as much as possible.

(e) Notwithstanding paragraph (c), contiguous nonconforming lots of record in shoreland areas under a common ownership must be able to be sold or purchased individually if each lot contained a habitable residential dwelling at the time the lots came under common ownership and the lots are suitable for, or served by, a sewage treatment system consistent with the requirements of section 115.55 and Minnesota Rules, chapter 7080, or connected to a public sewer.

(f) In evaluating all variances, zoning and building permit applications, or conditional use requests, the zoning authority shall require the property owner to address, when appropriate, storm water runoff management, reducing impervious surfaces, increasing setback, restoration of wetlands, vegetative buffers, sewage treatment and water supply capabilities, and other conservation-designed actions.

(g) A portion of a conforming lot may be separated from an existing parcel as long as the remainder of the existing parcel meets the lot size and sewage system requirements of the zoning district for a new lot and the newly created parcel is combined with an adjacent parcel.

City of Glenwood Regulations

153.006 CONDITIONAL USES.

(A) *General.* Conditional uses as specified herein may be allowed or denied by the City Commission after recommendation by the Planning Commission in accordance with the criteria and provisions listed herein.

(D) *Criteria for approval.* A conditional use shall be approved if and only if it is found to meet the following criteria.

(1) The proposed use conforms to the district and conditional use provisions and all general regulations of this chapter.

(2) The proposed use meets all special standards which may apply to its class of conditional uses as set forth in this section.

(3) The proposed use shall not involve any element or cause any condition that may be dangerous, injurious or noxious to any other person or property, and shall comply with the performance standards set forth herein.

(4) The proposed use shall be sited, oriented and landscaped to produce a harmonious relationship of buildings and grounds to adjacent buildings and properties.

(5) The proposed use shall be compatible with the surrounding area and produce a total visual impression and environment which is consistent with the environment of the neighborhood.

(6) The proposed use shall organize vehicular access and parking to minimize traffic congestion in the neighborhood.

(7) The proposed use shall preserve the objectives of this chapter and shall be consistent with the Land Use Plan.

(8) Additional requirements with respect to conditional uses in the Conservation District include the following.

(a) Development shall be permitted in such a manner that the maximum number of trees shall be preserved. Where trees are cut, at least 50% of the overstory shall remain.

(b) Development shall be permitted in such a manner that on-site soil erosion shall be at a minimum both during construction and when construction activity is completed.

(c) The quality of water run-off and water infiltration to the water table or aquifer shall remain undisturbed by the development of the site.

(d) The type and density of land use proposed shall be suited to the site and bedrock conditions shall not present a threat to the maintenance of groundwater quality, and shall not fail to correct problems due to soil limitations including bearing strength, shrink-swell potential and slope stability.

(E) *Performance standards.* All conditional uses shall comply with the requirements of this division (E). In order to determine whether a proposed use will conform to the requirements of this chapter, the City Commission may obtain a qualified consultant to testify, whose cost for services shall be borne by the applicant.

(1) *Fire protection.* Fire prevention and fire fighting equipment required by the Building Code as adopted by the City Commission shall be readily available when any activity involving the handling or storage of flammable or explosive materials is carried on.

(2) *Electrical disturbance.* No activity shall cause electrical disturbance adversely affecting radio or other equipment in the vicinity.

(3) *Noise.* Noise which is determined to be objectionable because of volume, frequency or beat shall be muffled or otherwise controlled, except fire sirens and related apparatus used solely for public purposes which shall be exempt from this requirement.

(4) *Vibrations.* Vibrations detectable without instruments on neighboring property in any district shall be prohibited.

(5) *Odors.* No malodorous gas or matter shall be permitted which is discernible on any adjoining lot or property.

(6) *Air pollution.* Air pollution shall be subject to the standards established by the State Pollution Control Agency.

(7) *Glare.* Lighting devices which produce directly reflected glare on adjoining properties or thoroughfares shall not be permitted.

(8) *Erosion.* No offensive erosion by wind or water shall be permitted onto adjacent properties.

