

**MINNETONKA PLANNING COMMISSION
MINUTES**

NOVEMBER 19, 2009

1. CALL TO ORDER

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

2. ROLL CALL

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

Staff members present: Community Development Director Julie Wischnack, City Planner Loren Gordon, Principal Planner Susan Thomas, Planner Jeff Thomson, and Natural Resources Manager Jo Colleran.

- 3. APPROVAL OF AGENDA:** The agenda was approved as submitted with an additional comment for 8B, conditional use permit for a telecommunications tower on the property located at 14451 State Highway 7, and modification to 8A, items concerning a garage addition located at 13107 Inverness Road, as provided in the change memo dated November 19, 2009.

- 4. APPROVAL OF MINUTES:** November 5, 2009

A. Thomas moved, second by Adams, to approve the November 5, 2009, meeting minutes as submitted.

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

5. REPORT FROM STAFF

Gordon briefed the commission on the introduction of the Opus overlay ordinance considered by the city council at its meeting of November 9, 2009.

Gordon announced that the next planning commission meeting will be held December 3, 2009.

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

- 7. PUBLIC HEARINGS: CONSENT AGENDA:**

No items were removed from the consent agenda for discussion or separate action.

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

A. Conditional use permit to operate a motorcycle repair business located at 15700 Wayzata Blvd. (88054.09b)

Recommend that the city council adopt the resolution on pages A6-A9 of the staff report. This resolution approves a conditional use permit for a 2,200-square-foot motorcycle repair and service business at 15700 Wayzata Boulevard. Approval is based on the finding that the proposal meets the required conditional use permit standards and is subject to the following conditions:

- 1) Prior to issuance of a building permit, this resolution must be recorded with the county, and a copy of the recorded resolution must be returned to the city.
- 2) The business must develop a course for test driving of vehicles. The course must utilize only non-residential streets. The test drive course must be submitted to city staff for review and approval.
- 3) There must be no testing, running or operating of vehicles on the back of the property except to provide access to the service area.
- 4) The business must comply with all building and fire codes.
- 5) There may be no outside storage of vehicles, parts, equipment, or other items, and there may be no vehicles stored outside on the property overnight.
- 6) All repairs, servicing and installation must be done within the building. Servicing of vehicles must not occur in the parking lot.
- 7) There may be no public address system audible from any residential parcel.
- 8) There may be no sales, storage or display of vehicles.
- 9) The city council may reasonably add or revise conditions to address any future unforeseen problems.

10) 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.

11) The applicant must agree to the above conditions in writing.

B. Conditional use permit for a detached garage, located at 5014 Woodhurst Lane. (09032.09a)

Recommend that the city council adopt the resolution on pages A11–A14 of the staff report. This resolution approves a conditional use permit for a detached garage over 12-feet in height at 5014 Woodhurst Lane. Approval is based on the finding:

- 1) The proposed location and design of the garage would minimize visual impact of the structure.
 - a. Location: The proposed garage would be located over an existing, paved parking/turnaround area.
 - b. Design: The proposed garage has been designed to reflect the architectural character of the existing home.
- 2) The proposal would meet the general conditional use permit standards as outlined in City Code 300.13 Subdivision 2.
- 3) The proposed garage would meet the specific conditional use permit standards as outlined in City Code 300.16 Subdivision 3(g).

Approval is subject to the following conditions:

- 1) Prior to issuance of a building permit, the following must occur:
 - a. Record this resolution with the county. A copy of the recorded resolution must be returned to the city.
 - b. Install erosion control and tree protection fencing subject to the review and approval of natural resources staff.
- 2) The garage must be constructed in relative conformance with the following plans:

- a. Site Plan date-stamped October 22, 2009.
- b. Building Elevations date-stamped October 22, 2009.
- 3) The garage is not to be used for commercial activities.
- 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.

Sjeklocha, A. Thomas, Walker, Adams, Blatz, Lehman, and Cheleen voted yes. Motion carried and the items on the consent agenda were approved as submitted.

