

**MINNETONKA PLANNING COMMISSION  
MINUTES**

**MARCH 5, 2009**

**1. CALL TO ORDER**

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

**2. ROLL CALL**

Commissioners Blatz, Lehman, Sjeklocha, A. Thomas, Adams, and Cheleen were present. Walker was absent.

Staff members present: City Planner Loren Gordon, Principal Planner Susan Thomas, Planner Jeff Thomson, and Natural Resource Manager Jo Colleran.

**3. APPROVAL OF AGENDA:** The agenda was approved as submitted with an addition and modification provided in the change memo dated March 5, 2009.

**4. APPROVAL OF MINUTES:** February 19, 2009

*Lehman moved, second by A. Thomas, to approve the February 19, 2009, meeting minutes as submitted.*

*Blatz, Lehman, Sjeklocha, A. Thomas, Adams, and Cheleen voted yes. Walker was absent. Motion carried.*

**5. REPORT FROM STAFF**

Gordon briefed the commission on land use applications considered by the city council at its meeting of February 23, 2009:

- Adopted a resolution approving a preliminary plat for Lake Rose Highlands, a 2-lot subdivision of the existing property at 15407 Lake Shore Avenue.
- Introduced an ordinance rezoning the property at 5431 and 5439 Williston Road for Hillside Senior Living.
- Adopted a resolution giving preliminary and final plat approval of Hopaca Hollow, located at 4404 and 4412 Wilson Street.
- Adopted a resolution approving items concerning Terratonka, an 8-lot subdivision of existing properties at 3100 Forest Lane and 3218 and 3200 Eldorado Trail West.
- Adopted a resolution approving items concerning restaurant improvements at Baja Sol at 11544 Wayzata Boulevard.

Gordon announced that the city received funds from the Opportunity City Pilot Program to be used to obtain detailed demographic and economic conditions in the city. A report will compare 2004 with 2007. The presentation will be done at the EDA meeting on Monday, March 30, 2009 at 6:45 p.m. in the Boards and Commissions room. Planning commissioners are invited to attend.

**6. REPORT FROM PLANNING COMMISSION MEMBERS:** None

**7. PUBLIC HEARINGS: CONSENT AGENDA:** None

**8. PUBLIC HEARINGS**

**A. Conditional use permit for installation of a drive-up window at 17601 State Highway 7 (89064.08c)**

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

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

Adams asked where two additional parking stalls would be located. Gordon explained that the parking area was restriped to accommodate the two additional stalls. He pointed out the location.

A. Thomas questioned if an exit only had been considered. Gordon responded that discussions had taken place internally and with Hennepin County. The county favored closing the County Road 101 access and only allowing access off of Delton Avenue. Staff wants to keep access viable off of Delton Avenue in case the county determines it needs to close the County Road 101 access. Sliding the driveway further south was considered. Hennepin County personnel did not feel that would be much of an improvement. The applicant has decided to leave the access as it is. The neighbor to the south was not willing to consider allowing the applicant to have access through their property. The traffic engineer found that it would not negatively impact traffic to the level that modification would be necessary.

Lehman agreed with A. Thomas. Lehman was nearly hit head on when he visited the site. He asked if most drivers would be able to maneuver from County Road 101 at the 180 degree, hair-pin turn to enter the drive through. Gordon noted that the driveway has a slight angle. A slower speed is required, but possible for most vehicles. A semi with trailer would not be able to make the turn.

In response to Lehman's question, Gordon explained that a variance application does not require the city to notify the state since there would be no encroachment on the state right-of-way.

Sjeklocha asked how the proposed parking compares to other commercial properties in terms of size and widths. Gordon stated that the 8.5-foot stall width requirement would be met.

Lehman felt a solid snow removal plan would be necessary. Gordon agreed that snow removal can be an issue for small sites. He noted spots on the site that could accommodate piles of snow and the option of hauling snow to another location. The amount of parking is right at the margin where most of the stalls will be used by employees and customers. A plan to remove the snow is warranted for this site. That condition could be added to the recommendation.

Blatz saw a potential conflict with the parking stalls on the east side of the building, in front of the County Road 101 entrance. There could be a potential conflict created by vehicles backing out. Gordon stated that a sign designating those stalls for employee parking would be better than customers parking there.

Chair Cheleen did not think it made sense to have a pneumatic tube and a window behind it. Gordon said two things happening in the same drive lane could stall motorists. It is not uncommon, but not real desirable. He expected the state would not allow a second lane as it would encroach into the ROW.

Jon Monson, Excelsior, represented Ray Mithun, owner of the property, who was also present. He stated that the staff report was very thorough. He added that:

- Dumpsters 30 yards in size have been brought to and from the site during site preparation.
- The plan would meet the required drive minimum size.
- Given the site's present situation and modifications made to the southwest drive line, to make it a two way, would result in pretty good circulation.

Chair Cheleen suggested a sign indicating the speed at which to travel around the curve to make the turn. Mr. Monson was open to that. It was in the applicant's interest to have safe circulation.

The public hearing was opened.

Tim Zitsloff, 18108 Old Excelsior Boulevard, stated that the two lanes coming from the west bound lane of traffic travel extremely fast. He cringes when he looks in his rear view mirror when making a turn. He was concerned with the two way access. He would prefer a one way. His other concern is the hours of operation. The headlights exiting the site would shine on the oncoming traffic.

Mr. Monson stated that there is a berm on the north. Landscaping could be added. The lanes from west-bound Highway 7 on south-bound County Road 101 are not going to affect the right turn lane unless a motorist veers off course. There is a point to slow down and make the turn. Gordon explained how the lane tapers.

