

ORDINANCE NO. 2010-01 AMENDING ORDINANCE NO. 2007-09

AN ORDINANCE REZONING SITES A, B, AND C OF THE GLEN LAKE REDEVELOPMENT PROJECT INCLUDING ADOPTING A MASTER DEVELOPMENT PLAN, WITH BUILDING AND PARKING LOT SETBACK VARIANCES FOR SITE A

The City Of Minnetonka Ordains:

Section 1.

1.01 The property known as Site A of the Glen Lake Redevelopment Project is hereby rezoned from B-2, limited business, to PUD, planned unit development based on the following findings:

1. The rezoning is consistent with adjacent land uses to the north and west.
2. The site is next to a commercial area, which would provide services such as supermarkets, drugstores, restaurants, cleaners, etc. Metro Transit bus service is also available on Excelsior Boulevard.
3. The rezoning would be consistent with the public health, safety, and welfare.
4. The rezoning would be consistent with the proposed guide plan designation;
5. The proposed development would not have an adverse impact on neighborhood traffic or property values.
6. The proposed development is consistent with the purposes of the PUD district, particularly the provision of affordable housing, the more efficient and effective use of land and public facilities through mixing land uses and assembly and development of land in larger parcels, and the high quality of design.

7. The three phases of this development are being developed as one integrated project. The proposed variances in the development are justified by the following:
- (a) The unique hardship to these properties is the deteriorated nature of the Glen Lake commercial area.
 - (b) An additional hardship is that the zoning code was developed before the “~~new urbanism~~” village concept became prominent and therefore does not accommodate the reduced setbacks and mixed uses inherent in that planning technique. The Glen Lake area has been identified by the Economic Development Authority as an area where more dense development is appropriate to encourage affordable housing. The village planning concept of “~~new urbanism~~” is one way to implement more dense development.
 - (c) Neither of these hardships was created by the landowner.
 - (d) The variances would meet the intent of the ordinance and would not alter the essential character of the neighborhood because they allow reasonable development that is creative and attractive and that is similar to other high density developments in the area.
 - (e) The variances on Site A are further justified by the fact that the west side of the property is adjacent to a parking lot resulting in minimal impact, and the east side of the property is across the street from a park, also resulting in minimal impact.
 - (f) Economic consideration is not the sole basis for the variances. Although the sizes of the buildings are generated by the financial needs of the tax increment district, there are significant public benefits that result from the coordinated development of the three sites and that serve as justification and trade-offs for the variances. These public benefits are discussed in the staff report. The economic impact on the developer is only one consideration in the analysis.
- 1.02 The property known as Site B of the Glen Lake Redevelopment Project is hereby rezoned from B-2 limited business, to PUD, planned unit development based on the following findings:
- 1. The rezoning would provide additional residential opportunities to support the surrounding commercial area.

2. The residential uses would be consistent with the high density land use to the south.
3. The rezoning would be consistent with the public health, safety, and welfare.
4. The rezoning would be consistent with the proposed guide plan designation;
5. The proposed development would not have an adverse impact on neighborhood traffic or property values.
6. The proposed development is consistent with the purposes of the PUD district, particularly the provision of affordable housing, the more efficient and effective use of land and public facilities through mixing land uses and assembly and development of land in larger parcels, and the high quality of design.
7. The three phases of this development are being developed as one integrated project. The proposed variances in the development are justified by the following:
 - (a) The unique hardship to these properties is the deteriorated nature of the Glen Lake commercial area.
 - (b) An additional hardship is that the zoning code was developed before the village ~~“new urbanism”~~ concept became prominent and therefore does not accommodate the reduced setbacks and mixed uses inherent in that planning technique. The Glen Lake area has been identified by the Economic Development Authority as an area where more dense development is appropriate to encourage affordable housing. The village planning concept of ~~“new urbanism”~~ is one way to implement more dense development.
 - (c) Neither of these hardships was created by the landowner.
 - (d) The variances would meet the intent of the ordinance and would not alter the essential character of the neighborhood because they allow reasonable development that is creative and attractive and that is similar to other high density developments in the area.
 - (e) The variances on Site B are further justified by:

