

**MINNETONKA PLANNING COMMISSION
MINUTES**

JANUARY 15, 2004

1. CALL TO ORDER

Acting Chair Egge called the meeting to order at 6:30 p.m.

2. ROLL CALL

Commissioners Maes, Bonoff, Britain, Gallop, Hart, Knight, and Egge were present.

Staff members present: Planning Director Geoff Olson, Principal Planner Cary Teague, Planner Susan Thomas, Environmental Coordinator Jo Colleran, and Planning Intern Megan Kelly.

Acting Chair Egge welcomed Terri Bonoff to the Planning Commission.

- 3. APPROVAL OF AGENDA:** The agenda was approved with the elimination of Item 7, election of a temporary chair and vice-chair, and Item 9C, a two-lot subdivision, with lot width at right-of-way variance, for two single-family homes at 11905 Ridgemount Avenue West for Olga Ugorets (96052.03a). Item 9C was withdrawn by the applicant. Olson suggested anyone with comments or questions regarding 9C to contact staff at city hall.
- 4. APPROVAL OF MINUTES:** November 20, 2003; December 4, 2003; and December 18, 2003

Hart moved, second by Knight, to approve the November 20, 2003, study session meeting minutes as submitted.

Maes, Britain, Gallop, Hart, Knight, and Egge voted yes. Bonoff abstained. Motion carried.

Knight moved, second by Maes, to approve the December 4, 2003, meeting minutes as submitted.

Maes, Gallop, Hart, and Egge voted yes. Bonoff, Britain, and Knight abstained. Motion carried.

Gallop moved, second by Britain, to approve the December 18, 2003, meeting minutes as submitted.

Maes, Britain, Gallop, Hart, and Egge voted yes. Bonoff and Knight abstained. Motion carried.

5. REPORT FROM STAFF

Olson briefed the Commission on land use applications considered by the City Council at its meeting of January 5, 2004:

- Adopted an ordinance amending City Code Section 300.27, subdivision 19, concerning landscaping security. The change would no longer allow a bond to be used to guarantee landscape work. A cash escrow or letter of credit is required.
- Ordinance to correct conflicting requirements for exterior speakers in the planned I-394 zoning district.
- Adopted the resolution approving a conditional use permit for a garage over 12 feet high and accessory buildings with more than 1,000 square feet at 3454 Orchard Lane for Kip Warner and Colleen Myers with the Planning Commission's recommendation.
- Adopted an ordinance amending a master development plan and approving final site and building plans; a resolution approving a conditional use permit; and an amendment to the water resources management plan concerning a proposed bank/office building at 10653 Wayzata Blvd for Red Stag Properties LLC.
- Continued action on a preliminary plat, with variances, for a three-lot subdivision at 14593/14629 Lake Street Extension for Ruth Murman. The first vote failed. Councilmember Wagner favored changes to the proposal. Constructing the residences on the three lots at the same time was favored to create more uniformity.
- Adopted the resolution amending the guide plan from Office to Institutional use and the ordinance rezoning from B-1, Office, to PUD, planned unit development, and adopting a master development plan, with final site and building plans and setback concerning a three-story, 64-unit senior assisted living facility at 18605 Old Excelsior Boulevard for Sunrise Inc.
- Postponed action on an application regarding an ordinance rezoning the property from PUD, planned unit development, to R-3, low or medium density residential; a preliminary plat, with lot area variances for each lot; and a site and building plan review concerning a four-unit townhome development at 11907 Minnetonka Boulevard for Dean Gannon to allow time for the applicant to prepare a master development plan for the entire development.

Olson briefed the Commissioners on a study session held with the City Council regarding temporary signs. The City Council approves temporary signs for schools and churches. A consensus was reached to restrict the size of the temporary banners to approximately thirty square feet and limit the amount of time to thirty days per year temporary banners could be displayed. The city hall is included in the jurisdiction of the policy. An ordinance change was also discussed that would restrict leasing signs to one per property and the sign would have to

be removed within seven days of the lease being filled. The Planning Commission will be reviewing the proposed lease ordinance change.

Olson reviewed the items listed on the January 15, 2004 Change Memo.

6. REPORT FROM PLANNING COMMISSION MEMBERS: None

7. PUBLIC HEARINGS: CONSENT AGENDA

No items were removed from the Consent Agenda for discussion or separate action.