No additional testimony was submitted and the hearing was closed.

***Lehman moved, second by Adams, to recommend that the city council adopt the resolution on pages A19–A23 of the staff report with the addition of a condition requiring a snow removal plan and landscaping plan for the north portion of the site to block headlights from drive through traffic obstructing drivers on east-bound Highway 7 as approved by staff. This resolution approves a conditional use permit for a drive-up window, with the following variance:***

- *Parking Setback: The zoning ordinance requires a minimum setback of 20 feet from right of way for a drive aisle. The proposed drive-up aisle is 3 feet from the right of way.*

Approval is based on the following findings:

- 1) The proposal meets the required conditional use permit standards.
  - a. The use is consistent with the intent of the city ordinance;
  - b. The use is consistent with the goals, policies and objectives of the comprehensive plan;
  - c. The use does not have an undue adverse impact on governmental facilities, utilities, services or existing or proposed improvements;
  - d. The use is consistent with the city's water resources management plan;
  - e. The use is in compliance with the performance standards specified

in section 300.28 of the city ordinance;

- f. The use does not have an undue adverse impact on the public health, safety or welfare;
  - g. Drive-up windows and stacking areas shall not be located adjacent to any residential parcel;
  - h. Stacking areas shall provide for a minimum of six cars per aisle; and
  - i. Public address system shall not be audible from any residential parcel.
- 2) The proposal meets the required standards for a variance, because:
- a. **UNDUE HARDSHIP:** The installation of a drive-up window could not occur in any other location on the property due to the position of the existing building on the site.
  - b. **UNIQUE CIRCUMSTANCE:** The existing building is located in close proximity to the right of way.
  - c. **INTENT OF THE ORDINANCE:** The proposal meets the required standard for a variance as set forth in the zoning ordinance.
  - d. **NEIGHBORHOOD CHARACTER:** The proposed drive-up window is consistent with surrounding commercial uses.

Approval is subject to the following conditions:

- 1) Prior to issuance of a building permit:
  - a. Record this resolution with the county. A copy of the recorded resolution must be returned to the city.
  - b. A landscaping plan that includes landscaping for the north portion of the site to block headlights from exiting the site and obstructing drivers on east-bound Highway 7 must be submitted to the planning division for review.

- c. A snow removal plan must be submitted to the planning division for review.
- 2) The drive-thru aisle is to be built as depicted in the plans dated February 9, 2009, without modifications. Any proposed modifications must be reviewed as an amendment to the CUP.
- 3) The suggestions provided in the traffic study conducted by SRF Consulting, Inc. dated February 11, 2009 must be implemented.
  - The existing entrances at CR 101 and Delton Avenue will not be modified;
  - The existing drive aisle on the west side of the property will be widened to accommodate two-way traffic;
  - All parking stalls will be restriped to meet the city's minimum required width of 8'6" x 18' for parallel parking stalls and 8'x20' for perpendicular stalls.
  - The northern most parking stall on the east side of the building and the single stall on the west side of the building will be restricted to "employee only parking" to limit potential conflicts in site circulation;
  - The location of the proposed drive-up window and pneumatic tube must be built west of the emergency exit/stairwell in order to ensure adequate stacking in the proposed drive-thru aisle as shown on page A18.
- 4) The city council may reasonably add or revise conditions to address any future unforeseen problems.
- 5) Any change to the approved use that results in a significant increase in traffic or a significant change in character would require a revised conditional use permit.
- 6) The applicant must agree to these conditions in writing.

***Blatz, Lehman, Sjeklocha, A. Thomas, Adams, and Cheleen voted yes. Walker was absent. Motion carried.***

**B. Items concerning a two-lot subdivision at 18200 Old Excelsior Boulevard. (08047.08a)**

Chair Cheleen 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.

Lehman requested staff explain the gap between the subject parcel and the parcel on the east side. Thomson explained that engineering staff found that the north property line does not match up with the property on the east according to Hennepin County records. It could be based on a number of things including an error in surveying. The issue with the gap needs to be resolved so a parcel of land is not created between the two properties.

Lehman questioned why a private utility easement on Lot 2 to benefit Lot 1 would be necessary. Thomson said the existing utilities for the house are located along Old Excelsior Boulevard. He pointed out the water and sanitary sewer pipe connections. The proposal would keep the existing service lines that travel through Lot 1, so a private utility easement would be needed.

In response to Lehman's question, Thomson stated that the neck portion of the flag lot would relate to the driveway only. The side lot lines surrounding the buildable area represent a standard-buildable-area-type configuration.

Lehman asked if there should be an easement for the existing structures. Thomson stated that City Attorney Desyl Peterson was not comfortable with that type of arrangement. It could cause significant title issues and general maintenance and encroachment issues between the properties themselves. Another solution to the problem exists.

Sjeklocha asked what a "unified and orderly development of property" means. Thomson explained that it would include anticipating the short term and long term development patterns. The short term relates to the current application. In time, redevelopment of the structure on Lot 1 would be expected. Staff anticipates a house centered on the east side of the lot and a house centered on the west side of the lot. Getting to that point is the orderly development of the property.

Sjeklocha asked to what extent the disproportionate buildable area would be between the two lots. Thomson referred to page 10 of the staff report. Lot 1 would have 24,000 square feet and Lot 2 would have 37,000 square feet of buildable area. That does not include subtracting woodland preservation areas,

slopes, or other natural features which may restrict buildable area. Thomson explained physical features of the site which would restrict the buildable widths of the proposed lots.

