

**MINNETONKA PLANNING COMMISSION
MINUTES**

NOVEMBER 9, 2006

1. CALL TO ORDER

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

2. ROLL CALL

Commissioners Schmitz, Adams, Brandt, Britain, Cheleen, Dahl, and Hart were present.

Staff members present: Community Development Director Ron Rankin, City Planner Julie Wischnack, Principal Planner Susan Thomas, Natural Resource Manager Jo Colleran, Planning Technician Jeff Thomson, City Engineer Lee Gustafson, and Planning Consultant Geoff Olson.

3. APPROVAL OF AGENDA: The agenda was approved as submitted with the inclusion of a change memo dated November 9, 2006.

4. APPROVAL OF MINUTES: October 26, 2006

Dahl moved, second by Cheleen, to approve the October 26, 2006 meeting minutes as submitted.

Schmitz, Adams, Brandt, Britain, Cheleen, Dahl, and Hart voted yes. Motion carried.

5. REPORT FROM STAFF

Wischnack briefed the commission on land use applications considered by the city council at its meetings from September 25, 2006 through November 6, 2006:

- The application was withdrawn by the applicant for a preliminary plat for a two-lot subdivision, with lot depth variance, at 11601 Timberline Road for Michael Burg.
- Approved the preliminary plat, with lot width at right-of-way variances, for a two-lot subdivision at 2001 Yorkshire Avenue, for Dennis and Julie Recknor. The 1 ½ -story requirement was removed in accordance with the planning commission's recommendation.

- Postponed, to within four weeks of the meeting, action on a preliminary plat, with variances, for a two-lot subdivision at 3848 Haven Road for Leland and Lorraine Sorenson.
- The application was withdrawn by the applicant for items concerning a three-lot subdivision of 15549 Ranchview Court for Evergreen Development Corporation.
- Adopted a resolution giving preliminary approval of the two-lot Sinkie Addition plat at 4700 Eastwood Road for Wayne Sinkie.
- Adopted a resolution approving a preliminary plat, with a variance, and final plat for a two-lot subdivision at 4848 Valley Road for Steven and Mary Leatherman.

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.

Cheleen moved, second by Schmitz, to approve the items listed on the consent agenda as recommended in the respective staff reports as follows:

A. Flag lot setback variance for a second floor addition at 14108 Lake Street Extension for John and Malgorzata Arleth. (86116.06a)

Adopt the resolution on pages A1–A3 of the staff report, which approves a flag lot setback variance from 25 feet to 18 feet to construct a second-floor addition above the attached garage at 14108 Lake Street Extension. This resolution is based on the following findings:

- 1) There is a unique hardship to the property caused by:
 - a. The location of the existing house on the lot.
- 2) The variance would meet the intent of the ordinance since:
 - a. The variance request is for a reasonable use of the property.
 - b. The addition would not alter the character of the neighborhood since it is a point intrusion into the required setback.

- c. The addition would not extend into the required setback any further than the existing house.

Approval is based on the following conditions:

- 1) Submit proof of having recorded this resolution with the county before the city issues a building permit.
- 2) Install and maintain a temporary rock driveway, erosion control, tree protection, as required by the city's natural resources staff.
- 3) The building material and color of the addition must match the existing home.
- 4) This variance will end on December 31, 2007, unless the city has issued a building permit for the project covered by this variance or approved a time extension.

B. Front yard setback variance for a two-car garage addition at 16425 Norwood Drive for Daniel and Susan Turzinski. (06014.06b)

Adopt the resolution on pages A1–A3 of the staff report, which approves a front yard setback variance from 25 feet to 12 feet to build an addition to the home at 16425 Norwood Drive. This resolution is based on the following findings:

- 1) There is a unique hardship to the property caused by:
 - a. The location of the existing home in relation to the lot lines.
 - b. A two-car garage could not be built on either side of the home and meet the required setbacks.
- 2) The variance would meet the intent of the ordinance since:
 - a. The variance request is for a reasonable use of the property.
 - b. The proposed addition would not alter the neighborhood character.

Approval is based on the following conditions:

- 1) Submit proof of having recorded this resolution with the county before the city issues a building permit.
- 2) Install and maintain a temporary rock driveway, erosion control, tree protection, as required by the city's natural resources staff.
- 3) The building material and color of the addition must match the existing home.
- 4) This variance will end on December 31, 2007, unless the city has issued a building permit for the project covered by this variance or approved a time extension.

C. Maximum sign area variance for a new building sign at 5951 Clearwater Drive for Nordquist Sign Company. (89072.06a)

Adopt the resolution on pages A1–A3 of the staff report, which approves a sign area variance from 150 square feet to 292 square feet to construct a new building sign of the east elevation of the building at 5951 Clearwater Drive. This resolution is based on the following findings:

- 1) There is a unique hardship to the property caused by:
 - a. The large size and varied configuration of the building.
- 2) The variance would meet the intent of the ordinance since:
 - a. The wall sign will occupy less than one percent of the building face.
 - b. The total surface area for all building signs will be less than what was previously approved for the building.