8. PUBLIC HEARINGS

A. Items concerning a garage addition located at 13107 Inverness Road. (09031.09a)

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

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

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

Adams moved, second by Blatz, to adopt the resolution on pages A12–A15 of the staff report and the addition provided in the change memo dated November 19, 2009, which approves a side yard setback variance from 10 feet to 8 feet and an aggregate side yard setback variance from 30 feet to 28 feet for a garage addition at 13107 Inverness Road. Approval is based on the following findings:

- 1) The proposal is reasonable and would meet the required standards for a variance, because:

- a. **UNDUE HARDSHIP:** The existing home's non-conforming side yard and aggregate side yard setbacks presents a practical difficulty. Any addition to the existing home that maintains existing building lines would require a variance.
- b. **UNIQUE CIRCUMSTANCE:** The subject property has a non-conforming width of 100 feet. This is a unique circumstance not common to every residentially-zoned property in the city.
- c. **NEIGHBORHOOD CHARACTER:** The proposed garage addition would not negatively impact the essential character of the neighborhood:
 - 1. The addition would maintain the existing side yard and aggregate side yard setbacks of the home.
 - 2. The configuration of the home would reflect the configuration of other homes in the immediate area.

Approval is subject to the following conditions:

- 1) Prior to issuance of a building permit:
 - a. A copy of this resolution must be recorded with the County and a copy of the recorded document returned to the city.
 - b. Install a temporary rock driveway, erosion control, and tree protection fencing as required by natural resources staff for inspection and approval. These items must be maintained throughout the course of construction.
 - c. Submit a driveway permit application for review and approval of engineering staff.
- 2) The garage must be constructed in relative conformance with the following plans:
 - a. Site Plan date-stamped October 21, 2009.
 - b. Building Elevations date-stamped October 21, 2009.

- 3) This variance will end on December 31, 2010, unless the city has issued a building permit for the project covered by this variance or approved a time extension.

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

Chair Cheleen stated that an appeal of the planning commission's decision must be made in writing to the planning division within 10 days.

B. Conditional use permit for a telecommunications tower on the property located at 14451 State Highway 7. (09030.09a)

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.

Chair Cheleen appreciated the cross-section views.

A. Thomas questioned why the antennae would not be located on the water tower. Placing an 85-foot antennae on a piece of low ground that has a hill behind it does not make sense when a water tower is less than 100 yards away. Thomson stated that the applicant looked at that option. There is adequate space on the drum of the tower itself to accommodate the antennae. There is not adequate space for the equipment at the base of the tower. There are 2 antennae on the water tower whose ground equipment is taking up the space allocated for that equipment.

A. Thomas asked how much ground equipment would there be if it would be located next to the water tower. He asked if it would consist of a 10-foot by 12-foot building. A little building could be constructed on the far side of the water tower. Thomson provided an illustration of the cabinet which showed the first issue that it would not fit on the base. Thomson explained the second issue which is that the water tower's drop zone prohibits equipment from being set directly outside the base of the tower. It would be required to be set back 10 feet from the drum of the tower.

Gordon added that the equipment and antennae are connected by a large amount of cable. That creates an additional issue with the routing, spacing, and what would need to happen in the water tower for the city crews to provide water.

There is a point where there is too much equipment on a water tower structure and this water tower has met that maximum.

Blatz recalled discussion of an ordinance that would make review of cellular tower applications an administrative process. She asked for the status of that ordinance. Thomson confirmed that the ordinance was adopted by the city council. It will allow administrative review in three circumstances: co-location on an existing tower, locating a new facility on an electrical transmission pole, and a one-time extension of an existing antennae support structure. New tower construction will still require a conditional use permit and formal review.

Ron Gunderson, representing T-Mobile, applicant, stated that T-Mobile started looking for a location for an antennae to provide coverage for the area a year and a half ago. The center of the search ring was the water tower. A significant amount of time was spent with planning and water and utility department staff having meetings and visiting the site to try a number of scenarios to figure out a way to locate more equipment inside the water tower. The final analysis resulted in city staff saying that the water tower would not be available. A lease has been negotiated with the owners of the proposed site. Co-location is the name of the game. It is faster and less egregious to the landscape. When existing facilities are at capacity and there is no more room, there is no other choice. That is what happened in this case. AT&T located a similar pole at the southwest corner of the Cub Foods store at County Road 101 and Highway 7. The proposed pole would not have lights, be setback into the hillside, be fenced around all sides, and have screening fence on the front side. He was available for questions.