Sjeklocha asked what would happen to the garage and where a new garage would be located. Thomson explained staff's proposed plan. He pointed out the footprint of the garage, encroachment, setbacks, and buildable area. He explained the configuration of the lot lines. There would be 10 feet between the footprint and the property line if the standard width was adhered to.

Chair Cheleen asked what the setback for Lot 2 would be if the existing house was moved so it would have a 10-foot setback. Thomson explained how the lot width is calculated. It would allow some setback rather than the lot line being located at the corner of the house.

Chair Cheleen noticed that the sewer ejector may not be needed if the property line would be skewed and the building pad and house on Lot 2 moved south. Thomson responded that it would be a possibility, but not able to be determined without knowing the design of the house and utility system.

Kevin Thompson, 18200 Old Excelsior Boulevard, applicant, stated there is no good spot to add the garage to a different location of the house. There are bedrooms and living areas on the west side of the property. There are major trees on the front of the property. A different location might cause the trees to die. He was willing to do what was necessary to make it work, but he preferred to keep the garage where it is in the proposal to keep the house intact, keep it functional, and save the trees in front.

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

Adams asked if relocating the garage on the front or west side had been discussed. Thomson said that discussion related to options of what would meet ordinance requirements.

Adams recognized the lot being problematic. Locating a garage on the west side would be difficult due to the steep slope. In general, he agreed with staff's recommendation that the application did not meet the hardship standard for a variance. The situation has been created by the existing building. He concurred with staff's recommendation to deny the application and approve staff's revised plan.

Lehman concurred with Adams. He suggested adjusting the property line a little farther to the east to allow the minimum lot width requirement to be met for Lot 2 and so that the side yard setback could still be met on Lot 1.

Blatz concurred with Lehman.

Chair Cheleen agreed with Lehman's suggestion to move the property line. Considering the greater public good and looking into the future, the proposal would create a mess. To do the subdivision correctly in the first place makes more sense. He supported staff's recommendation.

***Adams moved, second by Sjeklocha, to recommend that the city council deny items concerning a two-lot subdivision at 18200 Old Excelsior Boulevard.***

***Blatz, Lehman, Sjeklocha, A. Thomas, Adams, and Cheleen voted yes. Walker was absent. Motion carried.***

***Lehman moved, second by Adams, to recommend that the city council grant approval of the revised subdivision outlined on page A12 of the staff report with a modification of the property line to allow the minimum requirements for lot width to be met. This plan would subdivide the property into two lots with standard widths for both lots, and would meet all minimum ordinance standards. As a condition of approval, the existing house on Lot 1 would need to be removed or reconfigured to meet all setback requirements prior to release of the final plat. Therefore, staff recommends the planning commission make the following motions:***

- 1) *Recommend that the city council adopt the resolution on pages A13-A16 of the staff report, which denies the preliminary plat, date stamped February 4, 2009, with a lot width variance at 18200 Old Excelsior Boulevard, based on the following findings:*
  - a. The proposal would not meet the required subdivision and variance standards, because:
    - (1) The hardship is self-created since it is a result of the applicant's desire to retain the existing house, and not from circumstances unique to the property.

- (2) The subdivision and variance would not meet the intent of the ordinance to provide for unified and orderly development of property.
  - (3) The subdivision and variance would not be consistent with the character of the surrounding neighborhood. The surrounding properties provide an orderly and unified neighborhood, and meet lot width requirements.
  - (4) The proposed configuration does not meet the subdivision ordinance standard which states that side lot lines must be substantially at right angles or radial to the street line.
  - (5) Denial of the variance would not deny reasonable use of the property. The property is currently improved with a single-family house, and the property could be subdivided to meet all ordinance requirements.
- 2) *Recommend that the city council adopt the resolution on pages A17-A23 of the staff report, which grants preliminary approval to the staff revised subdivision, dated February 25, 2009. Approval is based on the finding that the plat meets the required standards and ordinances, and is subject to the following conditions:*
- a. Prior to final plat approval, complete the following:
    - (1) Show the following on the final plat:
      - (a) Both lots must have a minimum width of 80 feet at the front property line and 110 feet at the front yard setback. The side property lines must be substantially at right angles to street lines, and generally parallel to each other.
      - (b) A minimum 10-foot wide drainage and utility easements adjacent to the public right-of-way and minimum 7-foot wide drainage and utility easements along all other lot lines.
      - (c) Utility easements over existing or proposed public utilities, as determined by the city engineer.

- (d) Drainage and utility easements over wetlands, floodplains, and stormwater ponds, as determined by the city engineer.
    - (e) Move the property line to allow the minimum requirements for lot width to be met.
  - (2) Pay a park dedication fee of \$5,000.00
  - (3) The gap between the subject parcel and the parcels to the east must be resolved with Hennepin County or the adjacent property owners.
- b. The following items must be completed before the city releases the final plat:
  - (1) The existing house on Lot 1 must be removed or reconfigured to meet all setback requirements.
  - (2) Submit the following items to the city:
    - (a) An electronic CAD file of the final plat in microstation or DXF.
    - (b) The following documents must be prepared by an attorney knowledgeable in the area of real estate and must be submitted for the city attorney's approval:
      - (i) Title evidence that current within thirty days before release of the final plat.
      - (ii) A conservation easement extending 25 feet upland of the delineated wetland edge.
      - (ii) A private driveway easement between the lots if any portion of the driveways extend across the common property line. The easement must state the maintenance responsibilities of each owner.
      - (iii) A private utility easement over Lot 2 benefiting Lot 1 over all utility service lines.