Approval is based on the following conditions:

- 1) Submit proof of having recorded this resolution with the county before the city issues a sign permit.
- 2) This variance will end on December 31, 2007, unless the city has issued a sign permit for the project covered by this variance or approved a time extension.

Schmitz, Adams, Brandt, Britain, Cheleen, Dahl, and Hart voted yes. Motion carried and the items on the consent agenda were approved as submitted.

8. PUBLIC HEARINGS

A. Preliminary plat, with lot width at right-of-way variances, for a five-lot subdivision at 4404 and 4412 Wilson Street for Lake West Development. (06051.06a)

Chair Hart introduced the proposal and called for the staff report.

Thomas reported. She recommended denial of the application based on the findings listed in the staff report.

John Winston, an attorney representing Curt Fretham and Lake West Development, 3912 IDS Center, Minneapolis, provided a response to staff's report. Mr. Winston knew Mr. Fretham to be responsive to staff's and the neighbors' concerns. Mr. Fretham had been working with staff since January of 2006 to address staff's concerns. He understood that there has been a change in staff personnel. He stated that:

- The initial proposal was reduced from seven lots.
- The public street was replaced with a private drive to decrease the impact on the environment.
- The tree conservation area would be substantial. Roughly a quarter of the undeveloped site would not be touched.
- A number of engineering-type issues are presented in staff's report.
- He introduced Kevin Teppin, of Schoell and Madsen, Curt Fretham, and Clarissa Cue, the project assistant. He welcomed the opportunity to meet with city staff as often as necessary to work through the engineering issues. There are subjective standards listed in the report.
- He requested commissioners recommend that the city council approve the application with the condition that the applicant work with city staff to address the erosion and utility connection concerns.
- If more time is necessary, then he would agree to postpone action on the application.
- His team was present to answer specific questions.

Britain explained that the planning commission could recommend that the city council deny the project and it would continue to city council for final action. That

would give the applicant a very short time frame to resolve the issues. If the applicant chose to go forward with the proposal as it was, that was the applicant's decision. He saw issues that would cause him to recommend denial of the project.

Mr. Winston was concerned the planning commission's denial would influence the city council's action on the item. Chair Hart reassured him that the city council has been known to act differently than the planning commission.

Chair Hart stated that the commission is not in the habit of passing a recommendation to the city council that includes unresolved issues. That would mean that the resolution would not have had a public hearing. The proposal could be continued until the next planning commission meeting while the applicant has the opportunity to work out the issues with staff. The public hearing would be held and a recommendation made to the city council. December 7, 2006 is the planning commission's next meeting. Mr. Fretham would need to waive the 120-day rule in writing or the city council would act on the application at its November 20, 2006 meeting.

Mr. Winston stated that Mr. Fretham was willing to waive the 120-day requirement. He did not blame anyone for the delay. A few more days would be punitive, but acceptable if that would be the way to get it done. He agreed to postponement of action until the December 7, 2006 planning commission meeting.

Brandt concurred with Britain and Chair Hart. The issues are not minor. Details regarding trees, erosion, and the utilities need to be settled before even tentative approval.

Cheleen echoed Brandt. The planning commission acts as a clearing house to respond to the application, but also the neighbors and the community. A lot of residents are concerned with the project. Commissioners owe it to the neighbors to find out more information.

Dahl agreed. It could be a great proposal, but issues need to be worked out first.

Chair Hart explained that the planning commission holds the forum for the public hearing. All of the agreements need to be in place. Mr. Fretham provided a written waiver of the 120-day rule. Wischnack provided a prepared waiver. Wischnack explained that residents would be notified of the December 7, 2006 public hearing.

The public hearing was opened.

Ann Pryor, 5900 Highwood Drive, thanked the commissioners for making the community great. She strongly opposed the proposal. She stated that:

- Many trees have already been cut down.
- Over 15 years, 10 acres of the neighborhood have been developed.
- Two \$700,000 plus homes have been for sale on the same street for 2 years.
- Single-family home sales prices have fallen 2.5 percent.
- Real estate prices are expected to decline for years because baby boomers' investing in primary and vacation housing has peaked.
- By 2010, more baby boomers will move out of single-family residences.
- McMansions will not be wanted in the near future.
- Strongly consider turning down the proposal to save the trees and prevent more large houses from being built.
- Consider the long-term legacy left for the children and grandchildren.
- Deer, fox, turkeys, raccoons, and red-headed woodpeckers live on the proposed site.

Robert Schmidt, 16001 Tonkawood Court, stated that the back of his lot abuts the proposed site. He was not opposed to the proposal. His sole concern regarded the routing of the sewer line. A route on the west side would not work. A route directly through the marsh to the lift station would work. Locating the utilities in the easement on his lot would cause the removal of six mature trees. He enjoyed the mature cotton-wood trees. Do not formulate the plan on a flat planning board. The terrain must be viewed before the plans for the utility line should be considered.