Britain moved, second by Hart, to approve the items listed on the Consent Agenda as recommended in the respective staff reports as follows:

A. Resolution approving side-yard setback variances for an existing deck and porch, and to build a small addition to the home at 5745 Seven Oaks Court for Jeff and Deanne Michael (03089.03a)

Adopt the resolution on pages A1–A3 of the staff report. This resolution approves a side-yard setback variance from 25 to 20 feet, and an additional side-yard setback variance from 25 to 12 feet at 5745 Seven Oaks Court based on the following findings:

1. Strict enforcement would cause undue hardship because of the following circumstances that are unique to this property:
 - a. The hardship is caused by the non-conforming status of the home due to the change in the setback requirements; therefore, any addition to the south side of the home would require a variance.
 - b. The proposed addition and existing deck and porch would not be visible from adjacent homes.
2. The variance would be consistent with the spirit and intent of this ordinance for the following reasons:
 - a. The proposed addition would not alter the character of the neighborhood. The closest neighbor to the addition is over 200 feet away and screened by existing mature trees.
 - b. The proposed addition would have no impact on the adjacent wetland.

Approval is subject to the following conditions:

1. Submit proof of having recorded this resolution with the county before the City issues a building permit.
2. This variance will end on December 31, 2005, unless the City has issued a building permit for the project covered by this variance or approved a time extension.

B. Site and building plan review to build two storage buildings at Hopkins High School, 2400 Lindbergh Drive (91009.03b)

Approve the site and building plans to build the 20-foot by 88-foot, and 20-foot by 40-foot metal sheds at Hopkins High School, located at 2400 Lindberg Drive. Approval of the site and building plans is subject to the following conditions:

1. The site must be developed and maintained in substantial conformance with the following plans:
 - Site plan date stamped December 9, 2003
 - Building elevations date stamped December 9, 2003
2. Construction must begin by December 31, 2005, unless the Planning Commission grants a time extension.

Maes, Bonoff, Britain, Gallop, Hart, Knight and Egge voted yes. Motion carried and the items on the Consent Agenda were approved as submitted.

8. PUBLIC HEARINGS

A. Items concerning a two-lot subdivision at 4836 Woodridge Court for Jim and Jane Gyn (03088.03a):

1. **Vacation of right-of-way easement;**
2. **Preliminary plat, with lot area variances; and**
3. **Final plat.**

Acting Chair Egge introduced the proposal and called for the staff report.

Thomas reported. She recommended approval of the application based on the findings and subject to the conditions listed in the staff report. Thomas stated that the item required four votes to pass a motion. The agenda incorrectly indicated that five votes were necessary.

Jane Guyn, 4819 Highbury Lane, applicant, thanked the planners and Planning Commission. She received positive support from neighbors. She addressed the issues brought-up by the one neighbor who opposed the proposal:

- Adding one family to the seven-lot cul-de-sac would not change the level of noise on Woodridge Court. The city planners and city engineer agreed.
- The setback requirements would provide space for an aesthetically pleasing home site that would be in keeping with the nature of the single-family homes.
- The property's buildable area is more than 17,000 square feet. A house constructed to fit that area could be large enough to change the character of the neighborhood.
- She hopes to become friends with the new neighbors.
- The neighborhood looks like it was originally platted for another lot at the site. In essence, the lot had been sitting dormant. The placement of the residence on the front lot suggests that future subdivision may have been planned.
- The parcel is disproportionately larger than the other lots in the neighborhood. The proposal would be more in character of the neighborhood than it is currently.
- Unique characteristics of the property justify a variance to create a new lot.
- The properties that abut the property are smaller than the current lot minimum size.
- The property at the corner of Woodridge Road and Woodridge Court further compromises the deeded land acreage.
- She respectfully requested the Planning Commission support the logical and reasonable design.

Knight asked if the applicant would need variances to build a house. Ms. Guyn pointed-out a tree that staff has requested construction is prohibited from occurring in its drip line. She preferred not to disrupt any of the trees, but staff focused on saving that particular tree. She did not see a need for any variances to construct a residence and the planner and surveyor did not inform her of any.

Colleran explained that staff requested the preservation of a white oak centrally located on the property.

Gallop asked if staff foresaw a problem with vacation of the right-of-way. Thomas stated that the engineer had reviewed the proposal and he did not express any concerns. The eight-foot area runs along Woodridge Court. The right-of-way north of Woodridge Court is the same width.

The public hearing was opened.

Tom Kleist, 4840 Woodridge Court, lives on the adjacent property west of the proposed site. He and his wife felt the Guyns would be very nice neighbors, but opposed the proposal because:

- They would like to see the property remain as it is.
- There is no hardship for the subdivision. It would be only for economic reasons.
- He was concerned with the steep slope requiring future variances and potential drainage problems.

