

**MINNETONKA PLANNING COMMISSION  
MINUTES**

**APRIL 15, 2010**

**1. CALL TO ORDER**

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

**2. ROLL CALL**

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

Staff members present: Community Development Director Julie Wischnack, City Planner Loren Gordon, Principal Planner Susan Thomas, Associate Planner Jeff Thomson, Planning Technician Stephanie Scott-Sims, Natural Resource Manager Jo Colleran, and Project Engineer Nate Stanley.

**3. APPROVAL OF AGENDA:** The agenda was approved as submitted with additions provided in the change memo dated April 15, 2010.

**4. APPROVAL OF MINUTES:** April 1, 2010

*Adams moved, second by A. Thomas, to approve the April 1, 2010, meeting minutes as submitted.*

*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 April 5, 2010:

- Approved an amendment of the existing conditional use permit to increase the maximum occupancy at 13401 Lake Street Extension from 36 residents to 40 residents.
- Adopted a resolution approving the right of way ordinance which had telecommunications provisions.
- Adopted the ordinance and resolutions approving the items concerning United Health Group, Phase II, located at 9703 Data Park Drive.
- Adopted a resolution approving a conditional use permit with variances for El Toro Mexican Restaurant at 12608 Wayzata

Boulevard. The application for a liquor license was denied.

The next planning commission meeting will be May 6, 2010.

Gordon noted that due to one vacancy and one absence, all items will require four votes to pass a motion.

**6. REPORT FROM PLANNING COMMISSION MEMBERS**

Adams asked for the reason that the liquor license for El Toro was denied. Wischnack explained that staff discovered that the application did not include pertinent background information. She was unaware if the restaurant will still open.

Adams provided that he walked the boundary between Crest Ridge and the neighborhood. He was very impressed by the number of mature trees that were preserved and the size of the trees that were planted. All are 20-foot tall trees. The south end of the parking ramp is enclosed so there is no light intruding into the homes. He was very impressed and gave kudos to planning staff and the Opus Corporation. He ran into Opus staff checking on the trees. He mentioned that a stuffed coyote might be placed near the pond to deter geese.

**7. PUBLIC HEARINGS: CONSENT AGENDA**

No item was removed from the consent agenda for discussion or separate action.

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

**A. Amendment of the existing Minnetonka Civic Center sign plan at 14600 Minnetonka Boulevard (86047.10a)**

Adopt the amended City of Minnetonka Civic Center campus sign plan on pages A2–A7 of this report. Approval is based on the following findings:

- 1) The location and design of the permanent signs outlined and approved by the 2005 City of Minnetonka Civic Center sign plan meet the intent of the sign ordinance. The permanent signs allow for reasonable identification, while maintaining a high aesthetic standard.
- 2) The display of temporary banners at the main entrance of the City Hall building meets the intent of the sign ordinance:

- a. The banners are not visible to the traveling public or from off-site. As such, they do not add to roadway clutter, obstruct the view of oncoming traffic, or create a hazard to drivers or pedestrians.
- b. The banners are used as an architectural embellishment to the City Hall building. As such, they do not impact the logical flow of information.

***Lehman, Sjeklocha, A. Thomas, Adams, and Cheleen voted yes. Walker was absent. Motion carried and the item on the consent agenda was approved as submitted.***

## 8. PUBLIC HEARINGS

### A. Conditional use permit for a medical and dental clinic at 5101 County Road 101. (02037.10a)

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.

Sjeklocha asked if the use should be identified as a dental and medical clinic rather than just “medical clinic”. S. Thomas agreed that “dental” would be more accurate for this application. The term “medical” is more encompassing. It could be changed to include dental.

Frederic Soberay, applicant’s representative, appreciated S. Thomas’ fine job on the report. He was available to answer questions. He was excited about opening the new facility.

Adams noticed that Supercuts vacated its building. Mr. Soberay responded that the clinic would immediately occupy the entire space.

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

Sjeklocha requested “medical” be added to “dental” in the resolution.

***Sjeklocha moved, second by Adams, to recommend that the city council adopt the resolution on pages A6–A9 of the staff report with the addition of***

***“dental” to “medical clinic.” This resolution approves a conditional use permit for a medical or dental clinic to be operated out of the existing building at 5101 County Road 101. Approval is based on the finding that the proposal meets all required conditional use permit standards outlined in City Code 300.21 Subdivision 3(e). Approval is subject to the following conditions:***

- 1) Prior to issuance of a building permit for medical or dental or both use of the building, record this resolution with the county and return a copy of the recorded resolution to the city.
- 2) The city council may reasonably add or revise conditions to address any future unforeseen problems.
- 3) 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.
- 4) The applicant must agree to the above conditions in writing.

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

**B. Multiple variances to construct a new garage at 4908 Arlington Drive. (10004.10a)**

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.

Lehman asked if the north setback would meet ordinance requirements. S. Thomas answered affirmatively. It is setback 15 feet from the north property line.

In response to Lehman’s question, S. Thomas explained that a setback requirement would not change regardless of how close a neighbor’s house is located to the property line. The existing significant setback from the neighboring house could be used as justification for why a variance should be approved, but it has to be taken into consideration that the neighbor’s house location may change. Lehman noted that the offset orientation provides access for emergency vehicles. S. Thomas agreed that is a contributing factor, but, even if the

residence on the south were closer, staff's rationale for the variance and what is being proposed on the property itself would still stand.

Chair Cheleen noted that the application would improve the side yard setback by six inches. The garage was already there and could be built in the same location. S. Thomas agreed. Under state law, the applicants could tear down the existing structure and rebuild it just as it is. The proposal would decrease the nonconformity by pulling it back six inches, but the applicants need a variance to do so.

Chair Cheleen noted that presently water travels between the garage and house. He asked if there would be an adequate way to direct drainage when the two are joined together. Stanley stated that there would be enough room to implement a small swale to prevent drainage from crossing a property line and direct it to the public right of way. It does not seem like a large volume, but it needs to be addressed. A reasonable system could be implemented to take care of it.