(1) The east side of the property is adjacent to a single family home that is guided for future commercial redevelopment and the landscaping on that side will be an improvement over existing conditions;

(2) The west side of the property is adjacent to an electrical substation that will suffer little or no impact from the variance;

(3) Moving the building to the east helps minimize the detrimental effect that the substation has on the property; and

(4) The property is shallow in depth and double-fronted on the north and south by public streets. To avoid commercial parking directly across from the residences on the Stewart Lane side, the commercial parking was placed on the north side, causing the building to be moved further to the south.

(5) The floor area ratio and lot coverage variances are appropriate for the site in that the site is being developed at a dense, urban development standard which is not addressed by current zoning standards.

- (f) Economic consideration is not the sole basis for the variances. Although the sizes of the buildings are generated by the financial needs of the tax increment district, there are significant public benefits that result from the coordinated development of the three sites and that serve as justification and trade-offs for the variances. These public benefits are discussed in the staff report. The economic impact on the developer is only one consideration in the analysis.

1.03 The property known as Site C of the Glen Lake Redevelopment Project is hereby rezoned from R-1, low-density residential, to R-5 high density residential based on the following findings:

1. The rezoning is consistent with adjacent land use to the west.
2. The site is next to a commercial area, which would provide retail services such as restaurants, coffee shops, video rental, cleaners, etc. Metro Transit bus service is also available on Excelsior Boulevard.
3. The rezoning would be consistent with the public health, safety, and welfare.

4. The rezoning would be consistent with the proposed guide plan designation;
5. The proposed development would not have an adverse impact on neighborhood traffic or property values.

Section 2

2.01 The properties are legally described as follows:

See attached Exhibit A

Section 3.

3.01 This ordinance in addition to the rezoning hereby adopts an amended planned unit development master development plan for the properties known as Sites A and B of the Glen Lake Redevelopment Project (Project 05091.05a). Adoption is based on the findings in the January 23, 2006 and February 19, 2009, staff reports.

Approval includes the following variances:

Site A

1. building setback variances from 35 feet to 23 feet from the east lot line; from 35 feet to 7 feet for both buildings from the north lot line; and from 60 feet to 14 feet from the west lot line;
2. drive-aisle width variances from 24 feet to 22 feet; and
3. ~~parking lot setback variance from 20 feet to 9 feet from the east lot line and from 20 feet to 6 feet from the westerly property line.~~

Site B

1. building setback variance from 35 feet to 15 feet from the south lot line; from 62 feet to 20 feet from east lot line;
2. parking lot setback variances from 20 feet to 0 feet from the south lot line; from 10 to 0 feet from west lot line; from 20 feet to 0 feet from the north lot line; from 20 feet to 2 feet on the east lot line; and
- 2.1 lot coverage variance from 85% to 87% and floor area ratio variance from 100% to 111%.

3. drive-aisle width variances from 26 feet to 24 feet.

Approval is subject to the following conditions:

Site A

1. The site must be developed and maintained in substantial conformance with the following plans, unless modified by the conditions below:
 - Site plan dated ~~November 1, 2005, with plan showing proof-of-parking date stamped November 30, 2005~~ January 6, 2009
 - Grading plan date-stamped ~~November 1, 2005~~ January 6, 2009
 - Landscaping plan date-stamped ~~November 18, 2005~~ January 6, 2009
 - Building elevations date-stamped ~~November 1, 2005~~ January 6, 2009
 - Utility plan date-stamped ~~November 1, 2005~~ January 6, 2009
 - Stormwater Pollution Prevention Plan date-stamped ~~November 1, 2005~~ January 6, 2009
 - a. ~~The driveway locations onto Woodhill Road may need to be moved and are subject to staff approval.~~
 - b. ~~Move the easterly building 10 feet to the west.~~
2. Before starting any site work or obtaining a grading or demolition permit, complete the following work:
 - a. The installation of temporary rock driveways, tree-protection fencing, and erosion control fencing must be installed, subject to review by the city's natural resources manager. During construction, the streets must be kept free of debris and sediment, and the tree protection fencing and erosion control fencing must be maintained.
 - b. Complete an on-site pre-construction meeting with city staff.
 - c. Submit final site, grading, drainage, utility and erosion control plans for staff approval, including any required drainage calculations. There should not be any construction activity within 8 feet of the northerly 60 feet of the westerly property line to avoid impacts to the adjacent white pines.
 - (1) Final site plan must:
 - (a) Proposed sidewalk widths shall be per ADA standards.

