

**MINNETONKA PLANNING COMMISSION
MINUTES**

JANUARY 25, 2007

1. CALL TO ORDER

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

2. ROLL CALL

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

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

- 3. APPROVAL OF AGENDA:** The agenda was approved as submitted with the removal of Item 8B, items concerning the redevelopment of Petters International (Fingerhut) at 4400 Baker Road for Welsh Construction, LLC. (06076.06a), in order to provide staff with time to evaluate comments just received from the Minnesota Department of Transportation and Hennepin County.

Cheleen moved, second by Adams, to postpone review of item 8B, items concerning the redevelopment of Petters International (Fingerhut) at 4400 Baker Road for Welsh Construction, LLC. (06076.06a), until the February 15, 2007 planning commission meeting.

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

Chair Hart and Wischnack noted additional comments and a modification to item 8C, items concerning the reconstruction of a shared driveway at 16443 and 16451 McGinty Rd W for Cross Country Design Build, LLC. (06028.06b), provided in the change memo dated January 25, 2007.

- 4. APPROVAL OF MINUTES:** January 11, 2007

Dahl moved, second by Adams, to approve the January 11, 2007 meeting minutes as submitted with the following change:

- Page 11, third paragraph:

Olson stated that the Lewis Avenue residence had a floor area ratio of ~~4.6~~ .16. The residence with the largest floor area was ~~4.7~~ .17.

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

5. REPORT FROM STAFF

Wischnack briefed the commission on land use applications considered by the city council at its meeting of January 22, 2007:

- Adopted a resolution approving conditional use permits for telecommunications antennas at 4525 Williston Road for Cingular Wireless/Hall Institute and a telecommunication tower and equipment cabinets at the southwest corner of 494/394 Intersection for Sprint Spectrum/Hall Institute.
- Adopted a resolution approving items concerning the Minnetonka High School campus recreational use and softball fields at 18301 State Highway 7 for Minnetonka Public Schools.
- Adopted a resolution approving an ordinance changing the setbacks and variance standards for lots-behind-lots with no changes to the planning commission's recommendation.
- Adopted a resolution approving the McMansions policy with a change making the comparison area to determine floor area ratio 400 feet.

6. REPORT FROM PLANNING COMMISSION MEMBERS: None

7. PUBLIC HEARINGS: CONSENT AGENDA

Item 7B, items concerning an emergency generator building at Carlson Center East, 130 Cheshire Lane for P.L. Wilson Contracting (07001.07a), was removed from the consent agenda for discussion and separate action.

Adams moved, second by Dahl, to approve items 7A, shoreland and floodplain setback variances to convert part of an existing deck into a porch at 5708 Lake Rose Drive for Leonard Mignerey and Lori Hopkins (06078.06a), and 7C, conditional use permit for telecommunications antennas at 4525 Williston Rd for Sprint Spectrum/Hall Institute (05011.06b), listed on the consent agenda as recommended in the respective staff reports as follows:

A. Shoreland and floodplain setback variances to convert part of an existing deck into a porch at 5708 Lake Rose Drive for Leonard Mignerey and Lori Hopkins. (06078.06a)

Adopt the resolution on pages A11–A13 of the staff report, which approves a shoreland setback variance from 75 feet to 48 feet and a floodplain setback variance from 20 feet to 0 feet for a porch at 5708 Lake Rose Drive. This resolution is based on the following findings:

- 1) Strict enforcement would cause undue hardship because of the following circumstances that are unique to this property:
 - a. Though 22,000 square feet in total size, the applicants' property has just 1,500 square feet of buildable area.
 - (a) Generally, OHW of a lake is visually located near the "open water" area of the lake. However, on the north side of the subject property, the OHW is located significantly upland from the "open water."
 - (b) Over two-thirds of the applicants' property is encumbered by floodplain storage or required floodplain setbacks.
 - b. The existing house has non-conforming shoreland and floodplain setbacks. As such, any addition to the living space of the house would require variances.
- 2) The variance would be consistent with the spirit and intent of this ordinance for the following reasons:
 - a. The proposed porch would not impact the natural features of the site, as it would be built over an existing structure.
 - b. Given that the existing house has non-conforming shoreland and floodplain setbacks, the porch would be no more vulnerable to potential impacts of the lake or the floodplain area than the existing house.
 - c. The proposed porch would not impact the aesthetic standard of the area. The porch would be further from the "open water" of Lake Rose than the houses on either side of the subject property.

Approval is subject to the following conditions:

- 1) Before issuance of a building permit, submit/complete the following items:
 - a. Submit a recorded copy of this resolution.
 - b. Install erosion control fencing subject to natural resources staff. This fencing must be in place throughout the course of construction.
- 2) This variance will end on December 31, 2008, unless the city has issued a building permit for the project covered by this variance or approved a time extension.

C. Conditional use permit for telecommunications antennas at 4525 Williston Rd for Sprint Spectrum/Hall Institute. (05011.06b)

Recommend that the city council adopt the resolution on pages A9–A11 of the staff report, which approves a conditional use permit for telecommunications antennas at 4525 Williston Road. This resolution is based on the following findings:

- 1) The city code recognizes telecommunications facilities as valuable public resources.
- 2) The proposal meets all of the conditional use permit standards.

Approval is subject to the following conditions:

- 1) Record this resolution with the county before the city issues a building permit.
- 2) The site must be developed and maintained in substantial conformance with the plans date-stamped November 28, 2006.
- 3) The exterior surface of the antennas must be painted to match the existing water tower.
- 4) Antennas must comply with all building and electrical code requirements and must be designed and certified by an engineer.
- 5) No external messages or on-site employees are allowed.