Kjirsten Russel, 4908 Arlington Drive, applicant, stated that she is hoping to avoid completing a survey. In the interest of trying to save money, she hoped to avoid doing the survey. A rain garden and rock garden would be used to control drainage.

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

Adams asked S. Thomas why a survey is required. S. Thomas responded that a survey ensures that building and fire code requirements are met. Specific construction standards are required if any portion of a building is within three feet of a property line. The building official would need to confirm that the addition meets the three-foot setback. The current survey was completed in the 1970s. An updated survey allows more reassurance for the building official and existing and future property owners. Staff has seen several variances that had been granted for setbacks greater than three feet. In a few cases when construction begins, neighbors and building officials question whether the setback is actually being met. Upon completion of an actual survey, it has been discovered that the setback was not met.

Adams asked for the price of a survey. Gordon estimated \$1,000.

Lehman was sympathetic, but noted that the applicant could rebuild the garage in the same footprint, not be subject to paying for a survey or variance request, and

result in the garage being more nonconforming. S. Thomas stated that staff feels the condition is in accordance with today's fire and building codes.

Adams noted that the survey stakes are visible. He felt confident that the location of lot lines has been accurately identified. Because the application would be less nonconforming than the current nonconforming structure, since it would be further from the lot line, he supported striking the condition and not requiring a survey.

A. Thomas asked what would happen if the application would be denied. He leaned toward not waiving the requirement. He did not like setting precedents. He sympathized with the applicants, but there is a reason for the requirement. He did support staff's recommendation. He asked for the applicants' recourse if they wished to challenge this condition. S. Thomas explained that the applicant could appeal denial of the application or a condition of approval to the city council.

Lehman agreed with A. Thomas. He sympathized with the applicants, but believed the survey is necessary to prevent surprises. He supported staff's recommendation.

Sjeklocha supported staff's recommendation.

Chair Cheleen favored a motion supporting staff's recommendation for the sake of consistency and to allow the application to move ahead without further delay.

***Lehman moved, second by Adams, to adopt the resolution on pages A12–A15 of the staff report, which approves the proposed side yard setback from 10 feet to 3 feet, an aggregate side yard setback from 30 feet to 18 feet, and a front yard setback variance from 30 feet to 18 feet for construction of an attached garage at 4908 Arlington Drive. 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 non-conforming setbacks of the existing house present an undue hardship:
    - (1) An attached, two-stall garage could not be constructed on the property such that it: (1) has a visual association with the

house and street; (2) maintains the home's existing building lines; and (3) complies with required setback requirements.

- (2) The only location a standard two-stall, attached garage could be built is at the rear of the existing home. However, such location would require: (1) removal of an existing deck; (2) grading within an existing slope; and (3) an increase in driveway length, increasing impervious surface.
- b. **UNIQUE CIRCUMSTANCE:** The proposed attached garage would be constructed in the same general location as an existing detached garage. The location of this garage was approved by variance over 30 years ago. This is a unique circumstance.
  - c. **NEIGHBORHOOD CHARACTER:** The proposed garage would not negatively impact the essential character of the surrounding neighborhood.
    - (1) The proposed garage would be located in the same general area as the existing garage. In fact, it would reduce the existing non-conforming side yard and aggregate side yard setbacks by 6 inches.
    - (2) The proposed garage would continue to be located behind the existing home. Therefore, it would not encroach with the required front yard setback more than existing home.

Approval is subject to the following conditions:

- 1) The garage must be constructed in substantial compliance with the following plans:
  - Garage and Mud Room Plan date-stamped February 18, 2010
  - Front Elevation Plan date-stamped February 18, 2010
- 2) 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. An updated survey must be submitted in conjunction with the building permit for the proposed garage. The survey must confirm

that the new garage will be set back at least 3 feet from the side property line.

- c. A grading/drainage plan must be submitted in conjunction with the building permit application. The plan must indicate how drainage will be directed to the east without being directed onto the neighboring property to the south.
  - d. Install 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.
- 3) This variance will end on December 31, 2011, unless the city has issued a building permit for the project covered by this variance or approved a time extension.

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

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

**C. Site and building plan review with setback variances for a parking lot expansion at 10801 Wayzata Boulevard. (10005.10a)**

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.

Sjeklocha asked if occupancy numbers are tied to land use. Thomson answered that typically there is no maximum occupancy requirement for zoning approvals. When a building is constructed, parking requirements are based on gross square footage of the building. Minimum parking requirements would be determined by gross square footage. Parking requirements provide the minimum number of stalls required for the majority of sites after taking into consideration that individual sites will have different numbers of employees, types of uses, and amounts of storage space, cafeteria areas, and work out facilities.

Sjeklocha confirmed with Thomson that a business could add 100 employees without city review as long as the building did not increase its size.

Sjeklocha questioned why the parking lot was nonconforming in the beginning. Thomson found the original site plan for the property. At the time it was approved, 166 parking stalls were proposed which would have met the minimum parking requirement of 164 stalls. The south parking lot shows 29 stalls on the map, but there are actually only 13 usable stalls. The trash enclosure and handicap parking stalls decreased the number of standard stalls to 13.

Sjeklocha asked what the city's response would have been at the time. Thomson explained that parking requirements are reviewed prior to issuance of a building permit. When the changes were made to the south parking lot is unknown. If parking becomes an issue, then restriping or adding parking stalls to meet the minimum ordinance requirement would be required to meet the conditions of approval.

Adams asked if the parking ordinance is being looked at for revisions. Thomson responded affirmatively. Adams asked if the use would need to increase or decrease the number of required parking stalls. Gordon explained that staff would be inclined to follow ordinance requirements since the opportunity to establish cross parking easements with other properties would be limited and the site is not easily accessible for pedestrian or bike traffic.

Adams noted that the assumption is that commuters will continue to drive vehicles to work. Gordon stated that opportunities will be looked at to provide a reason to reduce the number of required parking stalls.

Chair Cheleen noted that the plan was changed to save trees. He thanked the applicant for being a good citizen.