Knight asked about the steep slope being included in the buildable area and possible drainage issues. Thomas stated that the slope did not meet the steep slope definition. The city engineer would review the grading and drainage plans specific to each residence's design.

Maes felt the illustration on page 8A helped give her reference to the actual lot sizes.

Hart asked what the square footage of the buildable area would be. Thomas stated that the buildable area would be 8,200 square feet.

Britain asked if vacation of the right-of-way on the south side of Woodridge Court should be addressed at the same time as the current application. Thomas stated that right-of-way is vacated at the request of the adjoining property owner, which has not been done at this time. Britain confirmed with Thomas that the piece south of Woodridge Court would be the only remaining part wider than normal right-of-way in the area.

No additional testimony was submitted and the hearing was closed.

Acting Chair Egge reviewed the primary issues.

Maes felt that when driving down the street, it appeared that a house was meant to be on the proposed site. She felt it made sense. She understood Mr. Kleist's concerns, but she felt the variances were reasonable and that it would be a good fit for the neighborhood.

Bonoff read Mr. Kleist's comments and had some concerns, but once she visited the site she agreed with Maes. A new house would be consistent with the area and make it more attractive rather than detracting from it.

Britain agreed with the previous comments. He felt it made sense. He supported the project.

Gallop concurred. He understood Mr. Kleist's concern if a hardship exists, or if it's an economic issue. The deciding factor for him was that the proposal would not change the character of the neighborhood.

Knight concurred. Dividing the lot would make it conform to the neighborhood and remove its uniqueness. It meets the hardship test to justify a variance. He noted that the variance would be fairly small. It was important to him that there were no other variances associated with building a home.

Britain moved, second by Hart, to recommend to City Council approval of the following items concerning a two-lot subdivision at 4836 Woodridge Court for Jim and Jane Guyn with the modifications made in the January 15, 2004 Change memo:

- A. *Recommend that the City Council vacate an 8-foot-wide area of right-of-way along the east property line of proposed Lot 1.*
- B. *Recommend that the City Council give preliminary and final approval to Guyn Wood, date-stamped December 1, 2003, with lot area variances from 22,000 square feet to 21,440 and 20,360 square feet. Approval is based on the following findings:*
 - 1) Except for the lot area variances, the proposal meets the required standards and ordinances for a preliminary plat.
 - 2) The proposal meets the required standards for a variance, because:
 - a. The applicants are proposing to use the property in a reasonable manner. The size of the property relative to the size of area properties presents a practical difficulty. Though the property is disproportionately large, current lot area requirements prevent it from being divided into lots more characteristic of the area, without variance.
 - b. The variances would meet the intent of the ordinance because the proposal would have little visual impact on the surrounding area. Given the size of the property, its width, and the location of the existing home, the side yard of the property has the appearance of an undeveloped lot.

Approval is subject to the following conditions:

- 1) The following items must be submitted before the City releases the final plat:
 - a. A revised final plat to include a ten-foot-wide drainage and utility easement along the east property line of proposed Lot 1.
 - b. A park dedication fee of \$2,375.00.
 - c. An electronic CAD file of the final plat in microstation or DXF.

- d. Title evidence that is acceptable to the City Attorney. Title evidence must be current within thirty days before release of the final plat.
- 2) The following must be submitted to the City before the City issues a building permit:
 - a. A grading plan for the vacant lot, subject to staff approval.
 - b. A tree preservation plan for the vacant lot, subject to staff approval. Soil within the drip line of the white oak on the south property line of Lot 2 must remain undisturbed. Tree protection fencing must be installed. The sewer and water services must be shown to minimize impact to the significant trees.
 - c. The installation and maintenance of a temporary rock driveway, erosion control, tree protection, and wetland protection fencing for each lot must be installed, subject to review and approval of the City's Environmental Resources Coordinator.
 - d. A copy of the recorded plat and any easements or covenants are required to be recorded.
 - e. A hookup fee for sanitary sewer and water.
 - f. A letter from the surveyor stating that boundary and lot stakes have been installed as required by ordinance. If the grading for proposed streets has not been completed, the planning director may approve a time extension to this requirement.
 - 3) During construction, the streets must be kept free of debris and sediment, and the tree protection fencing, and erosion control fencing must be maintained.
 - 4) 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. They must be at least 2 1/2 inches in diameter for deciduous trees and 6 feet tall for coniferous trees. The property owner or original developer must replace the required trees if they die within one year after installation.