Colleran valued all trees. Certain species are appropriate for certain locations. Property adjacent to a wetland would appropriately provide a home for poplar and cottonwood trees.

Jeffrey Benson, 4411 Wilson Street, strongly opposed the plan. He stated that:

- The number of proposed houses would greatly change the character of the neighborhood.
- The proposal would increase the density of houses and traffic in the area.

- There is no sidewalk on the streets. Additional traffic would make the streets unsafe.
- Too many trees would be removed.
- The variances should not be approved. The need for the variances is caused by the plan.

Gary Manka, 15803 West Oaks, opposed the project. He stated:

- The proposal would cause removal of a lot of oak trees.
- He has seen a lot of trees and marshes disappear.
- He agreed with his neighbors.
- The land is home to owls.
- The city's greenery is being lost.
- Large house prints would not fit on the steep slopes. Erosion, loss of trees, and other issues would be inevitable. The oak trees would not survive.
- There is a marsh adjacent to the property that would be lost.

Colleran stated that the wetland is west of the property. The south end of the property is a wooded area.

Tom McMahon, 4409 Wilson Street, strongly opposes the building of four or five homes. He agreed with the previous speakers. The location map did not show the north lot or acre sizes. He walked the site. He stated that Minnetonka does not want deep lot residences fed by a single, shared roadway. He questioned if the city agreed with the driveway connecting four residences.

In response to Chair Hart's request, Olson explained the policy that allows three residences to be located on the same private drive. Staff is currently working on a lot-behind-lot ordinance that will be reviewed by the planning commission in the future. The city council has made it clear that it is not opposed to lots behind lots. Lots behind lots are not a permitted use, each is considered on a case by case basis. City policy limits the number of lots to three, but even those do require a lot frontage variance. The proposal would have three lots on the drive and the fourth would be serviced by the street.

Mr. McMahon asked if the city would allow the use of sewer lift stations. Chair Hart stated that that issue has not been resolved yet.

Mr. McMahon suggested servicing the residences by two small driveways from the west cul-de-sac. Wilson Street is wet and slippery. It does not get plowed as fast as other streets in Minnetonka. The wetland is on the highest point of the

site. The oak trees would be removed on the far west corner. The existing grades would have to be lowered 15 feet to 20 feet to flatten out the area near the marsh. Every tree in the southwest quadrant would be wiped out. Chair Hart explained that commissioners are waiting to hear the resolution of the conservation aspect of the proposal. Coleran agreed that that is one of the issues still being worked out with the applicant. The storm-water pond would take the water from the proposed new development and pretreat the water before it would be discharged into the wetland to protect water quality. That is one of the details that needed to be worked out. Chair Hart reiterated that the whole draining and ponding issue needs to be resolved. Mr. McMahan agreed with the other speakers. He understood that the site has the acreage and there is not a lot the public can do. It is a beautiful piece of land with trees and wildlife. He hated to see it developed.

Chair Hart asked Thomas if a plat existed that created five lots and would not require a variance. Thomas stated that Mr. Fretham provided an exhibit that contained five lots and appeared to meet city ordinances. A plat that meets all ordinance requirements must be approved.

No additional testimony was submitted and the hearing was closed.

Adams moved, second by Schmitz, to continue review of the application for a preliminary plat known as "Hopaca Hollow" date-stamped October 26, 2006 until the December 7, 2006 planning commission meeting.

B. Items concerning a two-phase office redevelopment with a parking ramp at 9701 Data Park Drive for United Health Group called Data Park Expansion project. (06060.06a)

Chair Hart introduced the proposal and called for the staff report.

Olson reported. He recommended approval of the application based on the findings and subject to the conditions listed in the staff report and modifications provided in the change memo dated November 9, 2006.

Britain liked the changes to the proposal. Adjusting the height of the ramp was an improvement. Britain asked if reversing the order of the development of the buildings was considered and the reasoning. Olson stated that the applicant felt that logistically it would not work. Parking during the interim and the operation of the business influenced the order of the phases. The city does not have an issue with the timing being changed, but the applicant had problems with changing the order of the phases.

Adams was a little concerned that at the completion of both phases, the floor area ratio would be 145 percent. It would be substantially higher than any other structure in the city. Olson stated that Carlson Towers and Crescent Ridge have floor area ratios below 100 percent, approximately 60 percent to 75 percent. The Marriott and Cloud Nine are also around that range. The proposal would create the largest office project in the city. The Colonnade in Golden Valley has a similar floor area ratio as the proposal.

Adams confirmed with Olson that the entrance would access the ramp on the east side. The ramp would exit only on Blue Circle Drive. It would eliminate morning, stacking traffic on Blue Circle Drive.