- (iv) 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 documents must be recorded with the final plat, and a drawing of any easement must be attached to the easement deed.

- (3) Any other requirements included with final plat approval.
- c. Prior to issuance of a building permit for any of the lots within the development:
- (1) Submit the following items for staff review and approval:
    - (a) A construction management plan. This plan must be in a city approved format and outline minimum site management practices and penalties for non-compliance.
    - (b) Final grading and tree preservation plan for the lot. The plan must:
      - (i) comply with the preliminary grading plan as depicted on the preliminary plat;
      - (ii) must preserve trees designated for preservation at the time of preliminary plat approval;
      - (iii) show sewer and water services to minimize impact to any significant trees. No trees may be removed for installation of services. One set of new services must be installed.
    - (c) A tree mitigation plan. The plan must meet minimum mitigation requirements as outlined in the ordinance. However, at the discretion of natural resources staff, mitigation inches may be decreased based on: the health of trees removed; the ability to appropriately

install trees on the steep slope; and/or installation of under-story shrubbery.

- (d) Submit cash escrow in the amount to be determined by city staff. This escrow must be accompanied by a document prepared by the city attorney and signed by the builder and property owner. Through this document the builder and property owner will acknowledge: (1) the property will be brought into compliance within 48 hours of notification of a violation of the construction management plan, other conditions of approval, or city code standards; and (2) if compliance is not achieved, the city will use any or all of the escrow dollars to correct any erosion and/or grading problems.
- (e) A revised utility plan:
  - (i) The utility service lines for Lot 1 and Lot 2 must not cross.
  - (ii) The utility service lines for Lot 2 must have adequate cover for frost protection, as determined by the city engineer. The plans must incorporate an ejector pump sanitary sewer system or gravity service to main level with lower level pump. Systems must be completely private and maintained by the owners.
  - (iii) The city must install services within the right-of-way. The property owner is responsible for the extension of utility services on private property.
- (2) Submit the following documents:
  - (a) A recorded copy of the preliminary plat, all required easements, and restrictive covenants.
  - (b) A letter from the surveyor stating that boundary and lot stakes have been installed as required by ordinance.

- (c) A letter of credit or cash escrow in the amount of 150% of an estimated cost or 125% of a bid cost to complete required tree mitigation. Individual letters of credit are required for each lot.
  - (3) Schedule and hold a preconstruction meeting with engineering, planning, and natural resources staff.
  - (4) Install a temporary rock driveway, erosion control, tree protection and wetland protection fencing for each lot. These items must be maintained throughout the course of construction.
  - (5) Pay a hookup fee for sanitary sewer and water.
  - (6) The driveway for Lot 2 must maintain a minimum clearance of 6 feet from the fire hydrant on the east side of the site.
  - (7) The location of the house, driveway and associated grading for each lot must be in substantial conformance with the staff revised plan dated February 25, 2009.
- d. Notwithstanding the requirements outlined above, all lots and structures within the development are subject to the all R-1 zoning standards. In addition:
- (1) All portions of first-story walls as measured by an approved route around the exterior of the house must be within 150 feet of the street. If access requirements cannot be met, the house must be protected with 13D automatic fire sprinklers.
- e. During construction, the streets must be kept free of debris and sediment.
- f. 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.

***Blatz, Lehman, Sjeklocha, A. Thomas, Adams, and Cheleen voted yes. Walker was absent. Motion carried.***

Lehman noted that the recommendation does not bind the applicant to complete staff's recommendation. It will provide a suggestion for the city council to comment on.

Chair Cheleen suggested the applicant work with staff to tweak the property line prior to the city council meeting.

**C. Items regarding redevelopment of existing single-family residential properties at 5431 and 5439 Williston Road (04037.08a)**

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

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

Lehman noted the coincidence of two applications with "gap" issues. S. Thomas stated that the problem could be resolved by a surveyor.

Lehman asked what was different between this site and another project on Woodhill Road that combined two properties to create a commercial property. S. Thomas recalled several years ago two residential properties were combined and the Alano Society built a building on property north of Glen Lake Park. There are three primary differences: the visual character of the two roadways, Woodhill Road is in a very diverse area including single-family houses, high-density residential housing, and a city park; the Alano building has the appearance of a single-family residence, but the proposal would have greater mass; and with Alano, the comprehensive guide plan and city ordinances suggested compatibility with the neighborhood and no rezoning or comprehensive guide plan amendment were needed.

Lehman visited the site and wondered if a way to decrease the amount of grading had been found. S. Thomas explained that engineering staff reviewed the grading plan and addressed it back in 2005. Some of the proposed grading would accommodate the size of the structure. Minor tweaks here and there would decrease some of the needed grading, but to build a three-story structure with underground parking would need pretty much all of the grading being shown on the proposal. The plan would build up a berm to disguise some of the height of the building. It all equals the large mass of the proposal.

Blatz understood that a similar plan was denied in 2005. At that time, it seems that the issues related more with tree removal as well as the size, not so much regarding the use. The current proposal is smaller and reduced the tree loss. She

questioned if the issue is that the structure would be too big. S. Thomas agreed. The proposal would be too big for the site. Between 2005 and now, a comprehensive guide plan amendment has been updated. Staff's view of the use may have changed. The comprehensive guide plan steering commission discussed the property at length and determined that low density residential use would be the most appropriate use at this time. Blatz confirmed with S. Thomas that the property was still zoned R-1.