Maes, Bonoff, Britain, Gallop, Hart, Knight and Egge voted yes. Motion carried.

**B. Items concerning a 13-unit townhome development at 14201, 14213, and 14225
Excelsior Boulevard for GL Development LLC (03085.03a):**

- 1) Guide plan amendment;**
- 2) Rezoning;**

- 3) Preliminary plat, with variances; and**
- 4) Site and building plan review, with variances**

Acting Chair Egge introduced the proposal and called for the staff report.

Teague reported. He recommended approval of the application based on the findings and subject to the conditions listed in the staff report.

Britain confirmed with Teague that the applicant provided two proposals and that staff combined the best elements of both of them.

Gallop felt staff's recommendation was positive, but he questioned if the developer left room for negotiation. Teague stated that GL Development, LLC. could provide its opinion of staff's recommendation. Staff recommended the affordable housing be included in the upscale development plan.

Maes asked if more than one affordable unit would be required by the Economic Development Authority (EDA). Teague stated that typically staff looks for fifteen percent to twenty percent of a development to meet affordable housing standards. That would equal more than one for the proposal. The Economic Development Authority may require more than one.

Maes asked if a six-foot fence would block visibility from Stewart Lane. Teague explained the City's site line requirements at intersections.

Knight asked if the City would have the right to require affordable housing unit in the upscale plan. Teague answered that the number of variances, a rezoning, and a guide plan amendment justified staff's recommendation. Knight asked if the EDA or the City Council would determine the type of affordable housing mechanism that would be used and if additional affordable housing units could be required. Teague responded that the EDA would discuss the number of units and if West Hennepin Affordable Housing Land Trust or price indexing would be utilized. The City Council will review the Planning Commission's and Economic Development Authority's comments to reach its determination.

Bonoff asked if the fence would obscure the brick along the base of the unit. She felt the fence might block the upscale appearance of the site. Teague agreed that some of the lower features would be covered. The fireplaces and cedar shake siding would be visible.

Bonoff questioned if a fence would be needed. Teague stated that staff has no strong preference. Landscaping would probably be preferred, but it is left to the developer.

In response to Hart's question, Teague stated that the developer would fund its share of constructing a pond depending on how much water the site would generate. Hart favored addressing the drainage issue before units would be constructed. Teague agreed that the developer could be required to submit a drainage plan to predict what it might look like.

Dan Kelly, attorney representing GL Development, LLC., the applicant, was present with Arne Zachman, a principal of GL Development, LLC. He requested the chair allow him the ability to address public comments provided at the public hearing. Egge answered in the affirmative. Mr. Kelly felt the Glen Lake study planning committee demonstrated how important the site is to the area. It is viewed as the entrance to Glen Lake and would set the tone for future redevelopment. He stated:

- The development does need to be a viable development.
- Staff's recommendation includes the best of both plans.
- GL Development would consider mixing aspects of the plans granted that the result would be a viable option.
- The limit on an affordable housing unit is \$170,000. The lot cost would be between \$130,000 and \$150,000. There would not be a lot of wiggle room. The builder would be looking for some offsets to provide affordable housing.
- A fence and a slightly up-scale rear side to the units may be considered.
- The goal was to create a plan acceptable to the Planning Commission with an affordable housing unit or not have an affordable housing unit with the fence and upscale front and back of the units.
- By 2010, the City's goal is to add 180 affordable housing units. It already has added 150 affordable housing units. The importance of the visual impact of the site needs to be taken into consideration.
- The quality of GL Development's developments is well established in Minnetonka.
- The original plan included fifteen units, but GL Development's plan only includes thirteen units to allow for plenty of green space. The variances would be limited.
- Staff's report addresses the zoning change and guide plan amendment.

In response to Gallop's question, Mr. Kelly stated that the basic plan would not have the natural stone surface on the outside.

Arne Zachman, 4737 East Coventry Road, applicant, lives two miles from the project. He explained the difference between the basic style and slightly upscale plan. The third alternative would include the fence with slightly upscale materials, but no brick along the base.

Gallop asked if the slightly upscale exterior would appear the same as the upscale option from the street with the fence. Mr. Zachman answered in the affirmative.