- 6) The city council may reasonably add or revise conditions to address any future unforeseen problems.
- 7) The applicant must agree to the above conditions in writing.

Cheleen, Dahl, Schmitz, Adams, Britain, and Hart voted yes. Brandt was absent. Motion carried and items 7A, shoreland and floodplain setback variances to convert part of an existing deck into a porch at 5708 Lake Rose Drive for Leonard Mignerey and Lori Hopkins (06078.06a), and 7C, conditional use permit for telecommunications antennas at 4525 Williston Rd for Sprint Spectrum/Hall Institute (05011.06b), on the consent agenda were approved as submitted.

Chair Hart stated that an appeal of the planning commission's decision for item 7A, shoreland and floodplain setback variances to convert part of an existing deck into a porch at 5708 Lake Rose Drive for Leonard Mignerey and Lori Hopkins (06078.06a), must be made in writing to the planning division within 10 days. Item 7C, conditional use permit for telecommunications antennas at 4525 Williston Road for Sprint Spectrum/Hall Institute (05011.06b), was tentatively scheduled to be reviewed by the city council at its February 5, 2007 meeting.

8. PUBLIC HEARINGS

A. Items concerning an emergency generator building at Carlson Center East, 130 Cheshire Lane for P.L. Wilson Contracting. (07001.07a)

Chair Hart 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.

Denny Wilson, general contractor representing Citigroup, applicant, stated that the building would be designed to comply with state and city codes regarding noise levels. The building would only be seven-feet tall from ground level.

The public hearing was opened.

Michael Gaither, 336 Kenmar Circle, stated that the generator would be adjacent to his back yard. He questioned why the neighbors were asked to provide comments. Chair Hart explained that a minor change to a master site plan required review by the planning commission. He asked if it would be possible to

move the location further west, away from residents. He asked if there would be a roof on the enclosure and how often and when would maintenance occur. He questioned when construction would begin. He asked how long the lease agreement would be in place between Citigroup and Carlson Properties in that location.

Mr. Wilson explained that the proposed location would be the only logical location because of the terrain, holding ponds, and access for refueling. It would be fueled by diesel and would have a roof. Monthly maintenance would occur during normal business hours. It would be as loud as a sprinkler system compression engine and run for one hour once a month. It would be tested during normal business hours. Construction would begin as soon as the approvals are granted. It would take four to six weeks to complete.

No additional testimony was submitted and the hearing was closed.

Chair Hart reviewed the primary issues.

Britain moved, second by Cheleen, to approve the following items concerning an emergency generator building at Carlson Center East, 130 Cheshire Lane for P.L. Wilson Contracting:

MINOR AMENDMENT TO AN EXISTING MASTER DEVELOPMENT PLAN

- 1) *Adopt the resolution on pages A10–A11 of the staff report, which approves a minor amendment to the existing master development plan for the property at 130 Cheshire Lane. Approval is based on the following findings:*
 - a. The proposal is consistent with the existing master development plan and previously approved site plans for the property.
 - b. The proposal meets all required standards and ordinances.
 - c. The proposed generator building has been appropriately located, sized, and designed.

Approval is subject to the following condition:

- a. Subject to staff approval, the site must be developed and maintained in substantial conformance with the following plans:

- Site plan date-stamped January 3, 2007.
- Grading plan date-stamped January 3, 2007
- Building elevations date-stamped January 3, 2007

SITE AND BUILDING PLAN REVIEW

- 2) *Approve the site and building plans for an emergency generator building at 130 Cheshire Lane, subject to the following conditions:*
- a. Subject to staff approval, the site must be developed and maintained in substantial conformance with the following plans, unless modified by the conditions below:
- Site plan date-stamped January 3, 2007.
 - Grading plan date-stamped January 3, 2007
 - Building elevations date-stamped January 3, 2007
- b. Before the city will issue a building permit, install erosion control and tree protection fencing for staff review and approval. This fencing must be maintained throughout the course of construction.
- c. Submit a landscaping plan for staff review and approval. Additional trees must be planted in the general vicinity of the generator building. The number of trees and species is to be determined by natural resources staff.

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

B. Ordinance amending a master development plan at 14401, 14407, 14413 and 14517 Excelsior Blvd and 14324 Stewart Lane for Glen Lake Redevelopment LLC. (05091.06c)

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

Rankin provided history of the project. He reviewed property values and crime rates related to condominium, apartment, life-cycle, and affordable housing types. He recapped events completed to date and noted events yet to come.

Rankin announced that Kinsel Park renewal planning will begin at a meeting February 8, 2007 at 6:30 p.m. in the city council chambers. Plans to renew Glen Lake plaza area would be reviewed before spring.

Rankin noted that the proposal is tentatively scheduled to be reviewed by the city council at its February 26, 2007 meeting.

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

Gustafson updated the activities of the Glen Lake Pedestrian Plan Committee. Residents and business owners from all areas of Glen Lake worked to identify deficiencies and goals in access and safety. He provided the concerns and recommendations for numerous areas. High priorities, easy fixes, and getting the most improvements with limited funds were discussed. Using a round about was considered for the Tree Street intersection. It would slow down traffic, improve access to the park, increase pedestrian safety, and increase traffic for the commercial area. Striping and enlarging the shoulders of streets was discussed. Prohibiting parking on Stewart Lane was considered. Adding pedestrian crossings to numerous areas and adding digital count-down timers for busy intersections was discussed. Restriping Woodhill Road would provide a safety improvement. The committee liked the idea of installing a round about at the intersection of Woodhill Road and Excelsior Boulevard. He stressed that the city had no funds budgeted for such a large project. It could become part of a long-term plan for the area.