Adams asked if filling a steep embankment would require a special permit. Thomson explained that it would be reviewed with the grading plan. The amount of fill does not require a conditional use permit. A two-foot retaining wall would be built at the far edge of the parking stalls before it drops into the storm water pond.

John Dietrich, R.L.K., Incorporated, 6110 Blue Circle Drive, principal landscape architect for the applicant, agreed with the conditions of approval and asked for the commission's support. He introduced Brian Keegan, vice president of engineering for AmeriPride, applicant.

Mr. Keegan thanked staff and the commission. He stated that AmeriPride has been located in the Minneapolis/St. Paul area for over 95 years. It moved to Minnetonka in 2001. It has grown to a point where more space is needed. The business would bring more jobs to the community. It was good to meet the

neighbors and discuss mutual concerns. The plan was modified to address the concerns.

Mr. Dietrich felt fortunate to attend the meeting. He commended staff for their work. The plan would not change the access. The west neighbor supports the proposal. The proposal would provide storm water quality which today is not being met. The rain garden and bioswale would be suppressed. The plan was designed to save significant trees. He understood the conditions of approval and is ready to implement the project.

Adams noticed that the trash enclosures are not being used. He asked if removal of the trash enclosures had been considered. Mr. Dietrich has been told that the trash receptacles are used on a regular basis. They are picked up during day-time hours. He would have to check with the building maintenance staff.

Adams asked if AmeriPride provides incentives to their employees to make use of public transit. He did not see bike racks on the plan. Mr. Dietrich stated that MTC does stop at the site. Schedules for the bus are available in the building. He would support adding a condition which would require bike racks. He was not aware of cash incentives for bus passes. Mr. Keegan reported that he spoke to the facility's manager. The dumpsters are located in that lot to allow access in the winter. Some employees took the bus when the business was located downtown. At that time free bus passes were offered for all employees. That was abandoned when the business moved to Minnetonka because it was no longer being used. The bus schedule is designed to bring commuters into downtown to work and out of downtown to go home in the evening.

Adams asked where the mailbox would be located. Mr. Keegan stated that he needs to get approval from the post office to move it to the north east corner. It would still be accessible to the public.

The public hearing was opened.

Barb DeMeuse, 1509 Archwood Road, stated that she was the one at the neighborhood meeting who favored removing the 14 parking stalls facing Archwood Road. She was extremely glad those were removed. It is not fair to ask for a variance on all three sides. The point intrusion on the east side could be accommodated by removing one parking stall. Thomson clarified that 2 stalls would extend into the setback requirement. The closest point is at 7 feet. The elimination of 2 stalls would be necessary to meet the setback requirement.

Dr. Ken DeMeuse, 1509 Archwood Road, stated that he travels Archwood Road several times a day. It leads into a residential neighborhood. He heard a commissioner say that it is important that the homeowner conduct a survey to comply with policies and regulations. This is a company that wants three variances. He has no problem with the variances on the north and west sides, but he has a major problem with the entire east side. He is dumbfounded that no more incentive is given to employees to ride the bus. He stressed that a huge, Metro Transit parking garage is located one quarter of a mile away. It is easily accessible to the employees. Not having a bike rack is unbelievable. He does not think a concerted effort by a good corporate citizen is doing enough.

Helen Strand, 10412 Crestridge Drive, stated that she fought very hard to keep a distance between commercial and R-1. She just wants to live there and have a place to calm down and relax. She opposes a business being located so close to her residence. She does not care about the other variances, but opposes the variance on the Archwood Road side.

Denny Strand, 10412 Crestridge Drive, recalled the meetings and discussions when the site was developed beginning in 1978. He brought his notes from numerous meetings and petitions. The trees are now mature. He opposed them being removed. There is no undue hardship. At that time, he met with the builder, planning commission, and city council a dozen times. The conditions should not disappear because a new tenant is moving in. He has been with companies which leased space close by because the current building was not big enough. Every building on the service road has a sign advertising space for lease. A deal can be made. This is not a hardship. He had employees in Las Vegas and Mexico who did video conferencing three times a week.

Lehman asked Mr. Strand to identify the specific parts of the proposal that he opposes. Mr. Strand stated it was the whole idea. The trust in government goes away when he is told one thing one day, but tomorrow things change because of a hardship. He questioned why months and years were spent coming up with the current building, parking lot, and buffer.

Mr. Dietrich said that AmeriPride has run a successful business. The parking stalls number over 200. He understood the buffer zone and setbacks. AmeriPride did not build the building. In 1984, Interstate 394 did not exist. Changes do impact the entire area. The applicant has worked within the ordinances and to maintain the setbacks and character of the neighborhood because it is an office, commercially-zoned piece of property. East of Archwood Road is a commercially-zoned piece of property. Residential is located on the south side. That is why attention was paid to preserving the significant trees along Archwood as well as

planting over 20 trees and 250 shrubs. He wants the parking lot to fit into the mature landscape and not cause a hardship to adjoining residences. The parking area is needed for the business to be successful. He requested the commission's support.

No additional testimony was submitted and the hearing was closed.

Lehman asked staff to review what was approved in the original site plan. Thomson provided the original site plan approved by the city council. There is a restrictive covenant on the property that restricts the southern 100 feet. It covers the wooded slope and most of the parking lot on the southwest corner of the building. A restrictive covenant prohibits changes within the area, prevents tree removal, and allows only the improvements approved in the site plan.

Lehman asked if the rest of the site, not included in the restrictive covenant, would have restrictions. Thomson explained that any future improvements to the site would need to meet zoning ordinance requirements. The one unique aspect of the site is the restrictive covenant which does restrict future development of the 100 feet on the south side of the building, but not the entire parcel.

Adams asked if the north variance also needs Minnesota Department of Transportation (MNDOT) or county approval. Thomson clarified that the setback variance does not require MNDOT approval, but the landscaping plan which includes shrubs and trees to be planted within the right of way on the north side would require MNDOT approval.