Knight asked if Mr. Zachman would be agreeable to the slightly upscale exterior, fence, and affordable housing unit. Mr. Zachman agreed. Knight asked what the cost difference would be between the slightly upscale and the full upscale. He questioned if the difference would cover the cost of including an affordable housing unit. Mr. Zachman stated that \$50,000 that would have been used on the exterior of the houses would now be used for the affordable housing unit. Mr. Zachman was flexible whether to include the fence or not. It was included for privacy from the Excelsior Boulevard traffic.

Knight asked about providing an alternative drainage plan. Mr. Zachman stated that providing one would not be a problem.

Maes asked which unit would be the affordable one. Mr. Zachman pointed to the unit furthest west. The square footage of the unit would be smaller, but the exterior would look the same. The units would average 2,165 square feet and sell for approximately \$350,000. The upscale version would start at \$425,000 to \$450,000.

Mr. Kelly acknowledged that the development would fulfill a community need of residents downsizing.

Bonoff saw that the pictures of the not quite upscale and the upscale exteriors did not look the same. Mr. Zachman explained that a middle option would drop the brick base and include a fence on Excelsior Boulevard. He explained how the plans were changed to accommodate the community's comments. Bonoff concurred with the need for the affordable housing unit. They discussed the window type and exterior materials for different plans.

Britain asked staff's opinion on the third option. Teague was agreeable because the fence would block the view of the lower part of the units.

Mr. Zachman stated that a fireplace would only be added if the buyer wanted it. He could put false fireplaces in with stone.

Hart liked the steel garage doors on the front elevation. She felt that the view of Excelsior Drive would be acceptable on the slightly upscale view.

Acting Chair Egge favored the front and back being similar in design.

The public hearing was opened.

Lonnie Anderson, 5404 Mayview Road, stated:

- Restricting parking to one side of the street may help prevent accidents.

- She preferred not to include the fence.
- She asked what the final plan would include before she determined what comments she would have.
- The proposal would create more impervious surface. She was concerned with melting snow draining into the park holding pond. She questioned the drainage plans.
- For the most part she did like the development.

Ken Steeno, representing himself and Lucille Renecke, stated that he was generally happy with the proposed project. He welcomed an addition to the neighborhood. He favored an independent land survey of the property boundaries be completed. He supported a limit on the construction time. He opposed the fence and preferred landscaping and a berm. The existing buildings are unsightly.

Carole McConnell, 14325 Stewart Lane, is a member of the Glen Lake task force. She was happy with the outcome. Alanon participants park on both sides of street. She favored parking on one side of street. She was also concerned with the proposed fence.

Lucille Renecke, 14317 Excelsior Boulevard, lived in Minnetonka for over 50 years. She opposed the fence. She preferred trees and vegetation be planted. She assured people that noise is not a problem living on Excelsior Boulevard. She supported the project.

Mr. Kelly stated that the end of the street, past the driveway, would be twenty feet long and provide an area to store snow. The association would be responsible for trucking snow to another site if it would be necessary. A survey had been completed. The developer would follow the City's plan for landscaping or installation of a fence. The developer will continue to work with the City's engineering staff to create an acceptable drainage plan. A berm would not be a viable option for the fence because of the slope. It was not the developer's intent to present different variations of the plan, but scrambled to accommodate the residents' concerns. It was reasonable to require a chimney on units whose rear faced Excelsior Boulevard, but leave it as an option for the remaining units.

Mr. Zachman stated that he would work with Colleran to create a landscaping plan along Excelsior Boulevard.

Acting Chair Egge asked what the construction time line would be. Mr. Zachman's goal was to complete the project as soon as possible, but the timing of sales would influence the timing of the project. Acting Chair Egge noticed similar townhomes on the market on Williston Road. It concerned her that construction could occur for two to three years. Mr. Zachman explained his marketing strategy. He currently had fifteen buyers interested in the project.

Knight stated that the townhomes on Williston were built all at once, but remains for sale. Mr. Zachman stated that the project would not be built at one time, but in stages.

Hart asked Mr. Zachman if he was agreeable to Colleran's recommendation presented in the packet. Mr. Zachman answered in the affirmative. Within a week, new elevations should be prepared. She confirmed with Mr. Zachman that chimneys would be on all units with rears facing Excelsior Boulevard.

Maes asked what amount of the surface would be impervious. The developer's engineer stated that green space would make up 64 percent of the project and the impervious surface would equal 35 percent of the property.

Britain asked if it would be possible to construct a berm along Excelsior Boulevard. Mr. Zachman explained that it would not be possible because the ground drops down and there is no excess soil on the site to use for the berm. Teague stated that landscaping and the slope would provide an adequate screen.