Dahl asked about the lack of sidewalks on the south side of Excelsior Boulevard. Gustafson stated that sidewalks would be installed and funded by the developer. A continuous sidewalk would travel from Eden Prairie Road to Kinsel Park.

Wischnack clarified for Britain that the issue of changing condominium to apartment housing is not a land-use specific matter other than determining the impact it may create for the area. Staff was not concerned with the change in type.

Chair Hart clarified that staff addressed the impact in the count more than the change in residence type. Wischnack stated that the traffic consultant did look at the traffic generation of an apartment building versus a condominium. There was a slight difference that was accounted for in the traffic report.

Rankin noted that the economic development authority and city council would address the type of housing being provided.

Cheleen recalled that allowing a semaphore at the Woodhill Road intersection was frowned upon by Hennepin County. Gustafson agreed that was the county's

initial reaction. Hennepin County considered the possibility of implementing enough safety improvements to off-set the need for a semaphore. Numerous options would be considered to determine the best one.

In response to Cheleen's question, Gustafson described the process that led to moving the access point to the west side.

Schmitz thanked Gustafson and committee members for their time. They thought of many improvements to address pedestrian issues. She was familiar with roundabouts.

Chair Hart experienced roundabouts when she lived in Massachusetts and supported them whole heartedly.

Tom Wartman, applicant, reported on the status of the project. The 52-unit apartment building would be the best use for the community and neighborhood. The mix of retail tenants would be the same. There would be direct access from the apartment tower to Step Fitness. The approach would be to keep the design of the condominium building for the apartment units. The rent for a studio unit would be from \$750 to \$1,600 a month. Construction would begin in mid-April and be done in one year. There is no market for condominiums. He has secured a partner to manage the residential portion of the apartment units. Mr. Wartman would manage the commercial businesses. He was fully committed to complete the revitalization that he proposed one year ago. He was fully invested in the outcome of what has already been done. A nicely-designed bus stop would be located in front of the mixed-use building. It would be pedestrian friendly. The condominiums would have provided him with a much better return, but the market would not support it. He chose to follow through with the next-best alternative.

John Hamilton, Urban Works Design, designer for the applicant, stated that staff did a great job detailing the issues. The quality and materials of the exterior of the building would be the same as the original plan. The windows had been upgraded. The retaining wall would be nearly 10 feet tall which is why it was impossible to make a connection between the parking lots. In response to Adam's question, Mr. Hamilton stated that the retaining wall would have 3 tiers.

Norm Bjorness, of Oaks Properties, provided his experience with residential management. He stated that:

- He would be the owner and manager of the residential portion of the project.

- He is a builder for the long term. He requested the upgrade in the windows because he does not want to have to ever replace the windows.
- He takes pride that his properties are credits to their communities.
- He does credit reports and criminal history checks on all tenants.
- Balconies would not be used for storage.
- The design would be beautiful and attract tenants.
- The nature and variety of rental rates, \$750 to \$1,500 a month, creates a nice community.
- He is also an attorney who does some legal work for Mr. Wartman.

Dahl asked if a market study had been done to see if the area could support 52 units. Mr. Bjornnes informally checked with property managers in the area to gauge the market nature. Dahl suggested that vacancy rates in the area be collected for the city council meeting. Mr. Bjornnes stated that 11 of the units would be "rent restricted" to meet affordable housing guidelines. Rankin explained that households meeting affordable housing income guidelines would qualify to live in a unit that would have its rent restricted. It would not be subsidized housing.

Chair Hart encouraged speakers to focus on Site B. Eminent domain, tax increment financing, the Gold Nugget, and the developer's performance are not part of this meeting.

The public hearing was opened.

Ray Costello, 14108 Kinsel Road, stated that the traffic on Kinsel Road needed to be slowed down and decreased. Gustafson stated that recent traffic counts were similar to previously done traffic counts. The street is scheduled for reconstruction in three to four years. Decreasing the curves and narrowness of the street would be considered at that time.

Jane Guyn, 4838 Woodridge Court, represented 22 residents. She provided a petition that supported the village concept. The petition supported a neighborhood shopping area; welcomed potential residents of all incomes; and supported the coordinated plan and encouraged it to continue.

Ivan Fox, 6008 Pinewood Lane, stated:

- Would happens on Site B would impact the other two sites.
- The city council already addressed the blighted area issue at its January 23, 2006 meeting.

- A hardship was that the ordinances were developed before new urbanism and, therefore, do not accommodate the reduced setbacks and mixed uses inherent in the planning technique.
- The city council already addressed new urbanism, Site B, and mixed uses.
- He questioned what hardship exists to increase the density and justify setback variances.
- The floor area ratio would increase to 111 percent.
- It was worked out and voted on one year ago. He questioned the hardship to justify the changes.

Wischnack noted that the ordinance is the original one adopted by the city council with changes. Chair Hart commented that the same rationale used in the original proposal was used for the struck and underlined changes. The change from a 2-foot to 0-foot setback was necessary because the building was moved to the east. Wischnack reviewed page 4 of the report that listed specific variance hardship criteria. Wischnack addressed urban design standards like new urbanism. The planned unit development district was utilized to deal with the mixed uses. Chair Hart and Wischnack reviewed justifications for the variances. Wischnack stated that the project and its site are unique since it is located on double frontage. That provides a hardship to justify the 111 percent floor area ratio. Mitigation has been addressed appropriately.

Mr. Fox asked if there was a hardship a year ago when the proposal included 32 units. Chair Hart answered in the affirmative. There were variances a year ago. Wischnack pointed out where in the staff report the previous and current variance language was provided. Wischnack reviewed the setback variance and parking lot variance differences.