Chair Cheleen appreciated the neighbors' comments. The proposal would improve the property by changing the drainage, adding underground storage, and cleaning storm water. All of the variances are on the commercial end of the property. Chair Cheleen was not sure if the changes would be able to be seen from Archwood Road. The applicant has responded to neighbors' concerns as much as possible. This would not set a precedent.

***Adams moved, second by Sjeklocha, to adopt the resolution on pages A24-A30 of the staff report, which approves site and building plan review for an expansion of the parking lot at 10801 Wayzata Boulevard, with the following variances:***

- Parking lot setback variance from 20 feet to 2 feet from the north property line.
- Parking lot setback variance from 20 feet to 3 feet from the west property line.

- Parking lot setback variance from 20 feet to 7 feet from the east property line.

Approval is based on the following findings:

- 1) The proposal meets all ordinances and standards for site and building plan review.
- 2) The proposal meets the required standards for a variance, because:
  - a. **UNDUE HARDSHIP:** There is an undue hardship due to the conditions of the site. The location of the existing building and parking lots present a hardship in expanding the parking lot to provide the required number of parking stalls and to meet parking demands.
  - b. **UNIQUE CIRCUMSTANCE:** The location of the existing building and parking lots is a circumstance that is not common to every similarly-situated property.
  - c. **INTENT OF THE ORDINANCE:** The setback variances would meet the intent of the ordinance to provide adequate separation between properties. The proposed parking lot would be adjacent to the parking lot on the property to the west; it would be located over 50 feet from the roadway on the north side; and it would be a minimal point intrusion into the setback on the east side.
  - d. **NEIGHBORHOOD CHARACTER:** The parking lot would not adversely impact the character of the neighborhood. The proposed plan would maintain the significant buffer that exists to the surrounding residential properties.

Approval is subject to the following conditions:

- 1) Subject to staff approval, the site must be developed and maintained in substantial conformance with the following plans, unless modified by the conditions below:
  - Demolition plan date-stamped March 26, 2010
  - Site plan date-stamped March 26, 2010
  - Grading and erosion control plan date-stamped March 26, 2010

- Utility plan date-stamped March 26, 2010
  - Landscape plan date-stamped March 26, 2010
- 2) A grading permit is required. Unless authorized by appropriate staff, no site work may begin until a complete grading permit application has been submitted, reviewed by staff, and approved. Prior to issuance of a grading permit:
- a. Submit the following items for staff review and approval:
- (1) Final demolition, site, grading, drainage, utility and erosion control plans: The floodplain elevation for the stormwater pond on the northeast corner of the property must be shown on the plans. If necessary, the parking stalls must be adjusted to meet the 10-foot setback requirement.
  - (2) Final landscaping and tree mitigation plan: The plan must meet minimum landscaping and mitigation requirements as outlined in ordinance. However, at the sole discretion of natural resources staff, mitigation may be decreased based on any of the following: the health of trees removed; the ability to appropriately install trees and other shrubbery given existing vegetation and/or topography. The final landscape plan must substitute Colorado Spruce with Black Hill Spruce.
  - (3) Illumination plan
  - (4) SWPPP
  - (5) Construction management plan: This plan must be in a city approved format and outline minimum site management practices and penalties for non-compliance. If the builder is the same entity doing grading work on the site, the construction management plan submitted at the time of grading permit may fulfill this requirement.
  - (6) Cash escrow in an 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:

- 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
  - If compliance is not achieved, the city will use any or all of the escrow dollars to correct any erosion and/or grading problems.
- (7) Individual letters of credit or cash escrow for 125% of a bid cost or 150% of an estimated cost to comply with grading permit, landscaping requirements, and to restore the site. The developer may submit one itemized letter of credit, if approved by staff. The city will not release or reduce the letters of credit or cash escrow until work has been completed according to the plans approved by the city.
- (8) All required administration, engineering and hook-up fees.
- b. Install a temporary rock driveway, erosion control, tree and wetland protection fencing for staff inspection. These items must be maintained throughout the course of construction.
- c. Permits may be required from other outside agencies including, but not limited to Hennepin County, the Bassett Creek Watershed District, and the MPCA. It is the applicant's and/or property owner's responsibility to obtain any necessary permits. Copies of all required permits must be submitted to the city.
- 3) The property owner is responsible for replacing any required landscaping that dies. The property owner is also responsible for monitoring the health of impacted trees and replacing any trees that die or severely decline.
- 4) Construction must begin by December 31, 2011 unless the planning commission grants a time extension.

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

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

Adams encourages AmeriPride to look at incentives for alternative transportation including bike racks. He asked AmeriPride and its neighbors to take a look at maintaining Archwood Lane. Someone needs to adopt the road.

**D. Items concerning a proposed Goodwill Retail Store at 13820 Wayzata Boulevard. (89016.10a)**

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

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

Adams saw that one of the Wayzata Boulevard access points would be closed. He asked Scott-Sims to explain the rationale behind it. Scott-Sims responded that it was due to the close proximity of the intersection to Horn Drive and Wayzata Boulevard and to prevent issues with motorists making a left turn out of the site to access Horn Drive. There has not been a report of an accident at the intersection since 2004.

Lehman asked if pavement extended from west to east instead of green space, then there would be no need for a variance for a drive aisle because the whole area would be paved. Scott-Sims agreed. Because of the site's location adjacent to neighbors, it makes locating the drop off on the west side reasonable. Most Goodwill locations are not located adjacent to single-family residences.

Lehman asked if the exit onto Horn Drive would be right-turn only. Scott-Sims answered affirmatively. Lehman asked if a barrier would be provided. Scott-Sims stated that conditions of approval would require appropriate marking of entrances and exits from the site. Staff would meet with the applicant to finalize the requirements. Lehman noted that snow obscures striping in the winter.

Chair Cheleen recessed and reconvened the meeting.

Gordon provided copies of the change memo dated April 15, 2010 to those in attendance.

Craig Vaughn, SRF Consulting Group, Inc. and traffic consultant for the city, addressed coercing the right-in and right-out accesses. Curving the curb adjacent to Horn Drive and running it at a north-west angle would limit movement at the access point.