Schmitz asked if the city is considering allowing larger-scale developments that would have a larger floor area ratio or if this proposal was an exception to the rule because of its unique location in a campus. Olson stated that, generally, taller buildings with increased density adhere to the regional trend. The Metropolitan Council supports higher density developments along transit routes and freeway systems. The Opus campus provides the best location in the city to provide higher density.

Brandt questioned why a lane would be added to Bren Road East when it was removed due to safety concerns. Gustafson explained that in 1999, a survey was done of the area prior to reconstruction of the streets. Several merge situations were found to have safety concerns. Now, a stop light would be added and Green Oak Drive would be straightened to improve the intersection.

Adams noticed that a traffic study done since the last planning commission meeting indicated that the traffic count would be 70 percent higher. The estimates went from 2,800 vehicles per day up to 5,300 vehicles per day. He asked what caused the increase. Gustafson explained that the first traffic report used trip generations from the IT manual. Better data was calculated once the number of employees was known for the site. The city's traffic consultant, WSB, customized the figures to better match the number of employees and resulted in the increase. Chair Hart acknowledged that the revised changes in the road plan reflected the increased expected traffic count. Olson agreed that the revised numbers definitely reflect the higher trip generation rate.

Steve Dorgan, of CRESA Partners, represented United Health Group, thanked commissioners and staff. He agreed with staff's recommendations and Olson's overview of the proposal. He stated that:

- The floor area ratio density should be considered in the context that the site operates as a campus. It shares grounds, facilities, and parking.
- Phase I needs to be done first because the east side is narrow and would not accommodate the capacity needed for Phase I.
- Information regarding employee and parking counts was provided.
- A bus stop exists at the corner of Data Park Drive and Bren Road East. United Health Group would be willing to work with Metro Transit to provide a bus stop on its site.
- The signs would be complimentary to the existing headquarters site and meet city ordinance requirements.
- He was present to answer questions.

Adams did not mean to suggest that the Phase I building be moved to the east side. He asked if the Phase II building could be constructed first. Mr. Dorgan stated that the need is greater than what the Phase II building would provide at this time.

Schmitz asked what type of materials would be used on the outside of the buildings. Mr. Dorgan stated that they would be a combination of stone. The design and material would be complimentary of the existing headquarters building. There would be a lot of glass and the ramp would be precast with a transition corridor between the building and the ramp that would have a combination of precast and stone.

Adams noted comments received regarding lack of public access to the walking path around the pond and restaurant. He asked if United Health Group would be willing to reconsider making those areas open to the public. Mr. Dorgan could not answer for the restaurant. He could suggest the possibility be considered. Access to the trails around the site is a security issue. There are public trails that travel through Opus II. Some trails would be added to connect with the existing trails through the proposed development site. He did not have the authority to agree to that condition.

The public hearing was opened.

Bill Marzolf, 6024 Blue Circle Drive, stated that the project would be massive. He stated that:

- The Carlson Towers property is between 20 acres and 27 acres in size. Its lowest floor area ratio equals .5. The buildings are smaller than the proposed project. The site has a 1,700-vehicle parking

ramp and another space surface lot. The density of the floor area ratio and number of people using it is less. At one time, the ramp was pushing capacity. Now there are a lot of vacancies in the ramp.

- The buildings would be packed on the site.
- The number of parking spaces indicates how dense the project would be.
- He questioned where the additional employees would be coming from in 2008.
- He commended the changes and eliminating the need for the variance on the west side.
- The size of the floor area ratio variance and density of the project are concerns.
- Traffic would be a major headache. The Minnesota Department of Transportation could become involved. The number of vehicles traveling on northbound State Highway 169 would exceed 1,000 vehicles per hour. It can be a parking lot during peak times. The need for improvements at that intersection would be necessary before Phase II.
- He liked the campus concept, but it would be too densely packed.
- The proposal would primarily benefit United Health Group and provide marginal gains for the city in benefit to the tax base. The project should be changed to provide more of a benefit for Opus II and the city.

Chair Hart confirmed with Olson that Phase II of the project would be reviewed by the planning commission as a site and building plan review. The master development plan was being reviewed. The completion of Phase II would be contingent on traffic improvements.

Lynn Kiesow, a traffic consultant with WSB, looked at the proposal's impact on the freeway system. State Highway 169 would have a 2 percent to 4 percent increase in traffic. The existing volume is approximately 7,000 trips to 8,000 trips in one hour during the peak hours. The new estimates provide an increase in the trips of 4 percent to 5 percent, to equal 400 to 500 trips on State Highway 169. Phase II would require the department of transportation and the entire Opus site to be included in the calculations. The freeway system would be looked at more closely at that time.

Cheleen understood Mr. Marzolf's concerns. He asked how far the back up of vehicles waiting to go north on State Highway 169 would extend. Ms. Kiesow stated that adding the lane was necessary. Timing of the ramp meters would change in accordance with the number of vehicles waiting on the ramp. State

Highway 100 and Interstate 494 are now open which helps relieve some of the traffic on State Highway 169.