Mr. Fox questioned if the hardships were corrected a year ago. Chair Hart explained that variances were approved based on hardships. The same thing is true now. Mr. Fox thought that adding 20 units would create a hardship. Chair Hart stated that there is no variance for the building size. Mr. Fox stated that approval would increase the density and change the setbacks. Rankin explained that the city and Mr. Wartman preferred that the project be done as originally approved. A number of alternatives have been considered.

Mr. Fox felt the hardship was economic. It is not because of the blight. He questioned why the process was happening again. He thought it was corrected a year ago. The city and residents should not have to bear the brunt of the developer's issues. Wischnack acknowledged Mr. Fox's disagreement with staff's findings of hardship.

Mr. Fox felt the hardship was created by the land owner. Wischnack disagreed. Mr. Fox asked if the economic reality was the land owner's problem. Rankin explained that the hardships listed in the current report are the same as the ones in the original report. Mr. Fox understood that the city council voted on and approved the hardships. Chair Hart explained that hardships are not corrected. Mr. Fox did not understand why the development would take place. He thought the purpose of the integrated, three-building permit was to cure the hardships. Chair Hart answered in the negative. She explained that a hardship is a legal construct for justifying a variance. The blight is not a hardship. It is a reason for redevelopment. Mr. Fox found no justification for the project. Chair Hart disagreed.

Mr. Fox said that granting of the variances would harm the essential character of the neighborhood. The major charm and character of the neighborhood included the Golden Nugget restaurant. A full-service restaurant with seating was promised, but Mr. Wartman said one would not be included in the project. Instead, it would be a Snap Fitness center. A gun shop next to the children's dance studio worried him. He is a financial systems analysis. This situation is a "show stopper." He totally disagreed with what was being done. He understood Mr. Wartman's problem. He wanted to go back to the drawing board as a community.

Mr. Fox heard that of the 11 sales for Site C, only 5 of the sales are legitimate. Of those 5, 1 of those is being given to Mr. Steeno in exchange for property that Mr. Wartman purchased. He did not think Site C was doing as well as indicated. Mr. Wartman must sell 23 units on Site C. The housing market is down. The project has severe problems. All of the sites need to be addressed. Over the year, he came to accept the project. Needing to change Site B is a "show stopper." That indicates that there is a problem. The Twin Lakes project in Roseville and a condominium project in Edina were canceled. It is currently a down market.

Cal Saver, 14601 Atrium Way, heard negativism. He remembered riding the street car through Glen Lake. He was pleased to see the fountain and it named Glen Lake Station. He urged people to preserve the history of the area. The removed buildings did look lousy. What alarmed him was the fact that when the grocery left, the area became a ghost town. The area would not be preserved without growth. It would be better to tolerate vehicles that stop and support Glen Lake businesses and who live in Glen Lake than those that merely drive through the area. If the area is run down, then no one would want to live here and the businesses would not survive. The grocery store will not survive without more tenants. The area could very easily become an eye sore. If it was not for Tom

Wartman gambling his money to do something for the good of the community, then no one would be sponsoring anything to help the community. It would become a forgotten, ugly-looking area. Mr. Wartman is a resident of Minnetonka. He has a lot at stake. You could not find a better person to develop Glen Lake. This new and innovative image will attract attention to the wonderful neighborhood and its history.

Chris Low, 4645 White Oak Road, saw an increase in traffic noise since the reconstruction of Interstate 494. Motorists are still utilizing the city streets. She is very excited about the grocery store, but it has increased traffic. An additional group of residents in that area would create more traffic. Law enforcement has limited resources to ticket motorists for speeding. The traffic starts at 4 a.m. and lasts into the evening. Buffer zones are created gradually. Her neighborhood is a buffer zone, but there are no benefits. She wanted a boulevard and sidewalks the entire distance of Woodhill Road. Bringing back the feel of neighborhoods to a buffer zone should be considered.

Ginny Wild, 4817 Woodhill Road, lives and works in Glen Lake. She had rented for years. She appreciated affordable, rent-based-on-income housing that her mother had as a senior. Diversity is a benefit for every area. The plan should move forward. The Golden Nugget was a dive. A new restaurant would accommodate wheel chairs. The increase in people to the area will help the business where she works. She enjoys living and working in the community. Rentals would provide the opportunity for people to discover the area and possibly purchase a residence in the area. That would be a benefit for everyone.

Jeff Schultenover, 13424 Maywood Curve, read a letter from Rich Gerven that was provided to staff that day and handed out to commissioners. It stated that the application is out of order and should be returned to the developer with instructions to proceed as currently authorized or submit a new plan that encompasses the entire project. The entire new plan should be reviewed at all levels. The viability of the project is not the fault of the city. Do not allow the project to be fed to the city in pieces. It is not too late to restructure the plan to be more realistic and viable. Mr. Schultenover was grateful for the grocery store. He recommended that the application be denied and that the original plan be adapted.

Mark Mathison, 14017 Brandbury Walk, whole heartedly supported the modification of Site B. The quality of staff's report was extraordinarily high, thorough, and thoughtful. The revitalization of the Glen Lake area is the priority. If market conditions have changed to make the application necessary, then it is worthy of support. The overwhelming majority of residents at the neighborhood

meeting spoke in support of the proposed modification of Site B. He and his wife found it heart warming to listen to neighbors who valued the community. The questions raised by tonight's speakers have been answered. It is a limited issue being reviewed by the commission. The proposed changes are being proposed with integrity. He was impressed with the high quality of the rental residence manager.