Knight asked how the slightly upscale rear of the units would look without the fence. Mr. Zachman stated that the siding would continue to the ground. Each unit's foundation would be covered with crushed rock and small shrubs. No concrete would be visible.

Bonoff asked if the fireplaces would be cedar shake or brick. Mr. Zachman stated that they would be wood framed and plywood used with a stone or brick face on it.

Acting Chair Egge asked if the driveway could be changed because it accesses Stewart Lane at a blind spot. Mr. Zachman would work with staff to modify the driveway's access. Acting Chair Egge confirmed with Olson that a resident should speak to the City's engineer to request no parking on one side of the street.

Mr. Zachman reminded the Planning Commission that it was important that the recommendation include a limitation of one affordable housing unit for the project.

No additional testimony was submitted and the hearing was closed.

Acting Chair Egge called for a five-minute recess.

The meeting was called to order.

Acting Chair Egge thanked the residents and applicant for their comments and the developer's willingness to be flexible.

Knight was comfortable with outlining the conditions of approval, but asked Teague if staff felt the proposal was complete enough to act on. Teague felt a consensus was reached and the

Planning Commission could make its recommendation to the developer to finalize its plan before its review by the Economic Development Authority and City Council.

Acting Chair Egge asked for comments regarding the first issue of changing the guide plan amendment.

Gallop felt comfortable with the revisions to the guide plan. The area would serve as a good transition from single-family homes to multiple family homes and office buildings. He supported the guide plan change.

Knight concurred. The building would fit into the area aesthetically. The density was at the lowest end of the number of possible units.

Maes recognized that the site was one of the nine sites chosen by the Economic Development Authority to accommodate affordable housing. She felt the proposal would justify the guide plan amendment.

Britain commended the community members, developer, and staff for working well together and creating a very good plan. He echoed Maes' comments regarding affordable housing prompting the guide plan amendment.

Bonoff was impressed with the neighborhood support. It struck her that the project included everything that the guide plan asked for as well as the inclusion of affordable housing.

Hart felt the plan was consistent with the Glen Lake resident plan. The reduction from fifteen units to thirteen units and inclusion of affordable housing was a reason to applaud.

Acting Chair Egge complimented former Councilmember Allendorf for initiating the planning effort for the proposed area.

Hart was comfortable with the minor point intrusions and the third intrusion that would intrude on green space. She was fine with the lot size variances that provided additional green space.

Knight concurred. He suggested that the City consider not relying on lot area requirements as much as density guidelines in the future.

Maes noted the hardship of the irregular lot shape that justified the variances.

Britain disagreed with the Planning Commission recommending a limit on the number of affordable units.

Hart suggested that one unit would be acceptable to the Planning Commission. Acting Chair Egge was confident that the Economic Development Authority would address the appropriate number of affordable housing units.

Knight agreed that one affordable housing unit would be okay, but preferred not to limit the numbers for the Economic Development Authority.

Acting Chair Egge asked for confirmation that a consensus was reached that the fence should be dropped; the back and front of the exterior of the units should have similar designs, including windows; the Excelsior Boulevard rear side facing units would have chimneys; and staff and the developer look at the drive location because of sight issues. Acting Chair Egge offered construction time lines as an issue to be dealt with as well as it could be.

Hart moved, second by Gallop, to recommend that the City Council approve the following items concerning a 13-unit townhome development at 14201, 14213, and 14225 Excelsior Boulevard for GL Development, LLC. with the modification provided in the January 15, 2004 Change Memo and that will include the following modifications: replace the fence with additional landscaping; the front and rear exteriors of the units appear the same, including the windows; chimneys be on all rear facing Excelsior Boulevard units; steel garage doors; a drainage plan be in place before construction starts; and the driveway access be reviewed for site line issues.

- A. *Recommend that the City Council adopt the resolution on pages A1–A3 of the staff report, which amends the guide plan from office to medium density residential. This resolution is based on the following findings:*
- 1) The guide plan change would provide a transitional land use between the commercial area to the west and single-family homes to the east;
 - 2) The site is next to a commercial center, which provides services such as supermarkets, service stations, drugstores, cleaners, banks, etc. Metro Transit bus service is also available along Excelsior Boulevard;
 - 3) The guide plan change would be consistent with the Glen Lake Planning Study Concept Plan;
 - 4) Affordable housing is a condition of site and building plan approval;
 - 5) The guide plan change would be consistent with the public health, safety, and welfare.