Sjeklocha asked if there is a land planning use formula based on the ages of the city residents to determine the amount of senior housing necessary. She was aware of the general knowledge of Minnetonka having an "aging population." S. Thomas was not aware of a specific equation that planners use to determine the amount of senior housing necessary. Demographics indicate that the city's population is aging. The median age of a Minnetonka resident is 52 years of age. To quantify how many units a city would need may be partially addressed by the comprehensive guide plan and metropolitan council. Whether or not the market would support a certain amount of senior housing is another factor. Gordon added that the answer is always changing. The latest demographic report will be reviewed March 30, 2009. There is a need for more senior housing. Specific to development applications, commissioners must determine the right location for senior housing to happen. The proposed site is not an appropriate location.

Sjeklocha asked how Maxwell Research Group gets their information and questioned if it would be beneficial to use their studies as a basis to help draw conclusions. Gordon stated that the Maxwell Group is a very well known company based in the twin cities that conducts housing reports for communities and the region. The company provides accurate community-level data. The report that will be reviewed on March 30, 2009 takes a little different spin than the Maxwell Report to provide more of a planning emphasis. Sjeklocha felt it would be beneficial to be provided a copy of the study that is being referenced.

Sjeklocha asked staff to comment on the role of the planning commission as it reviews housing types and affordable housing in its deliberations. Gordon elaborated on weighing public good with development proposals. It is difficult to have a broad view of the world when looking at specific development proposals. How one project would influence the next project is hard to predict. The planning commission considers the goals of the community. Affordable housing is one of those goals; however, if other prongs of community values are not in check with the proposal then it would not be the correct way to proceed. Appropriate design and consideration of the environment must also be considered.

Chair Cheleen asked how many parking stalls would be needed to meet ordinance requirements. S. Thomas stated that the senior housing ordinance requires one parking stall for each unit. The ordinance regarding a convalescent home requires one parking stall for a certain number of beds. In the past, city staff has applied the convalescent home ratio to memory care and nursing home-type units. There would be a combination of requirements to accurately reflect the number of senior housing and nursing home care units. The senior housing requirement was used to calculate the 60-stall requirement.

Dan Kelley, Minneapolis, representing Hillside Senior Living, LLC., applicant, introduced Mike Suess and Curt Fretham, David McKeeran of International Management Care Services, and Brian Lubin, architect for the project. Mr. Kelley provided a power point presentation. He stated that:

- The city engaged Maxwell Research in 2001 to do a study that concluded that there are 336 senior housing units needed to fill the area's needs. Since that time, 81 senior housing units have been constructed.
- There is a significant need for affordable housing in Minnetonka. It has been a significant part of putting together the proposal.
- The proposal could help the city get closer to meeting its senior housing and affordable housing goals.
- The project was too big in 2005, but it would not be too big any longer. It would fit on the site and in the neighborhood.
- In the future, Williston Road properties will not remain single-family houses. They back up to high density residential housing.
- The previous plan would have been four stories. The proposal would be three stories.
- The proposal would consist of 43 assisted living units; 20 percent affordable housing for 30 years; and 26 memory care units.
- Grading and tree removal negotiations have been going on.
- The Sunrise project did not have an affordable housing component.
- The site was and is appropriate for senior housing. There is a five-story building behind the site, a hardware store to the south, and a single-family house across the street and one on the north. It is within walking distance to mass transit and a commercial area.
- The EDA found the area satisfactory for high density.
- He appreciated the research provided from 2004 and 2005. The comments are positive. Good concept and location, just too big.
- A proposal which does not need one variance is not too big.

- The comprehensive guide plan steering committee said that proposals should be considered on a case by case basis and judged on their own merit.
- According to convalescent parking requirements, a parking variance would not be needed.
- The gap in the property lines is not a big issue. It can be easily resolved by surveyors and property owners. The staff made it a significant issue. It is not a significant issue. Approval could be contingent on resolving the gap.
- The project engineers and city engineers are working on resolving issues.
- There is a tree-root issue.
- The most similar-type project is the St. Therese project. St. Therese would be significantly larger and a few blocks away.
- The proposal's rezoning would provide additional residential opportunities to support the surrounding commercial area.
- The use would be consistent with surrounding high-density land use.
- The rezoning would be consistent with the public health, safety, and welfare.
- The proposed development would not have adverse impact on traffic or property values.

David McKeeran, International Care Management Services of Toronto, Canada, stated that his company specializes in care of senior housing. He was available to answer questions.

Adams asked if he managed facilities in Minnesota. Mr. McKeeran responded in the negative. He did manage facilities in the United States and Canada. Adams asked how many beds the company manages. He responded 1,500 beds from assisted living to memory care.

A. Thomas asked for a wild guess regarding the cost of rent for a month. Mr. McKeeran stated that memory care costs more. The rate would be in the \$4,000 to \$4,500 a month range. Assisted living would be from \$2,700 to \$3,300.

Brian Lubin, architect for the project, was excited to present the Hillside Senior Living project. He provided a graphic which showed the boundary of commercial uses in the Glen Lake area. He identified business and residences in the area. He stated that:

- There would be 200 feet between the residence and the proposed building. There would be 80 feet between the building and the south property line. The use would be a great buffer between Kramers and residential area on the north.
- He compared the proposal with the 2005 version. The building footprint in 2005 plan was 20,000 square feet. It has been reduced to 15,000 square feet.
- The building area of the 2005 plan was 73,000 square feet. The current proposal would be 45,600 square feet.
- The number of dwelling units was previously 77; the proposal would have 69.
- Independent living is no longer part of the proposal.
- Previously the plan included 42 units per acre; current proposal would have 38 units per acre.
- The building height was 48 feet on the previous plan; the current proposal would be 37.5 feet; Sunrise is 39 feet; and St. Therese would be 55.5 feet.
- The proposal would provide 20 percent affordable housing units for 30 years. Sunrise does not have affordable housing. St. Therese would have 20 percent affordable housing units for 15 years.
- The affordable housing component would be financed by the developer.
- The hard surface coverage remains at 45 percent. It would be below the 70 percent allowed.
- The floor area ratio would be .57; below the 1.0 maximum allowed.
- The setback would be 50 feet from the street. The mass would be moved away from the sightline to cushion the view of the project. St. Therese and Sunrise both had front yard setback variances.
- Parking would be setback 20 feet.
- The recreation use area would be 20 percent.
- Grading and landscape rings would protect the root zones of trees.
- The proposal fits the site. No variances are needed.
- The proposal requires a comprehensive guide plan change. Sunrise received a comprehensive guide plan change.
- The stormwater management issues will be worked out with city engineering staff. The water would percolate out of the bottom of the water holding structure into the soil.
- He provided illustrations of the proposal showing the traffic pattern and the building from different views.
- Landscaping and big setbacks would provide a buffer.

- He pointed out the property lines, setbacks, and surrounding buildings.
- The trees are of great benefit to the site. It is to the developer's benefit to keep as many trees as possible. That is the goal.

Blatz asked where deliveries would be made. Mr. McKekeeran stated that the trash room would be located in the parking garage. The garbage would be inside the trash room and rolled out on garbage day. Federal Express and those types of deliveries would come to the front. Blatz has a parent in a similar-type facility with a roundabout and drop off area. Deliveries block the ability to pick up residents. That can be a big issue for seniors. She would like to see an option. Mr. McKekeeran said that food service delivery trucks would not drop off in the front. He would have to look at how a large delivery truck would enter the indoor parking structure and get out. A garbage or delivery truck would pull in, make deliveries or pick up garbage, and back out.

Mr. Lubin said that food delivery would occur underground. Deliveries up front would be for ambulance and mail. Mr. McKekeeran noted that the drive up would be a double lane.

A. Thomas asked if he understood correctly that garbage and delivery trucks would back out. Mr. Lubin stated that a garbage truck would back out onto Williston Road.

Adams asked where Sunrise is located. Mr. Lubin answered on State Highway 7, 2 miles west of Interstate 494. Adams asked why it took so long for the application to be resubmitted. Mr. Lubin said that the old plan was set aside. Mr. Suess was very clear that the proposal be created all on its own. Mr. Suess is particular with what he wants. It took a while to get the proposal ready to be submitted last summer. Good things come to those who wait.

A. Thomas asked if the proposal includes plans for a sidewalk to commercial areas surrounding the site. Mr. Lubin said that a dashed sidewalk was included in one plan. He was unsure of the best location. It is important to connect the residents to Excelsior Boulevard.

A. Thomas questioned if fill would be brought in the site. Mr. Lubin had not calculated that yet. It appears that there would be even distribution.

Mr. Suess stated that a sidewalk is proposed from the site through Kramer's and extending to Excelsior Boulevard corner at the developer's expense. It would tie in with the park trail system.

A. Thomas asked for the traffic study results. Mr. Suess and S. Thomas provided that a traffic study was done in 2005. A new one was not required for the current proposal.

Sjeklocha asked for the applicant's understanding of the comprehensive guide plan work that was underway in 2007 and 2008. Mr. Lubin stated that a comment was made in the staff report that talked about the steering committee of the comprehensive guide plan specifically making a decision. He researched notes from the meeting. He was provided the same comprehensive guide plan. All that was reflected in the documents he has seen is that there would be no change to inspire redevelopment in the area, but that every project should be considered on its merits when brought to the commission. The staff report read as if the steering committee had looked at the site and made a specific decision regarding the area. That is not reflected in the comprehensive guide plan. Sjeklocha confirmed with Mr. Lubin that his review of the comprehensive guide plan or understanding about what was in it is based on the final document, not during the time when the work over 18 months was being done.

Chair Cheleen appreciated the photo shop illustration. The proposed building still looks like a massive structure. He asked how steep the berm is. Mr. Lupin guessed the grade to be 1:3.

Chair Cheleen walked the property 4 years ago and today. He questioned if the building could be lowered a little more so it would not look so massive from the street. Mr. Lupin stated that it might be able to with some more work. Grading was being balanced with appearance. Mr. Lupin stated that it was hard to show the depth on the photo shop illustration. The 5-story building can barely be seen through the trees. The photo shop illustration showed the worst-case scenario view.

Adams had an issue with amending a comprehensive guide plan that was recently updated. He asked for the rationale for the area continuing as an R-1 district. S. Thomas recalled that the steering committee looked at the Glen Lake area as a whole. Specific properties were not looked at. It was determined that Glen Lake, as a neighborhood, should remain under its current designations and as projects came forward, if those projects merited an amendment, that it would be considered at that time.

Chair Cheleen agreed. The steering committee chose not to change the area partly because it was already large enough. It made the statement that each project would be considered on its merits.

Adams felt the comprehensive guide process was suppose to build concentric circles of high density extending out to low density. This area has an R-1 district abutting commercial. It does not seem to go along with that philosophy. It seemed inconsistent with what is being recommended for other locations.

Chair Cheleen pointed out a vacant lot that Presbyterian Homes owns. He confirmed with S. Thomas that Presbyterian Homes would not be able to increase its density if the zoning changed. Chair Cheleen stated that that piece of property, even though it is in the high density area, is not really conducive to being used as a high density piece of land. S. Thomas stated that, because of the parcel's width, high density could not be done there.