Paul Ansolabehere, 4475 Gaywood Drive, supported the project 100 percent. He ran for city council and lost to Dick Allendorf. He rang doorbells and asked residents for their concerns. People supported Mr. Wartman getting the project done. Change is not comfortable and problems arise. He was not comfortable the first time he purchased glasses, but now he feels they look good. In 10 years, the variances will not matter. What would be seen would be the proposed buildings and resulting environment. He will hold Mr. Wartman accountable for the final results. The project needs to keep moving. Starting over from scratch would take too much time. Staff has done a great job keeping the project organized and keeping Mr. Wartman going through the proper channels. In the end, the community will be proud of the results. An increase in traffic will continue everywhere. Mr. Ansolabehere appreciated the commission members volunteering their time and commitment.

Diana Zera, 4956 Woodhurst Lane, resided in the community 15 years. She stated:

- She formerly lived in the Camden neighborhood of North Minneapolis. Housing prices plummeted when rental units caused problems.
- A housing market down turn can cause problems.
- A contract with the area was broken and now all bets are off to accommodate the developer.
- She wants to see the area thrive and be renewed.
- She questioned what study has been done to see if the rental units would be viable.
- She was worried the rental property would be sold to a less reputable property owner and manager.
- Property values remaining the same may indicate a negative impact on value.
- There are no measures in place for "what if" scenarios.
- She wanted to know what would happen if another problem occurred.

Rankin stated that information from the city assessor indicated that the value of single-family residences located near apartment buildings have increased at the same rate as other parts of Minnetonka. Chair Hart confirmed with Rankin that single-family residences near apartments appreciate at the same rate as single-family residences throughout the city.

Tom Gunkel, 4949 Woodhurst Lane, whole-heartedly supported the proposal. He understood that the requested change is quite minor compared to the original proposal. The health of the community of Glen Lake is the large picture. The unique community needs to be preserved in order to prosper. The economics have changed, but that is life. He was not afraid of what would come with an apartment complex. The reality is that the community needs to attract everyone into the community. There is nothing wrong with a rental component in a healthy, developed, vibrant community. His children, who are currently in college, and seniors may want to remain in the community. He would prefer condominiums, but that is not possible today. To ensure that the grocery store is not lost again, the property must be developed in a timely manner. Small retailers depend on each other for the vibrant interaction that takes place. It is important to support small, locally-owned companies. Staff and commissioners have done a great job. The right thing to do for the community would be to approve the application.

Beth Jeub, 4864 Gaywood Drive, was proud to be from Glen Lake and Minnesota. In this case, the benefits for development outweigh green space and keeping things the way they are. The proposal is what Glen Lake needs right now. She would have preferred condominiums, but, as a mid-twenties age person herself, she has lived in apartments for the past few years of her life. She is a good patron of small, family businesses and if she lived here permanently, she would consider living in the proposed apartment building. They would be of high quality and well managed. Foot traffic would be increased. An increase in density would not be a loss to the community. It is the residents' responsibility to welcome new residents. The more important issue is to be a community. She appreciated the positive opposition and discussion. That creates positive growth. She was behind the project 100 percent. It is the best option at this point. No one has an alternative to the proposal. She urged the commission to approve the application.

Grace Sheely, 14325 Greenier Road, stated:

- Her biggest concern was the "rule breaking" including what was done with eminent domain, comprehensive plan, removal of trees, and variances.
- She opposed the setback variance adjacent to the city park.

- Financing may not even be available for Site C.
- She questioned when the condominium market would return.
- She questioned if the condominiums did not sell because of the site's proximity to the substation and busy street.
- The affordable housing component would be lost.
- She asked how many variances were included in the original project and how many additional variances would be added for the proposal.
- She wanted to know the height of the proposed apartment building.
- The building abuts residential property on the east side.
- She asked if another project had this many variances in the city.
- Rules should be followed.
- A variance to move her house was denied.
- Every variance needs to be looked at. Every one of the variances is huge.
- She wanted the development to be completed. It is too late to turn back.
- The project is economically unviable.
- The buildings would be out of scale for the area.
- The dip in the road and increase in the number of driveways would cause traffic problems.
- The number of affordable units should remain at 33 percent. Eleven units would not be enough.
- The project is not "new urbanism" it would be a mixed use.
- She questioned what would happen to the affordable housing units if the apartments were converted to condominiums.
- An apartment building could be built without a variance on the site.

Rankin explained the flexibility allowed by the city council in relation to comprehensive guide plan amendments and variances. The residence to the east of the site is guided for commercial development.

Chair Hart reviewed with Wischnack that the street cut would remain the same. Wischnack provided an illustration of the proposed building superimposed over the previously approved building. The approved building was 61 feet tall from ground level to the middle of the roof. The current proposed building would be 54 feet at the middle of the turret. The top point of the tower was originally 86 feet to 94 feet and the current plan would be 69.5 feet to 66.8 feet.

Rankin confirmed with Chair Hart that the proposal would have the same number of affordable units as the previously approved plan. There would be 31 affordable

units; 11 affordable apartments and 20 affordable condominiums in the Site A building.

Chair Hart and Wischnack reviewed that the original plan included 6 variances. The current proposal included 8 variances. Floor area ratio and hard surface coverage variances have been added. The number of setback variances would remain the same.

Anne Malm Hossfeld, 14616 Glendale Street, stated:

- The project should not be allowed to proceed “at any cost.”
- She was disappointed by the staff report. She found similar language in the original report.
- Floor area ratio and hard surface coverage variances have been added.
- The building would not be hidden by trees.
- Many variances and zoning changes were made for the project. Now more variances are being requested.
- She questioned when the project would stop growing.
- The staff report does not adequately address the practical difficulty and legal obligation to justify the variances.
- The floor area ratio would increase from 77 percent to 111 percent. The impervious surface increase would not be significant, from 85 percent to 87 percent. The rationale provided to justify the hardship for the variances is exactly the same as those given for the setback variances.
- Economic need is not justification for variances. She saw no other justification.
- The mcmansion policy supports keeping residences’ mass in proportion with the neighborhood. The proposed building would be too large for the site. There should be a similar concern for other types of buildings in small areas. There is a contradiction. A variance should not be provided for the floor area ratio.