Adams asked what "SPUY" stood for. Ms. Kiesow defined it as signal point diamond interchange, similar to what is near the Mall of America. The ramps come to a point in the center, with one signalized point. "LOS" stands for level of service. "A" is the best level of service and "F" is the lowest level of service. Adams thought an F rating would prevent an increase in traffic. Ms. Kiesow stated that when the rating equals E or F, improvements are usually required. The recommended improvements would increase the level of service above that point. A whole, master plan of the area has been recommended.

Gustafson explained that the location of development and freeway accesses would influence the traffic impact and impact a proposal's chances for approval.

Chair Hart confirmed with Ms. Kiesow that with the mitigation, the lowest level of service would be D. The E and F service levels represent the status if nothing would be done to mitigate the traffic. Even with the new projections, changes have been made so that the level of service would not go below a D.

Adam's biggest concern with the proposal is traffic. It would be monumental and the department of transportation has no plans or funding for the area for the next 20 years.

Doug Jines, 6020 Blue Circle Drive, provided satellite photographs of the Carlson Towers, Best Buy buildings, and the proposed site. He stated that:

- The expansion would be good, but a lot of numbers do not make sense.
- The proposal would be bloated.
- One side of the campus would be too dense and lose its open feel.
- His view of the sky would be replaced with a yellow wall.
- The floor area ratio of 143 percent over the historic norm of 100 percent would be too much.
- The reduction in the setback on the west side is nice. He supported removing the top two floors.
- Traffic would be a nightmare.
- The "bigger picture" report should be done first.
- It would decrease his property value if traffic blocks the access.
- The city's overall community goals include preserving its history and heritage.
- The project should be scaled back.

Stewart Lind, 6018 Blue Circle Drive, stated that:

- Outside the metropolitan area, there would not be another 9-level parking ramp in the state. Downtown, there is one ramp that exceeds 9 levels. The average is 6 levels.
- He was happy to see the results of the updated traffic study, but his figures showed an insignificant difference.
- New development in the area is precluded because the trigger is so close to require improvements.
- He apologized to Mr. Heppelman for misquoting him at the last meeting.
- The area would be jammed up. The interchange improvements need to be done now.
- He provided the cost of road improvements made when Best Buy's headquarters was built in Richfield. He questioned the funding for the street improvements in Minnetonka. Chair Hart directed his comments to the city council. Olson invited Mr. Lind to call him prior to the city council meeting.

Jim Burns, 10201 Bren Road East, questioned if traffic on Bren Road East would be stopped by the traffic light to allow Green Oak's motorists to continue. Gustafson explained the traffic pattern. Bren Road East would have a consistent green light until traffic on Green Oak triggered a red light. Mr. Burns felt it would appear to be a strange place to locate a semaphore. He was concerned with motorists following him too closely when he made the right hand turn into his driveway. If nothing is done to allow more traffic onto the bridge over the highway, then it would back up on Bren Road East.

Robert De Brey, 6014 Blue Circle Drive, stated that there was still not a good solution for the loading dock. Olson explained that the wall and landscaping would shield the view of a semi truck. Mr. De Brey said that the drawing is deceiving. He stated that:

- He did not believe that only a few small trucks would use the loading dock.
- Semi trucks now visit the site three to four times a week.
- The trees shown would not be that size for 10 years.
- He was glad the wall was there to shield the loading dock.
- Having a bus stop would decrease the need for cars. He hoped one would be added to provide a direct route from the bus stop to the business.

- The project would be too large and dense for the site. It should be scaled back.

John Walsh, 6100 Blue Circle Drive, was concerned with traffic on Blue Circle Drive, especially where it changes from two lanes to one lane. The ramp incline becomes slippery in the winter and causes problems if the streets are not kept sanded and salted.

Chair Hart recognized a main concern of the project to be traffic.

No additional testimony was submitted and the hearing was closed.

In response to Chair Hart's question, Olson recognized the concern that the north property is owned by another party with a 16-year lease. The concern was whether it would be reasonable to include the area as one property. If Phase II would never be built, the floor area ratio would be 78 percent, not including the leased property.

Rankin commented that each of the Carlson Towers is located on a separate parcel and a third parcel is included in that site. Crescent Ridge office buildings on Interstate 394 are each on its own lot. The floor area ratio is calculated by the location of the property lines. It would make sense to consider the site as a campus, whether or not there is a property line between them.

Rankin spoke with a metro transit representative who was hoping to find a way to provide service to the site. Olson stated that metro transit would build a bus shelter if 25 passengers utilized the stop. Right now, approximately 15 passengers utilize the stop.

Chair Hart reviewed the primary issues.

Adams asked for the anticipated completion date. Rankin stated that Phase I would be expected to start before the end of this year and be completed within six months.