Chair Cheleen felt a use that would provide a buffer between the commercial and residential areas would make good sense. The steering committee chose to not micromanage the area.

Mr. Lubin stated that if a turn around on the south access is an issue, an alternative could be considered. He would not want that single issue to be one that would be problematic. Everyone is available for questions. On behalf of the developer, he respectfully requested that the commission recommend that the changes to the comprehensive guide plan be approved. The proposal would not be too big for the neighborhood or site. The proposal would solve a problem; not create a problem.

The public hearing was opened.

Tom Dietrich, 5345 Williston Road, stated that:

- He supported staff's recommendation to leave the parcel zoned R-1.
- He and an adjacent neighbor opted not to sell to the developer. Their properties were intended to be included in the proposal.
- His concern was that he would have a similar experience during the construction of Presbyterian Homes. His house shook every day because of the movement of the earth. He was 100 yards to 400 yards away. It caused a minor crack in the wall. He did not want the neighbors to have to deal with that.
- Presbyterian Homes has a very large air conditioning unit. He hears the air conditioning turn on and off.
- The view would be changed and noise and traffic would be increased.

- A sidewalk is needed on Williston Road.
- He supports the neighborhood which has integrity as a residential neighborhood. He is not opposed to senior housing. He could soon be a resident of one, but he does not plan to sell his property in the next 20 years.
- Please consider the integrity and importance of a residential neighborhood. Build senior housing where it would be proper. It would have access to a hardware store, dance studio, and gun shop.
- The variance would change an R-1, residential neighborhood to high density.
- Presbyterian Homes is surrounded by a bank, Glen Lake Shopping Center, and apartments.

Ann Malm Hossfeld, 14616 Glendale Street, stated that:

- It is distressing that Glen Lake has become a target for R-5 zoning and 3-story to 5-story buildings.
- Kinsel Point went from R-1 to R-5.
- She was told there would be no legal precedent.
- To go from R-1 zoning to R-5 zoning attacks the nature of Glen Lake.
- She was struck to what extent the 3-story unit would stand out.
- Williston Road is hilly. The proposal would be placed where the land rises above Kramer's. The first story would be higher than Kramer's.
- Her house has a second story. She would be able to see the proposed building because of the rise in the land.
- The Lakeshore Townhouses are lower than grade.
- She did not care for the Exchange Building. It is out of scale. It has dramatically altered the flow of Glen Lake. The proposal would be on the highest elevation.
- Williston Road is a residential drive. A massive, large structure without trees would be a substantial change in character.
- It would create R-5 zoning right up against R-1 zoning. It cannot be assumed that the lots would not remain R-1. The concept of going from commercial in rings to high density, medium density, and low density would not be created with an R-1 district next to an R-5 district.
- The neighborhood is an existing hilly area that is an artifact of the natural development of the land. To have to grade it so much to

accommodate the building is not looking for a site that would work for a large footprint, high-density, multi-unit facility.

- Senior housing is an admirable use, but the magnitude in the change in character of the neighborhood would be unacceptable.
- This would have no buffering other than some landscaping.
- Take those considerations into account.

Mr. Dietrich asked if it is statistically proven that the proposal would not impact the value of his property. A three-story building on a hill would decrease his property value. Mr. Dietrich thought Mr. Kelley said that the proposal would not decrease his property value. Ambulances travel Williston Road once a day. If the proposed facility is added, it may increase to three or four times a day. Mr. Kelley had no recollection of mentioning the proposal's impact on surrounding property values.

No additional testimony was submitted and the hearing was closed.

Mr. Kelley responded to comments. He stated that the building is a 37-foot tall building. It would be setback 50 feet in the front. There would be a significant number of trees blocking its view from the street. Right now, commercial abuts R-1 housing. The proposal is more of a solution for that issue. The site is adjacent to a hardware store and an apartment building. There is a residence on the north and across the street. He apologized that he used 10 years to 20 years as the time period for the property owners to change for the surrounding properties. Maybe it will never become anything but R-1, but long-term planning must account for the greater good rather than one or two homeowners. If there is a contingent other than the two present in opposition to the proposal, they have not been a vocal contingent. It is an appropriate use of the land. He renewed his request for a positive recommendation to the city council.

Adams asked why a planned unit development (PUD) was requested. Mr. Sues stated that planning staff suggested switching the application from R-5 to PUD. S. Thomas assumed that staff in 2005 felt that PUD zoning would provide more flexibility to save trees or other natural features. S. Thomas explained that the density for R-5 zoning and a PUD are the same. The specifics to site design could be done differently.

Mr. Lubin reviewed the zoning districts for surrounding areas. S. Thomas expanded on the flexibility provided by PUD zoning in regard to setbacks, landscaping, and impervious surface requirements.

Sjeklocha asked S. Thomas to say more about the sensitive land use transitions conclusion. S. Thomas explained that the topography and vegetation provide a separation between the commercial property and existing R-1 property. Generally, it is preferred that the intensity step down its density when located next to low-density residential. Putting a high-density residential parcel between a relatively low intensity commercial property and single-family residential houses to the north and west would not achieve the step down in intensity effect.

Blatz commented that Sunrise just requested setback variances to allow for more parking stalls. Sunrise has 64 units compared to the proposal's 60 units. S. Thomas stated that Sunrise received a parking variance. The senior housing parking requirement was followed since it was to be an assisted living facility. As the number of residents of the assisted living units decreased, the number of staff coming to the facility to service assisted-living type residents increased. It can be a moving target.

Mr. Lubin explained that Sunrise has a lot of rooms that have double beds. While the number of units may be slightly smaller, there are substantially more beds. That may be causing the parking issues.