Approval is subject to the following condition:

- 1) Any development of this property must contain affordable housing.
- B. Recommend that the City Council adopt the ordinance on pages A4–A7 of the staff report, which approves the proposed rezoning from B-1, office and R-1, low-density residential, to R-3, low or medium density residential. This ordinance is based on the following findings:*
 - 1) The rezoning would provide a transitional land use between the commercial area to the west and single-family homes to the east;
 - 2) The site would be next to a commercial center, which provides services such as supermarkets, service stations, drugstores, cleaners, banks, etc. Metro Transit bus service is also available at Minnetonka Boulevard and County Road 101;
 - 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.

Approval is subject to the following condition:

- 1) Any development of this property must contain affordable housing.
- C. Recommend that the City Council give preliminary approval to The Glen, dated August 25, 2003, with lot area variances for Lots 1-9 and 11-13 from 3,630 square feet to 2,795 square feet, and from 3,630 square feet to 2,470 square feet for Lot 10. Approval is based on the following findings:*
 - 1) Except for the variances, the proposal meets the required standards and ordinances for a preliminary plat.
 - 2) The proposal meets the required standards for a variance, because:
 - a. Strict enforcement would cause undue hardship because of the following circumstances that are unique to this property:
 - (1) The applicants are proposing to use the property in a reasonable manner. Though lots complying with the City's area requirement could be created, they would present a functional difficulty.

- (2) The property's unique shape is a unique circumstance, not common to all similarly guided residential properties in the city.
- b. The variance would be consistent with the spirit and intent of this ordinance for the following reason:
 - (1) The variance would not result in any visual difference in the development, as the individual lots would exist within the larger site.

Approval is subject to the following conditions:

- 1) Complete the following before final plat approval:
 - a. Show the following on the final plat:
 - (1) At least ten-foot-wide drainage and utility easements next to any existing or proposed public street rights-of-way and at least seven-foot-wide drainage and utility easements along all other lot lines
 - (2) Utility easements over existing or proposed public utilities, as determined by the City Engineer.
 - (3) Drainage and utility easements over any storm water ponds, as determined by the City Engineer.
 - (4) A 7-foot trail easement along Kinsel Road.
 - b. If the developer is petitioning the City to construct the public improvements, the City Council must order the improvements.
 - c. If required, submit evidence of the watershed district approval. The City may require revisions to the preliminary plat to meet the district's requirements.
- 2) The following items must be submitted to the City before the City releases the final plat:
 - a. An engineering/utility inspection fee.
 - b. An electronic CAD file of the final plat in microstation or DXF.
 - c. Pay the City a park dedication fee of \$2,375.00 per lot, minus the value of the trail easement.

- d. If the developer is constructing any public improvements, the developer must submit a signed agreement with the City. This agreement must guarantee that the developer will complete all public improvements and meet all City requirements. This agreement must include an escrow to ensure that the developer completes all public improvements and complies with all City regulations. This escrow must be a letter of credit or cash deposit. The amount must be 150% of the estimated cost of the improvements or 125% of the cost if based on actual bids.
- e. The following documents for the City Attorney's approval:
 - (1) Title evidence that is acceptable to the City Attorney. Title evidence must be current within thirty days before release of the final plat.
 - (2) Documents establishing a homeowners' association. The association must be responsible for maintaining any common areas, common drives, the required drainage pond and any other required drainage improvements approved by the City. Maintenance will include, but not be limited to, the periodic removal of sedimentation at the base of the pond and any adjacent drainage ditches, keeping a vegetative cover within the ditches and pond, and removing any blockage of the swale or culvert that may impede the drainage of the site, as approved with the building permits.
 - (3) Common access easements for each lot. The easement must state the maintenance responsibilities of each owner. The minimum driveway width must be as required by the fire marshal.
 - (4) Provide restrictive covenants to be recorded against the individual lots with the plat. The covenants must include the conditions below that have not been met as of the release of the plat. These covenants must first be submitted for the city attorney's approval.

These documents must be recorded with the final plat, and a drawing of any easements must be attached to the easement deed.

- 3) The City must approve the final plat within one year of preliminary approval or receive a written application for a time extension or the preliminary approval will be void.

D. Recommend the City Council approve the site and building plans for The Glen, with a rear yard setback variance from 40 feet to 35 feet for one unit on the south side, a side yard setback variance from 40 feet to 25 feet for one unit on the southeast side, and a side yard setback variance from 40 feet to 20 feet for one unit on the northeast side. Approval is based on the following findings:

- 1) The proposal would meet the required standards and ordinances for a site and building plan approval.
- 2) The proposal would meet the required standards for a variance, because:
 - a. There is a unique hardship to the property caused by the unique shape of the lot.
 - b. The variance would meet the intent of the ordinance because the setback encroachments are point intrusions into the required setbacks.
 - c. The structures would be located adjacent to park land; therefore, there would be no adjacent structures.