Adams saw one entrance off of Wayzata Boulevard into the site. Mr. Vaughn addressed that closure of the east access point onto Wayzata Boulevard was recommended due to safety concerns. By limiting access, conflicts would be resolved and safety increased. Mr. Vaughn explained that if access onto Horn Drive would be limited to right-in and right-out exit only, there would be one ingress point into the site on Wayzata Boulevard at the western-most access point. Adams noted that the site would go from having three access points to one and a half.

Sjeklocha asked what time period the p.m. peak period covers. Mr. Vaughn answered the peak hours of the adjacent street traffic. One could assume it is anytime over an hour time period from 4 p.m. to 6:30 p.m. and coincides with when adjacent office and retail development traffic is on the street traveling home. For this particular location, that would be between 4:45 p.m. and 5:45 p.m.

Sjeklocha asked for clarification about the resolution. Sjeklocha asked whether staff's opinion about not having the four parking stalls on the north side of the property in the resolution that was provided in the change memo. Mr. Gordon stated that if it is not in there, we will make it a part of the conditions. Sjeklocha asked whether the right turn off of Horn Drive is in the resolution. Mr. Gordon stated that it should be. Sjeklocha asked whether the closing of the easterly access point off of Wayzata Boulevard is in there. Mr. Gordon stated that it should be. Gordon confirmed that the right turn off Horn Drive and closing the east access off of Wayzata Boulevard should be added to the resolution.

Sjeklocha asked if there would be an outside sound system. Scott-Sims was not aware of one. She referred the question to the applicant.

Adams questioned how many trees would be removed and whether they are significant, as well as what the impact of the additional run off would be from the increase in the number of parking stalls. Stanley explained that staff has reviewed the drainage report, calculations and plans submitted by the applicant and feels that adequate measures have been taken to address drainage. The proposal would improve the discharge rate toward the swale area north of the site as well as to the Wayzata Boulevard right of way. Collieran explained that all of the trees on the site are significant cottonwood trees. A cottonwood tree, regardless of size, is not classified as a high-priority tree. There are a total of 18 trees that would be removed and an additional 2 trees that would have critical root zones impacted. The trees are defined by ordinance as significant, but not high-priority trees due to size and species.

Chair Cheleen asked if deliveries would be made with semitrailers or smaller delivery vans. Chair Cheleen was concerned that if they are large vehicles, it would prohibit entering the site from Horn Drive. He did not know if the turn would be too tight to make. Scott-Sims understood that deliveries would be made by semitrailers. The applicant's engineer prepared a plan for truck traffic access which depicted how the trucks would maneuver on site and back up into the loading dock area. It is her understanding that these deliveries would be made primarily early in the morning or in the evening after most customers have left. She invited the applicant to provide additional information.

Chair Cheleen noted that there would be a sign on the frontage road indicating where motorists should enter to drop off donations. If that sign is missed, then the driver would enter the neighborhood to turn around. Scott-Sims agreed that would occur until donators become familiar with the site. Chair Cheleen wondered what if the Horn Drive entrance was posted as a left-turn in and right-turn-out-only access. Then there would be no reason to enter the neighborhood. Scott-Sims stated that had been discussed with the applicant. Staff determined that an exit only would be the most palatable for the residents instead of a full access point. Gordon clarified that the idea would be to force the design to make the access be an exit only. He described the traffic pattern.

Peter Coyle, representing the applicant, appreciated the opportunity to speak at the meeting. He stated that:

- The original proposal submitted to staff and which was presented to the neighborhood for consideration included two full accesses on Wayzata Boulevard and full access on Horn Drive based on the current long-standing use of the site as a guided and zoned retail site. There is a modest increase in traffic; however, there is plenty of capacity on Wayzata Boulevard and Horn Drive as the traffic engineer confirmed. In the course of the neighborhood and staff discussions, it became clear that traffic is a primary concern. The primary design change meant reengineering the site and increasing construction costs on the west side by reorienting the drop off traffic to the west side's new, dedicated service lane. The new drive lane triggered variances, but the applicant agreed to it because residents did not want to see drop off traffic on Horn Drive. One of the benefits of the drive aisle would allow more stacking space within the property. The neighborhood requested the Horn Drive access be closed. The traffic engineer's recommendation was to close the second access on Wayzata Boulevard, but not limiting the

access on Horn Drive. It is staff's recommendation that the Horn Drive access be limited from a full access to only an exit.

- The applicant disagreed with restricting the Horn Drive access. The applicant believes the Horn Drive access should be a full access. He appreciated Chair Cheleen's excellent suggestion to limit it to left in and right out only. He would agree to make that limitation.
- The applicant already agreed to the modified plan to engineer the site to an exit only. The applicant would agree to close off the easterly access on Wayzata Blvd. The proposal would rely on full access on the westerly access on Wayzata Blvd.
- As part of the compromise, the service lane would be shifted west of the building for drop offs. Access points are valuable. They have property interest attached to them. Typically, when governmental bodies want to close them, they have to be acquired or condemned through the site plan review process and if there is traffic justification to require a change that would become an element of discussion as well.
- The applicant is willing to restrict the Horn Drive access to a left-in and right-out only access. Doing so is a compromise on the owner's property right and the applicant is entitled to protect.
- The applicant is willing to accept access changes as a condition of the resolution.
- The suggested limitation of the 4 parking stalls on the north is staff's recommendation, not requested by the applicant. The applicant's plan includes the 4 stalls and they are intended to be designated as employee-only parking. The parking stalls are needed for the proposed use and meet the requirements of the city's ordinance in terms of fitting the site. The stalls would not trigger a variance or create excess runoff.
- Semi trailers would make deliveries to the site. Deliveries vary from one to five times a week. This is not a traditional retail setting in that there are various merchandisers showing up. Deliveries are dedicated, controlled, and managed by Goodwill employees who bring a truck with a trailer. When the trailer is unloaded and reloaded (usually early in the morning), the truck returns to take the trailer away in about ten minutes. It would not be a recurring, constant source of disruption.
- The drive lane around the west and north of the site would be used for vehicle traffic. The existing loading docks on the northeast corner would be used by the tractor trailer. There would be extremely limited truck traffic compared to traditional retail.