Adams felt the proposal meets the spirit of the comprehensive guide plan in terms of stepping down from commercial to R-1 zoning. It may be a little higher density. It was hard for him to imagine what use could take the place of the proposal. He was concerned with tree removal and parking that need to be revised. It met the spirit of the comprehensive guide plan rather than the strict adherence of it. He considered tabling it to tuque the parking and tree removal; but, in general it is a deserving project. It is not up to the commission to decide how much senior housing the market would absorb. There is a demand at other senior housing facilities. He understood the residents' concerns regarding high density. His neighborhood has had many changes in 27 years. He supported approval of the proposal.

Blatz agreed that the proposal would be too big. It should be reguided in the future to medium density. The topography does not lend itself well to the massive structure. There are attractive aspects with the affordable housing and developer financing.

A.Thomas felt the site is difficult. He was amazed at the photo shop pictures that made it appear level. There would be grading issues. He was concerned with the number of trees removed or impacted. The trees are all back from the road. He was unsure if he was willing to give up an R-1 district there. Going from commercial use to medium density to residential would be a better transition. He

was concerned with the change in the comprehensive plan. He did not want to be the one changing the plan and going to high density next to residential housing. He had a difficult time believing there would be no impact on traffic on Williston Road. That would be ridiculous. The proposal would change the character of the neighborhood with its density and mass. The PUD is a carryover from previous planning staff. The PUD should be used to protect a property, not destroy it. He felt the proposal would destroy it more than protect it. He had concerns with the water resources management plan and parking issues. Sunrise is located off of State Highway 7 with commercial buildings on two sides and residential behind it. That site is level with a minimal amount of trees. He understood the comparisons, but land wise the two properties are not similar at all. He supported staff's recommendation to deny the proposal. He was not in favor of tabling the item. A recommendation should be made and the city council will decide.

Sjeklocha concurred with A. Thomas and Blatz. The purpose of the building as well as the affordable housing makes the decision tough. It is not in the spirit of the comprehensive guide plan that was established a few months ago. There would be an adverse impact on the natural environment. The loss of 65 percent of the trees may be reduced some, but fundamentally a major change. The structure would be too big for the site. Minor adjustments would not be enough for her to change her opinion. She had concerns with the traffic, parking, and water management plan. The comprehensive guide plan criteria should remain as it is.

Lehman lived in Glen Lake 46 years. He understood the developer requesting a high enough density to make the proposal financially viable. He had trouble visualizing how the proposal would fit on the site. The view from Excelsior Boulevard from the south may have been beneficial to have. He fell on the side of being unable to find a way to support the proposal on the site due to its topography, issues with parking, and traffic patterns on Williston Road.

Chair Cheleen is still torn. The project on a different site would be a go. He understood it needs to be economically viable. The site would not support apartments because of the high density. From a strict land use situation, the facility would not fit on the parcel. Row houses or townhouses would be more feasible. He agreed with staff's recommendation.

***Blatz moved, second by A. Thomas, to recommend the city council adopt the resolution on pages A43–A49 of the staff report, denying requested: comprehensive guide plan amendment, rezoning, preliminary plat, and site and building plan review, with variances. Denial is based on the following findings:***

- 1) *Comprehensive Guide Plan Amendment. The proposal is not consistent with property's existing Comprehensive Guide Plan designation. Neither does the proposal warrant an amendment of the existing Guide Plan Designation.*
  - a. The proposal does not meet various criteria for such amendment, specifically:
    - (1) The requested land use change would have an adverse impact on the natural environment, including trees and topography.
    - (2) The proposed high-density housing development resulting from the land use change would not be consistent with the physical character of the surrounding neighborhood.
  - b. In the recent update of the Comprehensive Guide Plan, the city determined that existing guide plan designations in the area should remain. In doing so, the city determined that redevelopment proposal and any necessary Guide Plan amendments should be judged on their own merit.
- 2) *Planned Unit Development Zoning. The proposal is not consistent with the purpose of PUD zoning. Specifically:*
  - a. As proposed, the PUD does not preserve desirable site characteristics or open space. Neither does the proposal protect sensitive environmental features, such as slopes and trees.
  - b. As proposed, the PUD does not provide a sensitive land use transition.
- 3) *Site and Building Plans. The proposal does not meet site and building plan standards. Specifically:*
  - a. The proposal is not consistent with the Water Resources Management Plan. Adequate stormwater treatment is not provided prior to runoff discharge into this facility. Additionally, the plan provides only minimal opportunity for stormwater infiltration.


- b. The proposal does not minimize tree removal. With prescribed removal and given extensive damage to the root zones of the trees due to grading, the proposal would ultimately result in the removal and/or significant impact to 64 percent of the healthy/sound trees on the site.
  - c. The proposal does not minimize soil removal and include grade changes keeping with the general appearance of neighboring developed areas.
- 4) *Parking Variance. The proposal does not meet the variance standard.*
- a. The requested variance is not based on any hardship inherent to the subject site. Rather, it is based on the applicant's desire to construct a specifically-sized building. This is a self-created hardship not warranting a variance.

***Blatz, Lehman, Sjeklocha, A. Thomas, and Cheleen voted yes. Adams voted no. Walker was absent. Motion carried.***

The item is tentatively scheduled to be heard by the city council during its meeting on April 6, 2009.

## 9. ADJOURNMENT

***A. Thomas moved, second by Lehman, to adjourn the meeting at 9:52 p.m. Motion carried unanimously.***

By:   
Lois T. Mason  
Planning Secretary