- a. A final landscape and irrigation plan for staff approval. The dollar value of landscaping must meet the minimum requirement in the zoning ordinance. ~~Trees must be planted to compensate for significant trees removed from each site that would be outside of the building pad and driveway area. The trees must be primarily species native to the area. Replace Colorado spruce with the following: Black Hills spruce, Norway pine, Austrian pine, or Norway spruce. All new trees must be at least 2 ½ inches in diameter for deciduous trees and 6 feet tall for coniferous trees~~
- (1) A revised final landscape plan must be submitted for staff approval. The Norway maples proposed to the east along Woodhill Road must be substituted with another species subject to final approval by city staff. Please include general landscaping requirements regarding value (see original CC conditions).
- (2) No construction activity within 8 feet of the northern 60 feet of the western lot line. This should be shown as a construction limit on any subsequent plan revisions.
- (a) Need move or eliminate the existing retaining wall in this location which should be able to be adjusted this without impacting drainage.
- (b) Need to relocate/redesign the memory center area to eliminate any encroachments into this area and leave enough space to construct it.
- (c) Need heavy-duty fencing along the construction limit in this location to prevent encroachments.
- b. A letter of credit or cash escrow for 150% of the estimated cost of all required landscaping.
- c. An illumination plan for staff approval.
- d. All required hook-up fees.
- e. Record this ordinance with the county.
- f. A recycling/garbage plan, showing where recycling and garbage will be stored and the impact on parking.

4. The property owner is responsible for replacing any required landscaping that dies.
5. All rooftop and ground-mounted mechanical equipment, and exterior trash and recycling storage areas, must be enclosed with materials compatible with the principal structure, subject to staff approval. Low profile, self-contained mechanical units that blend in with the building architecture are exempt from the screening requirement.
6. Provide documentation of a parking easement or agreement on the adjacent Glen Haven Center property for the joint use of parking spaces.
7. Construction must begin by, ~~December 31, 2008~~, June 30, 2010, unless the planning commission grants a time extension.
8. Provide fire hydrant spacing and water flow requirements as required by the fire marshal. Hydrants must be located at drive entrances to parking lots as well as those required for minimum spacing on islands in the parking lot. The buildings must have fire sprinklers, as approved by the fire marshal, including attic spaces.
9. Provide stop signs at all drives entering a public street.
10. Pay toward the actual cost, up to \$12,000, for removing water services in Tree Street and patching and paving the excavations.

Site B

1. The site must be developed and maintained in substantial conformance with the following plans, unless modified by the conditions below:
 - Site plan date-stamped February 21, 2007.
 - Grading plan date-stamped January 3, 2007
 - Landscaping plan date-stamped November 18, 2005
 - Building elevations date-stamped December 29, 2006
 - Utility plan date-stamped January 3, 2007
 - Stormwater Pollution Prevention Plan date-stamped January 3, 2007
 - a. Widen all compact parking stalls to at least 8.5 feet.
2. Before starting any site work or obtaining a grading or demolition permit, complete the following work:

- a. The installation of temporary rock driveways and erosion control fencing must be installed, subject to review by the city's natural resources manager. During construction, the streets must be kept free of debris and sediment, and the tree protection fencing and erosion control fencing must be maintained.
 - b. Complete an on-site pre-construction meeting with city staff.
 - c. Submit final site, grading, drainage, utility and erosion control plans for staff approval, including any required drainage calculations.
 - d. Submit a letter of credit or cash escrow for 150% of the estimated cost to comply with grading and demolition permit requirements and restore the site. The city will not release the letter of credit or cash escrow until the developer submits as-built drawings and a letter certifying that the utilities, driveway and grading have been completed according to the plans approved by the city.
 - e. Submit copies of the watershed district permit. The city may require revisions to the approved plans to meet the district's requirements.
 - f. Submit a construction management plan for staff approval.
 - g. Submit copies of county driveway and utility permits, if applicable.
3. The following must be completed and/or submitted to the city before the city issues a building permit:
- a. A final landscape and irrigation plan for staff approval. The dollar value of landscaping must meet the minimum requirement in the zoning ordinance. New trees must be primarily species native to the area. Replace Colorado spruce with the following: Black Hills spruce, Norway pine, Austrian pine, or Norway spruce. All new trees must be at least 2 ½ inches in diameter for deciduous trees and 6 feet tall for coniferous trees.
 - b. A letter of credit or cash escrow for 150% of the estimated cost of all required landscaping
 - c. An illumination plan for staff approval
 - d. All required hook-up fees

- e. Record this ordinance with the county.
 - f. City approval of zoning permits to relocate the Alano use; and an agreement to relocate the Gold Nugget use in Glen Lake.
 - g. Written approval from Xcel Energy to start construction within their easement.
 - h. A recycling/garbage plan, showing where recycling and garbage will be stored and the impact on parking.
 - i. If Woodhill Road is extended south to Stewart Lane, access to the commercial parking lot must be reoriented from Excelsior Boulevard to the new Woodhill extension. Provide a plan for this connection before a building permit is issued. Also, provide an assessment waiver and right-of-entry for the potential driveway reorientation.
4. The property owner is responsible for replacing any required landscaping that dies.
 5. All rooftop and ground-mounted mechanical equipment, and exterior trash and recycling storage areas, must be enclosed with materials compatible with the principal structure, subject to staff approval. Low profile, self-contained mechanical units that blend in with the building architecture are exempt from the screening requirement.
 6. Approval does not include the signs shown on the drawings. Separate permits are required from staff.
 7. Construction must begin by June 30, 2007 unless the planning commission grants a time extension.
 8. Provide fire hydrant spacing and water flow requirements as required by the fire marshal. Hydrants must be located at drive entrances to parking lots as well as those required for minimum spacing on islands in the parking lot. The buildings must have fire sprinklers, as approved by the fire marshal, including attic spaces.
 9. Provide stop signs at all drives as they enter a public street.
 10. All commercial deliveries must be from Excelsior Boulevard. No commercial deliveries are allowed from Stewart Lane.

Section 4. A violation of this ordinance is subject to the penalties and provisions of Chapter XIII of the city code.

Section 5. This ordinance is effective immediately.

Adopted by the city council of the City of Minnetonka, Minnesota, on January 4, 2010.

Terry Schneider, Mayor

ATTEST:

David E. Maeda, City Clerk

ACTION ON THIS ORDINANCE:

Date of introduction: February 9, 2009

Date of adoption: January 4, 2010

Motion for adoption: Allendorf

Seconded by: Greves

Voted in favor of: Ellingson, Allendorf, Greves, Wiersum, Hiller, Schneider

Voted against:

Abstained:

Absent: Wagner

Ordinance adopted.

Date of publication:

I certify that the foregoing is a correct copy of an ordinance adopted by the city council of the City of Minnetonka, Minnesota at a regular meeting held on January 4, 2010.

David E. Maeda. City Clerk

Exhibit A

Phase I (Exchange) Property – Site B

Lot 1, Block 1, The Exchange, according to the recorded plat thereof, Hennepin County, Minnesota

Phase II Property – Site A

Lot 2, Block 1, Glen Haven Shopping Center, according to the recorded plat thereof, Hennepin County, Minnesota.

Phase III (Kinsel) Property – Site C

Lot 1, “Glen Lake Park”, except the East 570 feet of Lot 1, according to the recorded plat thereof, Hennepin County, Minnesota.