(9) *Water pollution.* Water pollution shall be subject to the standards established by the State Pollution Control Agency.

LOT AND YARD REQUIREMENTS

" 153.050 GENERAL REQUIREMENTS.

The minimum lot area, minimum width of lot, minimum depth of front yard, rear yard and minimum width of each side yard for each district shall be as shown in " 153.051.

(A) Lots or parcels which abut on more than one street shall provide the required front yards along each street.

(B) All structures and accessory buildings whether attached to the principal structure or not, and whether open or enclosed, including porches, carports, balconies, roof overhangs or platforms above normal grade level, shall not project into any minimum front, side or rear yard; nor into any required open space or buffer. Where multi-dwelling buildings (apartments, townhouses and the like) are to be built on one lot (or parcel) along with other buildings or structures, the required yards shall be construed to apply to each building as opposed to each dwelling unit.

" 153.051 LOT, YARD AND DENSITY REQUIREMENTS.

	Minimum Lot Sizes		*Minimum Yard Setbacks (ft)*			*Minimum Site Area Per Unit (sq ft)*
	Area (sq ft)	*Width (ft)*	*Front*	*Rear*	*Side*	
B-1 Community Business						
*Multi-family dwellings	5,000	50	0	15	0	2,500
*Other uses	5,000	50	0	15	0	-
*With city water and sewer						

	Maximum Coverage (%)	*Minimum Usable Open Space (%)*	*Density* (Units)*
B-1 Community Business			
Multi-family dwellings	30	40	-
Other uses	-	-	-
*Density, or overall maximum dwelling units per buildable acre			

(1988 Code, " 11.12-2)

" 153.066 ACCESSORY USES.

The following provisions shall apply to accessory uses.

(A) Every swimming pool shall be enclosed by a fence or wall not less than six feet high above ground level. Location of pools will be subject to utility company approval.

(B) The exterior storage of any vehicle or recreational vehicle which does not have a current license plate shall not be permitted as an accessory use.

(C) In the A-1 District:

(1) Accessory farm buildings shall not be erected within 100 feet of a neighboring property; and

(2) All commercial feed lots, pens, runs, shelters and similar intensively used facilities for animal raising shall not be permitted.

(D) In the R-1, R-2 and R-3 Districts:

(1) A garage, storage shed or other similar structure may only be constructed in a residential district as an accessory structure. Two adjoining lots shall only be considered a single lot if they have a single parcel identification number;

(2) No more than two accessory structures shall be permitted on a lot;

(3) Accessory structures are limited to the lesser of not more than 1,000 square feet each, or a total building coverage area for all structures of 30% of the lot. In the event the lot size is one acre or greater, the accessory structure may be greater than 1,000 square feet but not more than 5% of the lot area. Accessory structures may be no closer than 10 feet to any other structure;

(4) All accessory structures over 120 square feet in size must be constructed of material and in a style in harmony with the principal structure. No galvanized or unfinished metal, canvas fabric, plastic tarps, tar paper, rolled roofing or straw may be used to cover any structure, sidewall or roof;

(5) The sidewalls on any accessory structure or garage shall not exceed nine feet in height, allowing no larger than an eight-foot high garage door, nor shall any garage or accessory structure exceed the principal building in height. Sidewall height shall be measured from the inside finished floor elevation to the point at which the sidewall top plate adjoining the rafter; and

(6) Accessory structures 120 square feet or smaller shall not require a building permit. A zoning permit shall be required and an application showing the size of the structure, its location on the lot, and the type of construction material utilized in its construction shall be submitted to the Zoning Administrator. Accessory structures 120 square feet or smaller may be placed no closer than five feet to any rear or side lot line.
(1988 Code, " 11.50-2) (Ord. 73, passed 5-8-2001)

" 151.39 STORMWATER MANAGEMENT.

The following general and specific standards shall apply.

(B) Specific standards.

(1) Impervious surface coverage of lots must not exceed 25% of the lot area.