Adams asked where the nearest T-Mobile tower is located. The nearest antennae Mr. Gunderson could think of is located at Tonkawood Road and Lake Street Extension. There are a number of locations in Minnetonka where T-Mobile has gone on city facilities when there has been space available. He was also told that this water tower, at Williston Road and Highway 7, has covenants that do not allow equipment to be outside of the water tower skirt itself. That would preclude putting a building out there. The power line on the Welsh property would be too far away. The proposal would serve a specific hole in the coverage area. Placing it on top of the Edina Realty building would not be high enough.

Lehman noticed that the coverage map indicated other areas that still need coverage. He asked which area would be addressed next. Mr. Gunderson did not have that information.

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

Sjeklocha asked for more information on allowing equipment outside of the water tower. S. Thomas explained that during the city council's discussion of what type of water tower to construct, the hydrosphere was selected so that equipment could be placed inside and to prevent equipment being located on the outside. That was the intent of the city council's actions. There is no covenant prohibiting location of equipment outside of the water tower. Sjeklocha asked when that discussion took place. S. Thomas estimated 4 to 5 years ago.

A. Thomas understood that federal law allows phone companies to trump city ordinances. Regardless, he did not support the proposal. He was on the city council at the time of the water tower discussion. He took the worst beating of his whole life over the water tower issue. Therefore, he did not support constructing an 85-foot tower in the same vicinity as a water tower. The city council will have to make the decision of whether to allow an antennae and its equipment on the water tower site. Maybe the equipment would not fit on the inside. The equipment on the outside is not very big. There has to be a way to utilize the water tower. A precedent could be set. Cell towers can go inside electric transmission poles. Other technology needs to be looked at.

Walker directed staff to find out why a city representative told the applicant that the water tower could not be used. Gordon responded for the reasons already provided.

Walker asked if the tower could be placed outside of the water tower's restricted drop zone area. A camp of utilities could be created rather than another private property having a tower down the street. Mr. Gunderson stated that having a monopole on city property was not explored. At the time, it was a co-location discussion to locate the antennae inside the water tower.

Adams was conflicted. Usually, monopoles are a good deal and less visual pollution than a normal cell-phone tower. Co-location has even less. There is one on Cargill property. That one is obscured by trees. In this case, he agreed with A. Thomas that the monopole would create too much visual pollution in the area. There has to be a better alternative that can be worked out. He wanted to look at having the monopole at some other co-location.

Lehman understood the points made. Staff has explained how the proposal complies with conditional use permit standards outlined in the zoning ordinance. There are many other considerations, but those decisions must be made by the city council. The commission is starting to act in an advocacy role that may or may not be appropriate for the planning commission. He has tried to fall more in

line with looking at the standards commissioners are being asked to look at and basing his decision on those standards. If the conditional use permit standards have been met, it is hard for him to use his own judgment on other factors to vote against the application. That is a role reserved for the city council. While he agreed with what has been said, his view is that staff has correctly measured the standards for a conditional use permit.

Sjeklocha reread the conditional use permit standards and concurs with Lehman. She was drawn to the concept that the application is reasonable because it fits conditional use permit standards.

Blatz supported staff's recommendation. She agreed that it is a tall tower and co-location would be ideal. Its position would not be as much of an impact as it could be. It would be located on the highway, on large commercial properties with tall buildings, and the hill would block one of the cross-section visuals. It could be argued that it would be a reasonable use.

Chair Cheleen commented that Minnetonka is hilly in nature. It needs more towers because it is not flat. He did not necessarily disagree with A. Thomas. It would be ideal to locate in the water tower, but he trusted city staff in their judgment on what is best for the water department and water tower. Knowing what the monopole looks like at Cub Foods, which is in his neighborhood, he would not say that monopoles become part of the landscape, but everything done internally will allow for co-location. He guessed that that would happen because the city is tough to cover because of its topography. Trusting staff, and knowing the location and the large hill, he supported staff's recommendation.

Lehman moved, second by Sjeklocha, to recommend that the city council adopt the resolution on pages A19-A23 of the staff report. This resolution approves a conditional use permit for a telecommunications facility on the property at 14451 State Highway 7. Approval is based on the finding that the proposal meets the required conditional use permit standards and is subject to the following conditions:

- 1) Prior to issuance of a building permit, this resolution must be recorded with the county, and a copy of the recorded resolution must be returned to the city.
- 2) The site must be developed in substantial compliance with the plans date-stamped October 20, 2009.