Britain felt approving Phase I would be ideal and deal with Phase II when and if that occurred. He understood the developer's need to consider Phase II when developing Phase I. The plan, overall, is a good plan. The traffic issue is huge for the area. United Health Group is a valuable member of the community. From the neighborhood perspective, he wanted enough checks and balances to address issues.

Cheleen agreed with Britain. Cheleen was concerned with its size and traffic concerns. If traffic issues arose, then he hoped that United Health Group would accommodate it by changing the hours of some employees. The applicant has been willing to work with the city and the department of transportation in regard to Phase II. Until the street improvements are made, Phase II would not be allowed.

Schmitz concurred. She wondered if the traffic improvements could be made at the same time as Phase I, rather than waiting for Phase II. Olson explained that the Phase I development would not trigger the need for the improvements. It would bring it right up to that level, but it would not meet the threshold requirement. It would take a lot of time for the department of transportation and United Health Group to secure financing and other considerations to be made. Gustafson agreed. The interchange study would include traffic patterns created by Phase I. It takes time to model and look at the best solutions. The site has remained very low use. The calculations included filling the current vacancies by eight percent. In reality, the development may not be completely full and the current vacancies may not be occupied. Staff is comfortable with the recommendation.

Chair Hart asked what could be done if the interchange would back up onto Bren Road East. Gustafson stated that a free right hand turn could be added at the intersection to go from east bound to south bound. Shady Oak Road will be improved from a two-lane country road to a four-lane divided road next year. Using Shady Oak Road would be a much better option. The Opus area has been monitored for a year to create a master plan. He explained the methods to monitor traffic. There is the possibility to make minor improvements to the system before Phase I is completed.

Brandt asked if another development occurred in the area and triggered a service level of F, then would that applicant have to deal with the traffic improvement requirement. Chair Hart stated that the location of the project, a traffic study, and monitoring results would influence those decisions.

Adams was impressed with the response to the neighbors' and commissioners' concerns. He was opposed to the proposal because it was being rushed. He preferred knowing for sure that the infrastructure would be able to support the proposal. United Health Group may have a short-term problem with a lease expiring at another location that is driving the project, but a lease extension would be an option.

Dahl agreed with the commissioners. He suggested United Health Group structure the employees' hours. He would have liked to consider one larger building that would have alleviated the floor area ratio calculation. The project has issues to be worked out, but it is a good project. He supported it.

Chair Hart did not see the floor area ratio as a large issue. She viewed the site as one campus. Phase II may not be built for 10 years to 15 years. Traffic is a concern, but she felt better after listening to Gustafson's comments.

Britain moved, second by Brandt, to approve the following items concerning a two-phase office redevelopment with a parking ramp at 9701 Data Park Drive for United Health Group called Data Park Expansion project with the modifications provided in the change memo dated November 9, 2006:

ENVIRONMENTAL ASSESSMENT WORKSHEET

- 1) *Make a negative declaration on the need for an environmental impact statement, because the project would not cause any significant environmental effects. The following are specific findings:*
 - a. There are no ecologically sensitive resources on this site or surrounding sites that would be affected by the proposed project.
 - b. The site's impervious surface would be reduced in phase I from 7.9 to 6.7 acres or from 79% to 69%, adding about 52,000 square feet of green area to the site; however, the impervious surface would increase back to about 79% with phase II. This is still under the city code limit of 85%.
 - c. The project would improve water quality and reduce current stormwater discharge rates and volumes.
 - d. The only potentially significant environmental impact would be traffic, which would be mitigated by city-required traffic improvements.

REZONING AND MASTER DEVELOPMENT PLAN

- 2) *Recommend that the city council adopt the ordinance on pages A1–A8 of the staff report. This ordinance approves the following for the United Health Group at 9701 Data Park Drive:*

- *a rezoning from I-1, Industrial, to PUD, Planned Unit Development*
- *a master development plan for Phases I and II, with the following variances:*

Phase I

- a. *building setback variances on the north side from 100 feet to 82 feet and on the west side from 100 feet to 85 feet.*

Phase II

- a. *a building setback variance on the north side from 100 feet to 32 feet.*
- b. *a setback variance on the north side of the Phase II parking ramp from 46 feet to 26 feet.*
- c. *a floor area ratio variance from 100% to 145%.*

- *Final site and building plans for Phase I*

The ordinance is based on the following findings:

- a) The rezoning is consistent with the city's comprehensive plan.
- b) With the exception of the variances, the plans would meet the required standards and ordinances for a master plan and site and building plan approval for Phase I.
- c) The proposal would meet the required standards for a variance, because:
 - 1. The setback variances to the north only affect the UHG building to the north, and should be considered as internal to the overall project.
 - 2. The westerly building setback variance is justified because:

- a. The phase I office tower could be built without a setback variance to Blue Circle Drive under the office zoning, which only requires a 35-foot setback. The office district setback is more appropriate here because the surrounding uses are office and there are tall buildings in the area.
 - b. There is a practical difficulty in moving the building further east to avoid the variance.
 - c. The variance is a point intrusion into the setback area.
3. The floor area ratio variance is justified for four reasons:
- a. Green space would be increased over the current site conditions
 - b. There are other buildings in the area with similar building heights
 - c. Traffic impacts would be mitigated by the recommended improvements
 - d. If the redevelopment site is combined with the existing site to the north, the floor area ratio would be only 74%, which would not need a variance. This is reasonable justification because the two sites are intended to function as one corporate campus.