- There would be no outside sound system.

Sjeklocha clarified the truck traffic pattern with Mr. Coyle. Mr. Coyle said that the benefit of having a Goodwill employee drive the truck is that the truck activity would be directly managed. The truck route could be signed.

Mr. Coyle continued:

- The site is guided for retail or commercial use. No change is being requested. There has been long-standing retail use of the property. Modest changes would be made to the property for improved circulation with no need for master development plan.
- The only reason for the variance is due to the applicant agreeing to move the drive aisle from the east side to the west side, which is the only reason the master development plan issue is under review. Otherwise, it would only need site plan approval.
- Goodwill has a long, excellent reputation in the twin cities. There are 18 retail locations currently. The stores want to be a valuable, contributing member of the community.
- Goodwill was green before green became popular. This is a valuable service to the community. Eighty-five percent of Goodwill's proceeds go into its service mission.
- The developer of the site, Oppidan, is a long-time corporate member of the community. The developer will continue to own the site. It will be well managed and maintained. He has represented the applicant for 15 years and can say that in good faith.
- The site plan represents modest changes. The improvement of the drop-off shed includes garage doors that would close in the evening for security purposes. It would be less than 2 percent of a change to the overall improvements to the site.
- Parking stalls would be added to improve circulation to the property.
- Landscaping to the north would be improved in response to neighbors' concerns regarding buffering.
- The applicant already agreed to cap the light fixtures as a safety measure and to prevent light traveling to neighboring properties on the north.
- The hours of operation would be standard retail, but low intensity retail.
- The applicant has worked hard with staff to present a plan that complies within the letter of the ordinance, but also the spirit of the

ordinance. The improvements are intended to respond to concerns from staff and neighbors. That is the only reason variances are before the commission this evening.

- Other than the improvements, the site would be code compliant. It would not generate unusual traffic issues or require any extraordinary measures. The proposal has conceded to the restriction on the access to Wayzata Boulevard on the east end.
- He encouraged commissioners to support the plan.
- If the variance issue is a problem, then the applicant is comfortable reverting back to the original plan which eliminates the variances.

Sjeklocha asked Mr. Coyle to describe the buffering in the back. Mr. Coyle elaborated on the landscape plan. It depicts existing vegetation, a new parking area on the north, and approximately one dozen conifers that would be planted along the edge. A fence could be discussed. Landscaping is permanent, but fences deteriorate and require maintenance. Additional berming in that area is restricted by the drainage area. He was open to suggestions. Nothing to the north would be disturbed.

Lehman asked if Mr. Coyle was comfortable with the site plan that includes the parking and access off of Horn Drive. Mr. Coyle answered affirmatively.

The public hearing was opened.

Henry Blake, 13911 Knollway Drive South, wondered if there had been discussion of running traffic in a counter-clockwise direction instead of clockwise. Scott-Sims stated that was considered by the traffic consultant. S. Thomas explained that staff is concerned that counter-clockwise circulation did not address neighbors' concerns relating to stacking of traffic onto Horn Drive. Staff felt that the clockwise direction around the building lengthened the queuing area and mitigated the concern.

Chair Cheleen read that there would be space for 7 cars with the clockwise direction, but only 3 for counter-clockwise direction.

Mr. Blake said that the neighborhood accepted that Goodwill would be located in the space. It is a matter of creating the optimum traffic pattern for the neighborhood, Goodwill, the city, and people dropping off items and shopping in the store. He wondered if there would be a way to keep Horn Drive completely residential and have no commercial traffic on it at all. All of the traffic now is entering and exiting on commercial properties. Horn Drive is the only residential road on the entire frontage road. He asked why traffic could not go in the right

entrance that is being proposed to be closed off and continue down all of the diagonal parking spaces. Some customers park and some continue left to the drop off point and down the other side of the building to exit back onto Wayzata Boulevard. It would keep Horn Drive completely free from commercial traffic. It would still leave the issue of the semi dropping off the trailer. His concern is that the entrance on the northeast side of the building off of Horn Drive was there to allow semis to back in. The proposed plan would have the semi enter the parking lot and maneuver back into the dock space. A semi may need to use its horn to back into the dock space. If that is the case, then the access needs to stay open. It would not need to stay open for traffic to go in or out. If the semi had to get in there, a gate could be put there which could be opened each time the semi would drop off. That is his suggestion.

Mr. Blake noted a net increase of traffic in the area which is filling up a void from some of the other businesses. He is concerned that if some of the other businesses change over the years, then their traffic could increase as well. If the excess parking is used now, then it could restrict what happens in the future for another business.

Rachel Anderson, 13540 Knollway Drive North, submitted a petition. She stated that:

- She is very concerned with additional traffic. She has a young child who likes to play in the front yard. More motorists could miss a turn and pass her neighborhood.
- She provided pictures of other Goodwill stores and showed their store sizes, parking lots, and room to wrap around.
- She questioned what would happen when shoppers and people dropping off items exit the lot.
- Certain times of the year Toys R Us has lots of traffic. There will be busier donation times.
- She has dropped off items to the Goodwill in Hopkins during her lunch break. There have been 20 to 25 vehicles waiting to drop off items.
- The proposed site could handle 6 or 7 vehicles and then back up onto Wayzata Boulevard in both directions.
- Horn Drive is the only way in and out of her neighborhood. She questioned what would happen if someone had a medical emergency. There are already issues with car dealers along Wayzata Boulevard bringing trucks into their neighborhood. One truck full of cars got stuck in her neighborhood for an hour last winter.