- 3) The tower must be painted a non-contrasting color consistent with the surrounding area to reduce visual impact.
- 4) The telecommunications facility must be in compliance with all building and electrical code requirements. The tower must be designed and certified by an engineer to be structurally sound and in conformance with the building code. Structural design, mounting and installation of the telecommunications facilities must be in compliance with the manufacturer's specifications.
- 5) The tower must be constructed to allow for co-location opportunities. The tower must be designed to accommodate antennas for at least one additional comparable user. The applicant, the tower owner, the landowner, and their successors must allow the shared use of the tower if an additional user agrees in writing to meet reasonable terms and conditions for shared use, and must submit a dispute over the potential terms and conditions to binding arbitration.
- 6) No advertising message or identification sign larger than two square feet may be affixed to the telecommunications facilities.
- 7) The telecommunications facility must not be artificially illuminated unless required by law or by a governmental agency to protect the public's health and safety or unless necessary to facilitate service to ground-mounted equipment.
- 8) There must be no employees on the site on a permanent basis. Occasional or temporary repair and service activities are allowed.
- 9) Obsolete telecommunications facilities must be removed within 90 days after cessation of their use at the site, unless an exemption is granted by the city council. Unused telecommunications facilities and all related equipment must be removed within one year after cessation of operation at the site, unless an exemption is granted by the city council. Telecommunications facilities and related equipment that have become hazardous must be removed or made not hazardous within 30 days after written notice to the current owner and to any separate landowner, unless an exemption is granted by the city council. Notice may be made to the address listed in the application, unless another one has subsequently been provided, and to the taxpayer of the property listed in the Hennepin county tax records. Telecommunications facilities and all related equipment that are not removed within this time limit are declared to be

public nuisances and may be removed by the city. The city may assess its costs of removal against the property.

- 10) The city council may reasonably add or revise conditions to address any future unforeseen problems.
- 11) 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.
- 12) The applicant must agree to the above conditions in writing.

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

Chair Cheleen stated that the item is tentatively scheduled for the December 7, 2009 city council meeting.

C. Items concerning the Opus Area Overlay Ordinance. (09028.09a)

Sjeklocha recused herself from review of this item.

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

Wischnack and Gordon reported. They recommended the planning commission recommend city council approval of the ordinance.

Tony Heppelman, of WSB, gave the traffic study report. The capacity of the existing interchange was determined to establish a base line for the level of trips for each parcel. The number of trips that could be added and be handled by the existing interchange was also determined. All of the vehicles in Opus have to go through the segment of Bren Road, west of the west ramp intersections, on Smetana Drive. The study used the peak traffic volume times. The number of trips is higher in the evening than in the morning. The minimum accepted threshold for level of service in the urban area came up with 2,951 vehicles being able to be accommodated in that segment. The parcel compared to the total is the percentage of trips. The geographic factor looks at what percentage of the trips generated would use the interchange. The capacity with the proposed improvements was next calculated and equals 3,740 trips. The improvement would increase the capacity for an additional 789 vehicles in the peak time.

Mr. Heppelman identified the Smetana Drive/Bren Road intersection as one that fails acceptable wait times. Without the intersections being upgraded and the lane extended, the exit ramps off of Highway 169 would back up even further. The bridge would be lengthened over Highway 169 so that another lane could be added in the future. Wider ramps would store more vehicles. Once traffic moves at unacceptable levels, drivers use other routes.

Gordon continued the staff report and explained how fees would be calculated. Wischnack explained that approximately half of the funding for the project would be provided by the state. Grant money is being used to support job creation. One-on-one meetings have been held with individual property owners. The city council is tentatively scheduled to review the ordinance December 7, 2009. Specifics regarding road construction have not been created.