Approval is subject to the following conditions:

- 1) Subject to staff approval, the site must be developed and maintained in substantial conformance with the following plans, unless modified by the conditions below:
 - Master development plan, date-stamped October 19, 2006, subject to the changes on the drawing on page A42-f of the staff report.
 - Phase I site plan, date-stamped November 3, 2006
 - Phase I grading and drainage plan, date-stamped October 19, 2006
 - Phase I landscaping plan, date-stamped October 19, 2006

- Phase I building elevations, date-stamped October 20, 2006
- Building material board, date-stamped October 20, 2006

The above plans are hereby adopted as the master development plan and as final site and building plans.

Phase I Conditions

- 2) Before starting any site work or obtaining a grading permit, complete the following work:
 - a. The installation and maintenance of temporary rock driveways, erosion control, and tree protection fencing, subject to review by the city's natural resources staff. During construction, the streets must be kept free of debris and sediment, and any tree protection and erosion control fencing must be maintained.
 - b. Approval of final grading, drainage, utility, and erosion control plans by the city. The developer must work with staff to determine if there are opportunities for water infiltration and other water quality best management practices that could be incorporated into the drainage plan.
 - c. Submit a stormwater pollution prevention plan, for staff approval.
 - d. Submit a letter of credit or cash escrow for 150% of the estimated cost to comply with grading permit requirements and restore the site.
 - 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, including provisions for a temporary access for Time Warner to their site.
- 3) The following must be submitted to the city for staff approval before the city issues a building permit:

- a. The developer must agree to one of the following options to ensure installation of a third lane on Bren Road East from Data Park Drive to Smetana Drive and improvements to the Green Oak Drive/Bren Road East intersection before occupying the phase I building:
 - (i) Assessment option: Sign a waiver of assessment appeal and submit a petition requesting that the city build this project.
 - (ii) Pay-as-you-go option: Submit a petition requesting that the city build this project and sign a developer's agreement to pay the construction costs as they are incurred by the city.
 - (iii) Payment-up-front option: Submit a petition requesting that the city build this project and provide cash up front, with amount to be determined by staff based on the estimated project cost.

The city will credit UHG's payments for the above projects toward UHG's share of any future area-wide roadway and traffic improvement costs in the Opus II Park.

- b. The developer must submit a signed agreement with the city for the construction of Data Park Drive and any public utility work. This agreement must guarantee that the developer will complete all public improvements and meet all city requirements. This agreement must include a letter of credit or cash deposit to ensure that the developer completes all public improvements and complies with all city regulations. The amount must be 150% of the estimated cost of the improvements or 125% of the cost if based on actual bids. Construction plans must be submitted to the city for staff approval. Construction plans must reflect the drawing on page A42-f of the staff report.
- c. Final landscape and irrigation plans for staff approval. 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 ½ 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. Larger trees will be required along Blue Circle Drive, especially to screen the truck loading area. The larger trees must have a diameter of at least 3 inches for deciduous trees and a height of 10 feet for evergreens.

- d. A letter of credit or cash escrow for 150% of the estimated cost of all required landscaping.
- e. An illumination plan for staff approval.
- f. All required hook-up fees.
- g. Evidence of the release of the obsolete access easements to 9705 Data Park Drive (Time Warner site) and a copy of a deed for a new access easement to 9705 Data Park Drive for the relocated access drive.
- h. Copy of the recorded resolution vacating the north-south, public utility easement running through the center of the site, and relocation of the existing storm sewer and fiber optic cables.
- i. Payment for public and on-site traffic signs and installation, as required by the city engineer.
- j. Record this ordinance with the county.
- k. The project architect must verify the required volume of water for the building and ensure that there will be adequate fire flow to the building.
- l. A sign must be added at the phase I ramp exit to Blue Circle Drive saying "No Right Turn".
- m. Revised plans for the parking ramp to restrict access from Blue Circle Drive to an exit only, as shown on the drawing on page A42-f of the staff report; however, the location of the access drive to the ramp may be moved further north. The existing lane may be two lanes, subject to the condition that

the city may require removal of one of the lanes if a traffic problem develops in the future.