Wischnack reviewed the hardship issues and thought process related to the variances. She respected opposing views. Chair Hart stated that part of the reason why a variance is granted is because a deficiency in the ordinance was identified.

Chair Hart stated that the mcmansion policy was designed for single-family neighborhoods and properties. It is not applicable to a commercial area. Wischnack stated that prior to the mcmansion policy, the city lacked a tool to

consider the mass of a residence. The city already has tools in place that regulate mass for commercial areas.

Ms. Malm Hossfeld felt that reduced setbacks in a planned unit development made restricting mass of a building reasonable. To use a setback variance to increase building mass in a planned unit development would not be reasonable.

Keith Weigel, 14209 Glen Lake Drive, asked if a practical difficulty was the standard to justify a variance. Chair Hart reviewed that a use's reasonableness, practicality, and character with the neighborhood were all considered when reviewing a variance application. Mr. Weigel understood that economic consideration was not a practical difficulty. Chair Hart agreed. Mr. Weigel stated that the only reason for the variances was for economic gain. Changing the number of parking stalls was a concern. The ordinance was "broken" in December and, therefore, should not be amended. Mr. Weigel requested that a condition prohibit construction on Site C until the plans for Site B are approved.

Chair Hart stated that the proposal would provide Sites B and C with start construction dates of June 30, 2007. Rankin stated that construction would begin on Site B first to allow relocation of tenants from the shopping center. It can move ahead fairly quickly. Presale of condominiums still needs to occur for Site C in order to obtain construction financing for that portion of the project.

Rankin clarified where the ordinance states that economic consideration is not a sole basis for a variance, although the sizes of the buildings are generated by the financial needs of the district. There would be significant benefits from the coordinated development of the three sites and that serves as a justification and trade off. The public benefits are discussed in the staff report. The economic impact on the developer is one part of the consideration and analysis.

In response to Chair Hart's question, Rankin explained that the city council did not choose to act on the time extension of the start construction date. Rankin explained that since Mr. Wartman would be submitting a change to the project in January, it seemed prudent to address all of the time frame issues at the same time.

Chair Hart reviewed that the planning commission considers the appropriateness of the proposed land use. The staff report provided information that justifies why the apartment building would be an appropriate use for the site.

Chair Hart saw no incentive for Mr. Wartman to not develop Site B. Rankin stated that it would be a great detriment for Mr. Wartman for Site B to remain vacant.

Al Johnson, 5452 Kimberly Road, supported the project. Fighting occurs in communities that are dying. The proposal would bring back a sense of community and pride and bring new people into the area. If it means an increase in the population to justify construction of a stop sign or other tool to slow down traffic, then he would be all for it. He wants his kids safe. He applauded the commission's efforts.

Cynthia Gallow, 16799 Terry Pine Drive, Eden Prairie, owner of Snap Fitness with her husband, Michael, stated that they wanted to be part of the community. She respected the speakers who are for and against the project. She and her husband hope to be good stewards of the neighborhood. She rents half of a twin home she owns. She is familiar with dealing with tenants. Background and credit checks are done. She wanted her business to be an asset to the community.

Joan Hiller, 5638 Glen Avenue, asked how many units were included in all three sites. Rankin calculated 196 units in the current proposal; 177 were included in the previous plan. Ms. Hiller stated that 196 units were considered too many units last year. The area needs retail if it is suppose to be a village. She questioned how much retail space would be torn down on Site A and created on Site B. Rankin approximated 20,500 square feet of retail space would be included in the building on Site B which is slightly more than the retail space being eliminated from Glenhaven Square. Mr. Wartman calculated that approximately 18,000 square feet of retail space would be removed and 20,500 would be added.

Ms. Hiller was concerned with the mixed uses. She stated that:

- She does not allow her kids to "hang out" if they have no business being somewhere. Site A and Site C would be off limits for them. Site B would be limited to target services, it would not attract browsers.
- Grocery stores are not locating in independent areas.
- The number of places for people to gather would be limited while bringing in additional people.
- She does not care if the units are condominiums or apartments. She cares that there would be additional units.
- She preferred a restaurant to provide a neighborhood focal point as opposed to the current proposal.
- She questioned if home sales figures reflect the assessed value.

Tammy Rosenthal, 5800 Lake Rose Circle, supported the redevelopment. She loved the area. She was concerned that there would not be enough places for residents to hang out. A retail court yard with a fountain below the living space would be beneficial.

Chair Hart called for a 10-minute recess and reconvened the meeting.

Maurice Ansolabehere, 14908 Glendale Street, recalled a public meeting regarding Williston Road and Williston Lane where numerous oak trees were removed and residents were concerned regarding what type of neighbors would move in. He believed that the area was greatly enhanced and improved by the development of the Atrium. The proposal would move Glen Lake in that direction, to improve the community. He fully supported the proposal. The proposal would enhance the community.

Laura Ronbeck, 13801 Kinsel Road, recalled when the Atrium was developed also because she lived on Woodhill Road. She used to walk her son to the shopping center. She appreciated residents' support of the project. At first, she was not excited about the apartments, but she likes the idea better now. It would bring more young professionals to the neighborhood. Her children are young adults with first jobs. It would bring that age group into the community who would eventually buy older residents' houses and raise their kids. She encouraged the commissioners to recommend approval of the application.