Lehman noted that the tentative opening date of the interchange is fall of 2011. He wanted to understand the statement that no residents would pay for the improvement. Wischnack explained that the city funds \$10 million and the state another \$10 million. Of the city's \$10 million, \$5 million would be paid by United Health Group (UHG). UHG is paying more than its required \$3.7 million to encourage the improvement to get done. The city is able to pay \$5 million through inter-fund loans. The amount of taxes created by this much value must be considered. UHG alone creates \$80 million in tax value. The taxes that are received from the property value are almost equal to what a payment would be on a loan. The city is also going through the state to apply for a revolving loan at 2 percent interest over 30 years. The payment is minimal and the city is able to cover it by the increase in revenue from taxes created by the project and also from the internal loan fund. There are a lot of financing aspects. The point is that the value created by the proposal is more than enough to pay the bond payment on the low-interest loan that would hopefully be approved by the state.

Lehman asked how the fee for each business would be determined. Wischnack explained that the part that would be charged to developers is the city's \$10 million portion. The calculation is based on the \$10 million. Of that, UHG, while willing to pay \$5 million, is responsible for only \$3.7. During the development process, a payback would be discussed. That has not been negotiated at this point. The city's exposure at the present time is \$5 million plus \$1.3 million to be paid back to UHG.

Lehman noted that the ordinance language talks in terms of a "purchase" taking place. He wondered if that would be the correct term to use in light of the other part of the ordinance that states that nothing would be gained by the "purchase." Gordon clarified that the ordinance is pretty specific in defining the first-come,

first-served method used to secure the 789 trips. Once a developer is at the door, the project has to be approved by the city and the city has to be willing to allocate the needed number of trips for that project. That happens mechanically with project approval and a development agreement that would specify the number of trips allocated to that project. If an approved project did not go through with construction, then those trips would be put back into the pool. The city has ultimate discretion on how the trips are given away through the development review process. Wischnack explained that a developer cannot sell his or her trip allocation.

Lehman read the intent to mean that the developer has no right to either the base or the increase amount being paid. If a developer purchased more than the base, then it could be negotiated. Lehman felt the ordinance could use some clarity describing what it means when it says that there is no "property right" to the trips. Wischnack agreed.

Lehman asked if adjacent property owners could conduct transactions between themselves if one has an excess and one has a shortage of trips. Gordon pondered that hypothetical for a while. The ordinance sets a base line for existing parcels. In the future, if some arrangement happens between property owners, then that would be a point to be reassessed, see what the properties have going between them, and try to translate that into trip generation. The base line represents conditions as we know them. Things will change over time and the inputs to the model will have to be continually reassessed.

Lehman stated that the ordinance reads that a tenant can do something with purchased trips "at will." He suggested including that the tenant would need permission from the city to do it. Gordon appreciated the suggestion. Some development requirements allow the city review power, but not all.

Walker followed up on the parking discussion. The Opus station diagram shows a parking ramp in District 2, Parcel 19, for 79 vehicles. He understood that light rail transit (LRT) stations create high density and must have parking spaces to support them. He asked how that situation would be handled. Gordon explained that the LRT station is part of the Opus plan. The ordinance would affect any commercial, office, or industrial development. It would not affect residential uses or parking ramps. Some of the use that would locate around the station area would generate a need for parking, but that would not require any payment. The hope is for the parking ramp to be funded by the metropolitan council. None of the proceeds from the fees would go back into payment for parking ramps. The issue is the generation back to Bren Road and what parcels would contribute to that. The parking ramp itself is not generating traffic. The parcels and its uses

account for the peak-hour trips. Walker was not sure he agreed with that. Parking ramps are going to create trips by providing parking space for users of the LRT station. Motorists who work downtown would park at the LRT ramp. It would generate trips. Gordon understood what Walker was saying.

Wischnack explained that the abundance of traffic makes it difficult to drive around Opus, so the attraction of a commuter driving to Opus to park is probably pretty low. She could see other users in residential properties in the park driving to the LRT parking and catching the train or taking the train to Opus. The sheer use of parking itself would not trigger the need to pay into the Interstate 169 trip generation model. The surrounding development caused by the parking ramp definitely should pay, excluding residential uses.

Walker asked if the exemptions would motivate developers to propose development that would meet the exemption guidelines and be 25,000 square feet or less, which would go against the grain of super density. Gordon acknowledged that land use changes would occur over time, but those would be reviewed by the planning commission and city council. The city is promoting Opus as a mixed-use area. He would expect some of it. The question is whether it would be an appropriate type of redevelopment for certain parcels. The 25,000 square feet references the trigger to require a traffic impact study.