Approval of the site and building plans is subject to the following conditions:

- 1) The site must be developed and maintained in substantial conformance with the following plans, unless modified by the conditions below:
 - o Site plan dated September 5, 2003
 - o Grading plan dated September 5, 2003
 - o Landscaping plan dated December 11, 2003
 - o Building elevations date stamped January 7, 2004
 - o Utility plan dated August 25, 2003
- 2) The following work must be completed before the City issues a grading permit or before starting any site work:
 - a. The installation and maintenance of a temporary rock driveway, erosion control, and tree protection fencing for each lot must be installed, subject to review by the City's Environment Resources Coordinator.
 - b. Submit final site, grading, drainage, utility and erosion control plans for staff approval.
 - c. A letter of credit or cash escrow for 150% of the estimated cost to comply with grading permit requirements and restore the site must be submitted to the City. 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.

- d. Submit copies of the watershed district permit, NPDES permit and County permits for driveways and utility connections. The City may require revisions to the approved plans to meet these agencies' requirements.
 - e. All trees and vegetation to be preserved must be fenced and erosion control measures must be installed for staff approval.
 - f. A construction management plan must be submitted for staff approval.
 - g. A drainage plan be in place.
 - h. The driveway access be reviewed for site line issues.
- 3) The following must be completed before the City issues a building permit:
- a. The installation and maintenance of a temporary rock driveway, erosion control, and tree protection fencing for each lot must be installed, subject to review and approval of the City's Environmental Resources Coordinator.
 - b. An illumination plan for staff approval. Exterior lighting must be designed and arranged to limit direct illumination and glare upon or into any contiguous parcel. Reflected glare or spill light shall not exceed five-tenths (.5) foot-candles as measured on the property line when abutting a residential parcel.
 - c. A final landscape and irrigation plan for staff approval. The landscape plan must be consistent with the staff recommended landscape plan shown on Exhibits A30–A32.
 - d. A hookup fee for sanitary sewer and water.
 - e. A letter from the surveyor stating that boundary and lot stakes have been installed as required by ordinance. If the grading for proposed streets has not been completed, the planning director may approve a time extension to this requirement.
 - f. The developer must pay for a percentage of the contributing drainage from this project to the cost of the regional pond in Kinsel Park. The cost will be determined by the City Eng rainage plan, which would be subject to review and approval of City staff. This plan should attempt to minimize iner. If the regional pond is not constructed, the developer must submit an on-site d tree loss as much as possible.
 - g. A copy of the recorded plat and any easements or covenants required to be recorded.
 - h. Replace the fence with additional landscaping.

- i. The front and rear exteriors of the units must be the same in appearance, including the windows.
 - j. Chimneys be included on all rear facing Excelsior Boulevard units.
- 4) Other than the approved variances, all structures must meet the minimum setback and height requirements.
 - 5) The property owner is responsible for replacing any required landscaping that dies.
 - 6) Affordable housing must be included in the project, as recommended by the City's Economic Development Authority.
 - 7) 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.
 - 8) The buildings must be constructed with automatic fire sprinklers throughout.
 - 9) Approval does not include the signs shown on the drawings. Separate permits are required from staff.
 - 11) Construction must begin by December 31, 2005, unless the Planning Commission grants a time extension.
 - 12) During construction, the streets must be kept free of debris and sediment, and the tree protection fencing, and erosion control fencing must be maintained.

Maes, Bonoff, Britain, Gallop, Hart, Knight and Egge voted yes. Motion carried.

Acting Chair Egge announced that the City Council was tentatively scheduled to review the application at its February 9, 2004 meeting and the EDA at its February 3, 2004 meeting.

C. Two lot subdivision, with lot width at right-of-way variance, for two single-family homes at 11905 Ridgemount Avenue West for Olga Ugorets (96052.03a)

The application was withdrawn by the applicant.

Knight thanked the staff, Commissioners, and the citizens who attend the meetings. He had a great experience and learned a lot. Acting Chair Egge thanked Knight for his service.

9. ADJOURNMENT

Maes moved, second by Britain, to adjourn the meeting at 9:35 p.m. Motion carried unanimously.

By: _____
Lois T. Mason
Planning Secretary