- n. Revise plans for Data Park Drive to make the changes generally shown on page A42-f of the staff report. These changes are summarized as follows:
 - (1) generally change from a four-lane, divided road to a two-lane divided road with turn lanes;
 - (2) Add a round-about or other turn-around design, as approved by staff, at the easterly end of the drive;
 - (3) Revise the median openings as shown on the drawing; and
 - (4) Revise the crosswalks as directed by staff.
- 4) The following must be completed, subject to staff approval, before the city issues an occupancy permit:
 - a. City construction of improvements to the Green Oak Drive/Bren Road East intersection, including a signal and the widening and realignment of Green Oak Drive.
 - b. City construction of a third lane on Bren Road East from Data Park Drive to Smetana Drive.
 - c. A mutually agreeable traffic demand management plan. Implementation of this plan is a condition of the City's approval of this project.
- 5) The property owner is responsible for replacing any required landscaping that dies.
- 6) 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.

- 7) Approval does not include the signs shown on the drawings. Separate permits are required from staff.
- 8) Connect the existing trail at the southwest corner of the site into the proposed on-site trail/walkway system.
- 9) Construction must begin by December 31, 2007, unless the planning commission grants a time extension.

Phase II Conditions

- 10) Site and building plan review by the city council of the City of Minnetonka of the final site and building plans. Before approval of the site and building plans, an overall study of the traffic and utility capacity in the Opus II Park must be completed by the city. As a result of that study, the City may require additional conditions to ensure the construction of any public improvements needed for the Phase II project. Also, the final site plan may have to be revised to accommodate right-of-way needed to improve the Bren Road interchange.
- 11) The following conditions must be completed before occupancy of the Phase II building.
 - a) Bren Road West must be expanded to three westbound lanes from the Highway 169 interchange to Green Oak Drive.
 - b) The Highway 169 bridge over Bren Road must be widened and improved, as required by the city and MnDOT, including the addition of a free-right-turn lane from eastbound Bren Road to southbound Highway 169.
 - c) Addition of a third lane on Bren Road East, from Green Oak Drive to Data Park Drive, including widening the one-lane drive that connects Bren Road East to Data Park Drive.

Based on traffic studies done at that time, the city council may revise or add to the specific traffic improvements listed above as part of the site and building plan review for Phase II.

- 12) The north-south storm sewer must be relocated, subject to staff approval. The storm sewer must not be relocated between the phase II building and ramp if there is going to be a covered vestibule over the line, unless specifically approved by the city engineer.

PRELIMINARY PLAT

- 3) *Recommend that the city council give preliminary approval to the DATA 100 3RD ADDITION plat, date-stamped August 31, 2006. Approval is based on the finding that the plat meets the required standards and ordinances. Approval is subject to the following conditions:*
 - a. Complete the following before final plat approval:
 - (1) Show the following on the final plat:
 - (a) 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, except for the common lot line between the two lots.
 - (b) Identify private and public utility lines and provide utility easements over existing or proposed public utilities, as determined by the city engineer.
 - (c) Drainage and utility easements over public storm water ponds, as determined by the city engineer.
 - (d) If needed, additional right-of-way for a round-about at the east end of Data Park Drive.
 - (2) Pay the city a park dedication fee of \$54,750.
 - b. The following items must be submitted to the city before the city releases the final plat:
 - (1) An electronic CAD file of the final plat in microstation or DXF on a CD disk.

- (2) The following documents for the city attorney's approval:
 - (a) Title evidence that is current within thirty days before release of the final plat.
 - (b) Cross-access easements to allow use of the common drive by both lots.
 - (c) Private utility easements to allow utilities across Lot 1 for Lot 2.
 - (d) A ten-foot-wide snow storage and public signage easement along Blue Circle Drive and Data Park Drive.
 - (e) Restrictive covenants to be recorded against the individual lots with the plat. The covenants must include the conditions 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 easement must be attached to the easement deed.

- (3) Recording a resolution that vacates the north-south public drainage and utility easement running through the center of the site, and relocation of the existing storm sewer in that easement.
- (4) Approval of the plat by the City of Edina. An option to approval by the City of Edina would be the detachment of the Edina property and annexation by the City of Minnetonka.
- (5) Submit 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 city planner may approve a time extension to this requirement.
- (6) Any other requirements included with final plat approval.

- c. Submit a copy of the recorded plat and any easement or covenants required to be recorded for city records.
- d. 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.

EASEMENT VACATION

- 4) *Recommend that the city council adopt the resolution on pages A9–A11 of the staff report, which vacates the north-south public drainage and utility easement. Approval is subject to the following condition:*
 - a. Relocating the existing stormwater pipe and recording a new public easement for that pipe before releasing this resolution for recording. The location of the pipe and approval of the easement document is subject to staff approval.

CONDITIONAL USE PERMIT

- 5) *Recommend that the city council approve the resolution on pages A11a–A11c of the staff report, which approves a conditional use permit to move 1,000 cubic yards/acre or more of earth.*

Schmitz, Brandt, Britain, Cheleen, Dahl, and Hart voted yes. Adams voted no. Motion carried.

9. ADJOURNMENT

Adams moved, second by Brandt, to adjourn the meeting at 10:00 p.m. Motion carried unanimously.

By: _____
Lois T. Mason
Planning Secretary