Walker asked if all of the density projections are based on the present comprehensive guide plan. Wischnack answered affirmatively. The light rail brochure provides numbers that are a little high. It is a great visionary document to look at, but it overestimates the numbers. Gordon stated that the 500 residential units and 4,000 jobs included in the comprehensive guide plan are the basis for upgrading the interchange and the basis for the growth within Opus for the next 20 years.

Blatz found the ordinance complex and dense. She suggested including definitions at the beginning of the ordinance to make it more comprehensible. The conforming and nonconforming use section needs clarification. She questioned what would be considered "substantial compliance." Her understanding is that a developer would have 90 days to appeal. Gordon responded positively. She was not sure business owners would fully understand what would be allocated to him or her. She asked if the first paragraph of Section 3 gave the applicant the right to appeal if the use would be changed from an office to a restaurant. Gordon said that the ordinance speaks to the uses that are currently there. If the use never changes, then that would go forward until the ordinance is no longer needed. If it would need changes within the year, the use of the trips would need to be figured out. Change would continually occur and

prompt reevaluation each time. Wischnack explained that each person has the right to dispute what is in the ordinance. Blatz felt it would be beneficial for business owners to know that the document is an evolving document.

A. Thomas asked if a property owner would develop a property and increase the size and number of employees by 30 percent, regardless of whatever zone, would the developer pay for 30 percent of the road project. Gordon explained the first thing to do is to determine the business' allocated number of trips. If that equaled 80 percent, the increase in employees would put the business at 110 percent capacity, so the first 20 trips would be free and 10 of the trips would require compensation. Each business' capacity would need to be determined. Gordon stated that the city knows the square footage of every building in the Opus business park and the size of the sites. Those are some basic inputs. The methodology used to know the amount of trips is based on the use. The use is a formula that comes from the transportation industry based on a building's square footage and occupancy rate.

A. Thomas knew that the city council will look at the ordinance in more detail. He rattled off his concerns regarding definitions. It should be made clear that "purchasing" means purchasing from the city and spell out that the trips cannot be sold to another property owner. There should be a notification system regarding the appeal process. This ordinance will evolve over time as things occur in the area. The ordinance is very complex to understand what someone could be paying to get to the capacity and the cost of exceeding capacity. There is a little bit of a strain on funding for road repair in the city. That is very evident. If a business increases its capacity, then that would put strains on city roads. It will be a very intense area and it will get more intense when the LRT is completed.

Adams gave kudos to staff for coming up with something very creative. It is the best attempt to keep the costs equitable. He asked if the overlay district would disappear when the interchange costs have been recouped. Gordon answered affirmatively. Adams did not see a sunset section. Gordon stated that determining when that would happen is the \$64,000 question. The ordinance is premised on payment of fees for development that has no time schedule. Wischnack felt major amendments would be needed to make the ordinance applicable for other things in Opus. To change this mechanism to work for some other improvement, it would require a total rewrite of the ordinance. The ordinance is focused on the interchange. Adams confirmed that the ordinance will sunset at some point.

Adams asked how the UHG construction schedule fits in with the interchange's construction schedule. Wischnack responded that the interchange project would probably begin prior to the UHG construction and end about the same time.

Adams did not hear serious concerns at the public hearing he attended. Developers were not present at the meeting. He asked if feedback had been received from commercial developers. Wischnack met with major developers including Opus, JLT Group, GNK, and American Medical System. The big concern for them is when, how much, and how does it affect their individual properties. She was able to give them all of those pieces of information so that helped the discussion. Adams wondered if the ordinance would be an inhibiting factor for developers. Wischnack felt the current situation is inhibiting. There can be no development opportunity without doing the improvement.

Chair Cheleen asked how the high use area on the east was given a rating of 64 percent. It seemed generous to him. Mr. Heppelman stated that the figure is based on actual observations. The number is used to determine the baseline and to determine how many trips would need to be paid for when development exceeds the base amount. Chair Cheleen questioned if the area is at Level D now because Highway 169 is at capacity or is it acceptable. Mr. Heppelman responded that when the interchange is opened in 2001, the level will be at Level B or C. It would be much better. The area would reach Level D again because development would be allowed to happen until it reaches that level of congestion again.