No additional testimony was submitted and the hearing was closed.

Chair Hart reviewed the primary issues.

Britain supported the project. The Glen Lake neighborhood is deserving of updating. The proposed changes are fairly minor in the scheme of the entire project. It would have been nice to allow for either use in the beginning instead of dividing neighbors' opinions. He hoped the neighbors would become amicable again. The project needs to be done correctly. He agreed with Dahl's request for a market analysis. The project is beyond the "gut feeling" stage. Proof needs to be provided that the project would be successful. There is no guarantee in life, but it needs to be shown that good planning has been done to the best of the commission's ability. He requested that the developer be required to substantiate the viability of the additional units.

Chair Hart confirmed with Britain that he wanted occupancy rates to be checked for apartments in the area. A list of how many renters are already interested in renting those units would be helpful.

Adams concurred with Britain. He was not on the commission last year. He lives in ward two which now has the highest concentration of rental units in the city. Within five years of an apartment building being built behind his residence, he has seen no difference. His property value continues to go up. Realtors call him requesting his business when he is ready to sell. Along with the apartments, more retail services have located in the area. He was surprised that the project was approved without rental property. He would have expected some rental units in a mixed use area. It is not reasonable to wait for the market to change. An empty lot is not acceptable. Rental units would be appropriate for the area. The design of the building would not be out of scale with the neighborhood. He supported the proposed variances.

Cheleen concurred with Britain and Adams. The proposal would be good for the area and it should not be delayed. Restaurants usually do not operate before a clientele in the area is established. The need has to be there first. To attract consumers, there must first be a place for them to live. The owners of the Golden Nugget were about ready to sell. The next owners would have been required to bring it into building code compliance and it would have cost so much money it would not have been economically feasible. The developer is showing good faith. There are situations that are not perfect, but the project does need to move forward. He supported staff's recommendation.

Schmitz had lived in apartments most of her life. It is extremely difficult to own property without dual incomes. The change from apartments to condominiums makes no difference. Apartment dwellers support businesses. She agreed with Ms. Hiller. She would love to have a neighborhood bar and grill close to her residence. Glen Lake needs a face lift. The variances are justified. She supported the project with the proposed amendment. She favored looking at the market conditions. She was concerned with the success of Site A.

Dahl thanked the neighbors for their comments. Everyone agreed something needs to be done to improve the area. Some concessions from the developer need to be made. He challenged Mr. Wartman and Mr. Bjornnes to make sure the rental units would be viable. He supported a market study be done for the condominiums and apartments. The city may have to assist with the study to ensure it would be unbiased. He would like to see if the project could be done without variances or with reduced variances. He challenged the builders to see if the mass of the building could be reduced. Dahl challenged the economic development authority and Rankin to see if the percentage of affordable units could remain the same as the original proposal. He requested it be determined what would happen if the apartments would be converted to condominiums in the

future. He agreed that the project needs to move forward, but he did not support the proposal.

Cheleen moved, second by Schmitz, to continue the meeting until 11:30 p.m.

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

In response to Chair Hart's questions, Rankin stated that the apartments could be converted from apartments to condominiums. Discussions are taking place to address that in the redevelopment agreement. Wischnak responded that the street right of way to the edge of the building would be 15 feet. The double frontage of the site impeded the buildable area and created a hardship that justified the variances.

Chair Hart did not object to the rental use. They are a necessary part of the housing market. It would be an appropriate land use. It may have been good to include rentals in the original proposal instead of all condominiums. Site A has a different feel than Site B. The suburbanites may not be ready for ownership over a retail area. The down turn in the housing market happened incredibly fast. She wished the four-story building could be three stories, but it would not make that discernible of a difference. The site plan would not be a huge difference from the original proposal. She supported moving ahead.

Britain moved, second by Adams, to recommend that the city council adopt the ordinance on pages A22–A33 of the staff report, which approves the proposed master development plan amendment and directed that market data be collected to determine the viability of the rental units and be provided to the city council. This ordinance is based on the following findings:

- a. The rezoning would provide additional residential opportunities to support the surrounding commercial area.
- b. The residential uses would be consistent with the high density land use to the south.
- c. The rezoning would be consistent with the public health, safety, and welfare.

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

- (b) The west side of the property is adjacent to an electrical substation that will suffer little or no impact from the variance.
 - (c) Moving the building to the east helps minimize the detrimental effect that the substation has on the property; and
 - (d) The property is shallow in depth and double-fronted on the north and south by public streets. To avoid commercial parking directly across from the residences on the Stewart Lane side, the commercial parking was placed on the north side, causing the building to be moved further to the south.
 - (e) The floor area ratio and lot coverage variances are appropriate for the site in that the site is being developed at a dense, urban development standard, which is not addressed by current zoning standards.
- (6) Economic consideration is not the sole basis for the variances. Although the sizes of the buildings are generated by the financial needs of the tax increment district, there are significant public benefits that result from the coordinated development of the three sites and that serve as justification and trade-offs for the variances. These public benefits are discussed in the staff report. The economic impact on the developer is only one consideration in the analysis.
- h. Market data will be collected to determine the viability of the rental units and provided to the city council.

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

Chair Hart stated that the item was tentatively scheduled to be reviewed by the city council at its February 26, 2007 meeting.

- C. Items concerning the redevelopment of Petters International (Fingerhut) at 4400 Baker Road for Welsh Construction, LLC. (06076.06a)**

Item 8C, items concerning the redevelopment of Petters International (Fingerhut) at 4400 Baker Road for Welsh Construction, LLC., was removed from the agenda and tentatively rescheduled for the February 15, 2007 planning commission meeting.