Karen Parisian, 910 Horn Drive, can see traffic entering her neighborhood from her window. She stated that the street is not plowed to handle semis. She provided a picture of a semi which got stuck and blocked the inbound and outbound traffic for an hour. The mail carrier was trapped in the neighborhood for an hour along with other motorists. She was concerned that semis and other vehicles would enter the neighborhood. There are "no loading" and "no unloading" signs posted on Wayzata Boulevard and in her neighborhood. She calls the police and the police say, "Where are they supposed to do it?" I say, "They are supposed to do it on their property." It makes no difference. There is no other way to get out of the neighborhood.

Ms. Parisian provided pictures of vehicles being unloaded onto Horn Drive; a semi turning around; a Mazarati truck using the neighborhood to turn around; and vehicles being unloaded onto Wayzata Boulevard. Vehicles have to cross double lines to pass the semi unloading. She took all of the pictures within the last year. It happens each week. The police seem to not care. It happens in every season. The police officer was not sure how the semi would be removed from the street. He said that if it had been full of vehicles, it would not have been able to get it out of there. She asked what would happen if someone had a heart attack. The officer said, "That is a really good question." Her question is what can be done to stop the traffic created by the businesses from entering her neighborhood. There is already a traffic problem and her concern is small children. There are a lot of kids in the neighborhood.

Adams asked why the trucks were in her neighborhood when there are no access points to car dealerships off of Horn Drive. Ms. Parisian did not know. She believes that they probably missed their turns. Adams stated that the drivers are probably from out of state and are lost and that someone making regular deliveries probably does not have that problem. Ms. Parisian stated that loading and unloading on Wayzata Boulevard is illegal and puts lives in danger. She asked what would happen if they started to load and unload on Horn Drive. Adams stated that they would get ticketed. Ms. Parisian stated that she has called the police and they will not ticket them. Adams stated that that is not the issue tonight. Ms. Parisian stated that it is their issue.

Linda Stewart, 13910 Knollway Drive South, provided documents that were to be distributed as part of the packet; however, they were left out of that packet and provided to commissioners that evening. She urged commissioners to read them. Many agreements were made with the city, neighbors, and developer in regard to Ridgedale Festival, the Toys R Us site. Many of the items have been constant problems. Unless she calls security to lock the gate, it is not done. The

agreement requires it be done every morning and evening. A sign behind the Toys R Us designates that deliveries are permitted during certain hours and that trucks would never be full-size semis.

Ms. Stewart said that the wetland is a mitigating pond-type system similar to the proposed development. In her documents, it is noted that the pond should remain completely dry because it is at elevation 946. The pond is never dry. So when the city and hydrologist recommend that a certain holding pond would do a certain function, she is extremely skeptical.

Ms. Stewart stated that Toys R Us agreed that none of its trucks would exceed 50 feet in length. The trailer is 50 feet alone. The building and loading dock were designed for trucks no larger than 50 feet. Her son worked for Toys R Us and learned that any driver who came in with a delivery said, "I got the short straw."

Ms. Stewart contacted the pollution control agency (PCA) because the site used to have a gas station. The site has not been used as a gas station since 1965. She was concerned that there may be underground tanks or pollution on the site. An inspector from the PCA found a reference to the site that said "Tanks were removed in the late 1950s. Contamination at that time was taken care of." She requested research be done because it seemed unusual that the tanks would be removed prior to the gas station. The inspector said there was contamination found on the site in 1999, it was dealt with, and the file closed. This site has an identification number with the PCA: 12633. This site has more to it than her biggest concern which is traffic. She wants to make sure that if excavation is done for a pond that the soil is tested and the PCA is aware. The site has not had significant change since the 1960s.

Ms. Stewart asked Mr. Vaughn if the traffic study done for the Hopkins and Maple Grove Goodwill sites was done on Thursday, April 1, 2010. Ms. Stewart said that Thursday is not Goodwill's busiest time. It would be more appropriate if more accurate readings were done during the busiest time of the year at the busiest time of the week.

Ms. Stewart learned from engineering staff that the Horn Drive entrance was created in 2005. It has been there longer than that. Curb and gutter was constructed in the neighborhood in 2005. A variance was never requested to add a driveway in 2005. She asked why that is a viable site to have in and out traffic, much less delivery trucks.

Ms. Stewart stated that:

- Driving into the north parking area leads to a dead end. There is no circulation. She described the traffic pattern.
- She questioned why more parking was not added on the south of the building rather than leaving a dead end parking area on the north.
- It has been suggested that the drop off donation site be located around the corner and put a curb cut into the Toys R Us parking lot. Morrie's Mazda auto dealership has 25 to 50 of their employees parking on the south side, facing Wayzata Boulevard, every day. She has talked to the city, Morrie's Mazda, and Toys R Us representatives.
- The cottonwoods are significant to the residents. Black Hills Spruce trees were planted along the property line. Of the 20 or 30 planted, 1 is still alive. She volunteered herself and her consultant to meet with staff regarding appropriate screening choices.
- There is a fence behind Toys R Us. It would be a good idea to continue the fence to provide continuity and keep down the noise and lights for the neighborhood.
- Snow removal has been pushed into the drainage side of Toys R Us. Morrie's Mazda is required to remove snow from its property. A management plan for snow removal is necessary.
- There are 2 other donation-type retail uses in the neighborhood. Once Upon a Child does not have a drop off. Clothes Mentor buys and sells women's clothes. Goodwill takes household items, clothes, and more. It creates a much larger traffic issue than the other two.
- Mr. Coyle said that Goodwill is "not traditional retail." This not traditional use of retail site with the extra traffic that is involved with this particular type of business and the volume is the big concern of the neighborhood.

Richard Stewart, 13910 Knollway South, appreciated staff and commissioners' patience. He stated that:

- He asked about stacking of vehicles. Semitrailers entering the site have knocked down the fence numerous times.
- He asked if the size of a semitrailer entering the site would be limited. Home Valu semitrailers got stuck. He flagged them in so he could get out of the neighborhood. Before the curb cuts were put in, it was a mess.