Chair Cheleen asked if part of the road is in another community and if that community would fund part of the cost. Mr. Heppelman agreed that part of the yellow area is in another community. The project needs to have touchdown points in order to lighten the ramps. It does provide traffic flow for the east side of the road as well. Most of the trips are based on what the City of Edina's comprehensive guide plan says. It is not an area that the City of Edina anticipates changing or developing. It is primarily residential to the east. Chair Cheleen noted that the state could not put leverage on another city. Wischnack commented that Minnetonka City Engineer Lee Gustafson is good at making arrangements with other organizations, so she would not eliminate that from the scope of possibility at this point.

Chair Cheleen asked how many of the 789 trips UHG would use. Mr. Heppelman estimated 30 percent.

Chair Cheleen did not see any open land left. He asked for an estimate of how long the excess capacity would last. Gordon stated that staff had spent some

time doing estimates. It would depend on where the projects are located and the use. The LRT will input some new dynamics. There is no green space in Opus. It would all be redevelopment. There are so many dynamics and variables that come into play it is tough to begin to identify areas or parcels that may be the next to go.

Wischnack added that it is difficult to predict how much LRT will suppress traffic. The reduction in the number of trips is something that engineers have struggled with. Mr. Heppelman agreed on that point. Traffic models plan on transit use and shared rides increasing in the future. The planning has been for the next 20 years, based on the city's comprehensive guide plan. That is the horizon the traffic study looks at.

Blatz asked about businesses that expand, but implement multiple shifts and/or off-hour work times. She asked if mitigation would be provided. Wischnack responded positively. A lot of the businesses in Opus already use off-peak arrival and departure times. A certain percentage reduction is allowed for businesses with those types of considerations. Mr. Heppelman added that an issue arises with enforcement to ensure that businesses are doing what they said would be done. Staggering work hours would be included in the report and conditions of approval. A realistic reduction would result from providing bus and/or LTR passes.

Blatz asked what the level of service would be for pedestrians along the designated yellow area. Gordon explained that the street would have sidewalks. Mr. Heppelman described how a sidewalk would be provided on the north side. It would be an 8-foot walk and have buffers from the LRT and street. A sidewalk would not be provided on the south side of the bridge. There would be crossovers. It would be safer for the pedestrians to be on the north side and cross on the Edina side.

Wischnack provided that the Three Rivers Park District is planning to construct a trail north of the area. There would be a missing link north of the wetland area that could connect to the regional system.

The public hearing was opened.

Jane Ochrymowycz, Green Circle Drive, stated that:

- She is concerned because she volunteers quite a bit and she needs to leave for meetings during peak traffic times.
- The traffic coming off of Highway 169 at 8:15 a.m. this morning and

coming into Opus being rerouted through Shady Oak and through the one-way system when it would have no traffic lights would cause a considerable length of down time.

- The businesses on the east side of Highway 169 would be affected by this. Businesses had difficulty when Interstate 35W closed.
- Edina and Hopkins residents would be heard from.
- She imagined all the cars trying to come off of the interchange stopped.
- She thought light rail would decrease the number of vehicles coming into the area. She was surprised to hear that it may not decrease the number of trips that much.
- She is thrilled with the station being there and the 79 spaces. She looked forward to parking her car and going down to a play or something like that.
- The Bren Road and LRT construction would be a big hassle for the next 5 years.
- She was pleased with the location of Green Circle Drive.
- She would appreciate notification of future meetings. She serves on the condominium board this year.

Chair Cheleen noted that staff and state employees would take a real close look at how to reroute traffic in the area when the bridge is removed. Wischnack explained that crews would try to keep ramps open during construction. There has been some initial thought on trying to figure out detours. The Minnesota Department of Transportation will monitor construction as well as a local person on the construction team to provide accessibility to residents.

No additional testimony was submitted and the hearing was closed.

Adams moved, second by A. Thomas, to recommend that the city council adopt the ordinance on pages A1-A12 of the staff report, which amends section 300.35 regarding the Opus Overlay District.

A. Thomas, Walker, Adams, Blatz, Lehman, and Cheleen voted yes. Sjeklocha recused herself. Motion carried.

9. ADJOURNMENT

Blatz moved, second by Adams, to adjourn the meeting at 8:52 p.m. Motion carried unanimously.

By: Lois T. Mason
Lois T. Mason
Planning Secretary