Chair Hart apologized to audience members who attended the meeting to comment on the proposal. She invited them to attend the February 15, 2007 meeting.

D. Items concerning the reconstruction of a shared driveway at 16443 and 16451 McGinty Road West for Cross Country Design Build, LLC. (06028.06b)

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

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

Chair Hart understood the benefits of the proposal to be raising the driveway 1 foot above the floodplain and to provide additional mitigation. Thomson concurred and added that it would also decrease the steepness of the driveway. Part of the driveway has an 18 percent grade leading to one of the garages. The grade would be decreased to a safer level.

Colleran was comfortable with the proposal. It would provide a better result in regard to safety and floodplain impact.

Dean Gannon, Cross Country Design Build, LLC., applicant, was present to answer questions. He agreed to keep the buildable area to the current restriction.

The public hearing was opened. No testimony was submitted and the hearing was closed.

Chair Hart reviewed the primary issues. She felt staff covered the issues sufficiently.

Schmitz moved, second by Dahl, to recommend that the city council approve the following items concerning the reconstruction of a shared driveway at 16443 and 16451 McGinty Road West for Cross Country Design Build, LLC., with the change provided in the January 25, 2007 change memo:

FLOODPLAIN ALTERATION PERMIT

- 1) *Recommend that the city council adopt the resolution on pages A1-A4 of the staff report, which approves a floodplain alteration permit to reconstruct a shared driveway at 16443 and 16451 McGinty Road West. This resolution is based on the following findings:*
 - a. The proposal would sufficiently mitigate for the impact to the floodplain.
 - b. The floodplain alteration would improve the flood protection of the properties. As a result of the floodplain alteration, the shared driveway, which is currently six inches below the 100-year floodplain elevation, would conform to the one foot vertical separation requirement. This improves an existing non-conformity.

Approval is subject to the following conditions:

- a. Subject to staff approval, the site must be developed and maintained in substantial conformance with the following plans, unless modified by the conditions below:
 - Site plan date stamped January 19, 2007.
 - Grading plan date stamped January 19, 2007.
 - Landscaping plan date stamped January 19, 2007.
- b. Before issuance of a grading permit, complete the following work:
 - (1) Submit the following information to the city:
 - (a) Recorded copies of resolutions approving the floodplain alteration permit and variances from wetland setback and wetland buffer requirements.
 - (b) Final site, grading, drainage, utility and erosion control plans for staff approval.
 - (c) Conservation easements and drawings for approval of the city attorney over the following areas:
 - (i) Twenty five (25) feet upland from the edge of the wetland to the west and up to the edge of the driveway.

- (ii) Sixteen and a half (16.5) feet upland from the edge of the wetland to the east and up to the edge of the driveway.
 - (iii) Wetland buffer mitigation area to the north and east of the lot along McGinty Road West.
 - (d) Wetland buffer management plan to ensure establishment and continued maintenance of buffer vegetation.
 - (e) Obtain watershed district approval.
 - (2) The stockpiles of brush located within the wetland buffer must be removed from the property.
 - (3) Install a temporary rock driveway, erosion control, tree protection, and wetland protection fencing subject to review by the city's natural resources staff. These items must be maintained throughout the course of construction.
 - (4) Submit a letter of credit or cash escrow for 150% of the estimated cost to comply with grading permit requirements and restore the site.
 - (5) A grading permit must be applied for before December 31, 2008, unless the city council grants a time extension.
- c. The following must be completed before the city issues a building permit:
- (1) Submit recorded copies of all required conservation easements.
 - (2) Installation of city-approved wetland buffer boundary signs located every 300 feet and at property lines.
- d. The eastern property at 16443 McGinty Road West is subject to a minimum 20-foot setback from the "pre-alteration" location of the 100-year floodplain elevation.

VARIANCES

- 2) *Recommend that the city council adopt the resolution on pages A5-A8 of the staff report, which approves wetland setback variances from 20 feet to 6 feet and 7 feet, and wetland buffer variances from 16.5 feet to 6 feet and 25 feet to 7 feet to reconstruct a shared driveway at 16443 McGinty Road West. This resolution is based on the following findings:*
- a. There is a unique hardship to the property caused by the location of the existing shared driveway. The existing driveway has non-conforming wetland setbacks and wetland buffer requirements. Given the existing non-conformities, the driveway could not be improved without variances from the wetland setback and wetland buffer requirements.
 - b. The variances would meet the intent of the ordinance since:
 - (1) The proposed driveway is a reasonable use because it would be of standard width and slope.
 - (2) The variances would improve an existing non-conforming vertical separation from the 100-year floodplain elevation.
 - (3) The driveway would not alter the character of the neighborhood, since the impact to the wetland buffer vegetation would be mitigated on the property.

Approval is based on the following conditions:

- a. Submit proof of having recorded this resolution with the county before the city issues a grading permit.
- b. The following must be completed before the city issues a building permit:
 - (1) Submit recorded copies of all required conservation easements.
 - (2) Installation of city-approved wetland buffer boundary signs located every 300 feet and at property lines.
- c. Install and maintain a temporary rock driveway, erosion control, and tree protection, as required by the city's natural resources staff.

- d. The property is subject to a minimum 20-foot setback from the “pre-alteration” location of the 100-year floodplain elevation.
- e. The variances will end on December 31, 2008, unless the city has issued a building permit for the project covered by this variance or approved a time extension.

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

9. ADJOURNMENT

Britain moved, second by Cheleen, to adjourn the meeting at 11:25 p.m. Motion carried unanimously.

By: _____
Lois T. Mason
Planning Secretary