- He wanted to know the water level of the pond. He was concerned that a bigger problem would be created.
- The rerouting questions have been answered. That was nice. He wanted a shiny, unique retail use.
- The police have said that they do not come to the site for traffic complaints anymore.
- On the other hand, employees would ride metro-transit buses, which is good.
- He was hard pressed to believe that there would only be four employees.
- There are four handicap-designated spots on the south side, but the entrance is on the east side. The existing parking lot has no handicap stalls. He proposed an entrance on the front and eliminating the east side entrance.
- He provided a photograph of the stream and significant cottonwood trees, not great, but significant for screening.
- He questioned what would happen if there is a heavy rain.
- He would like the proposal put on hold until all the questions are addressed.
- He was not opposed to what “they have.” It is a good project if it fits, but he wants to make sure it fits properly.
- He plows the road after it snows so motorists can get through.

Phyllis Hadell, 14115 South Knollway Drive, is the oldest member of the neighborhood. She stated that older people sell their houses to young people who have children who will soon have cars and add much more traffic to the area. We need Horn Drive as a residential street. It is very important.

Terry Simmons, 13811 Knollway Drive South, stated that the back of his house is all glass. He favored screening for vehicles in the winter when there are no leaves. He wanted a fence at the very end of the driveway. There is a huge issue with the drive area. Vehicles are being driven around that area at all hours of the night. He did not understand why the front of the building would face Horn Drive. Especially since, before there was curb and gutter in 2005, there was an asphalt road. He assumed that Home Valu cut a road in so the semis could turn off of Horn Drive to back up into a spot. When the left turn only in and right turn only out was mentioned, there is no need to turn left. It is a dead-end neighborhood. He did not see the compromise. If the front of the building would face Horn Drive, then it would be a main entrance. The way it is angled, he did not know how the turn would be made without driving over the curb. He has lived in his house 30

years and the drainage issues continue to get worse over the years. This was a dry spring, but usually he has water in his yard until the middle of June.

Sjeklocha asked Mr. Simmons what street signs are in the neighborhood now. Mr. Simmons stated there are "no test driving" and "no outlet" signs. There were "no parking" signs on the road prior to 2005, but they were not replaced. It could become a problem if the parking lot becomes full.

Laurie Nelson, 13808 Knollway Drive South, is concerned with traffic. Big semi trucks did not go to Home Valu. There were never trucks that sat there for days. That is concerning to her. She did not know how the trucks would pull in and out without blocking her road. It is frustrating when she has a kid that has to go to an event or she has to get to work and she has to sit and wait on a repetitive basis. She is concerned what the Goodwill truck sitting there all of the time would do to her property value. She wants commissioners to think about if this was his or her neighborhood. She has kids one house down from where the semi trucks would block the road. Her 3 year old cannot play outside safely without her outside all of the time. It is not the right environment for the business. Goodwill is a great company and good for the community, but this is not the right location. The old Circuit City would be a good location. She asked how many of the Goodwill stores are adjacent to a residential neighborhood.

Henry Blake, 13911 Knollway Drive South, stated that he has standing water in his back yard when the snow melts. This year, he was surprised that he did not have standing water. The water closer to Mr. Simmons' house has progressively gotten worse over several years. The pond on the west end of the Toys R Us building has geese until it freezes. There is a problem with the drainage. He has a 14 year old, 16 year old, and 17 year old. His neighbor has 11 children. The amount of traffic in the neighborhood will increase.

No additional testimony was submitted and the hearing was closed.

Mr. Coyle explained that:

- The queuing space would provide room for 9 vehicles. Observation of the other stores shows an average of 3 vehicles waiting at a time.
- The surface water runoff management site would be oversized as an extra precaution.
- There is a plan for snow removal which was provided at the neighborhood meeting and to staff. Heavy snow would be removed from the site.

- Traffic circulation concerns would not be the circumstance for Goodwill. The truck would only be there as it is needed to be loaded or dropped off. The traffic analysis supports the use as appropriate. It meets the city code.
- The only variances before the commission have been triggered by the developer's desire to be cooperative with the neighborhood. He appreciated the commission's support.

Sjeklocha asked how the site would be accessible. Mr. Coyle explained that locating the entrance on the east side places it an equal distance to the parking areas. The Americans with Disabilities Act (ADA) stalls are not a concern for staff. Gordon explained that review of the ADA stalls is part of the building permit review process.

Lehman asked if there are uses of the site as it exists right now that would be permitted that would not be required to be reviewed by the planning commission. Scott-Sims explained that the site is guided for commercial use. So, any commercial use could utilize the site without city review. Only when an addition or parking lot reconfiguration or expansion is proposed would a review be triggered. S. Thomas added that Goodwill is a use that could operate on the site in the existing building and parking lot as it stands today. The upgrade of the parking lot is the trigger that requires the review by the commission. A building permit would be the only review necessary for the façade work and interior changes.

Lehman asked if the neighborhood would be worse off if the proposal is not approved. Lehman noted that Mr. Coyle said that the applicant is trying to accommodate the neighbors by applying for the proposed changes.

Sjeklocha asked if there are enforcement specifics that could be part of the conditions of approval. Scott-Sims mentioned that one condition of approval is that the proposed Goodwill store and Oppidan, the owner, provide staff with a contact so that if there are concerns from the neighborhood that neighbors will have a contact to speak with. Staff is requiring the applicant to provide a snow-removal plan.

Sjeklocha asked if the driveway was established more recently than the property was first developed. Mr. Stanley would check. The driveway may have been delineated with the 2005 curb and gutter installation. There must have been a driveway before whether it was permitted years ago or put in without a permit is unclear. He believed what engineering staff was conveying was that the curb cut was created in 2005.

Sjeklocha questioned what would happen if staff found out it is an unpermitted circumstance. Gordon said that it seems like the driveway existed because of the location of the loading docks. The city has authorized the driveway because of the street project where the curb cut is defined.

Sjeklocha asked how the proposal fits with the comprehensive guide plan. Gordon responded that the 2030 comprehensive guide plan designates the area guided for commercial.

A. Thomas asked if the 42-inch pipe is open. Mr. Stanley provided different reasons to explain why the pond was dry in the past and now holds water including sediment being deposited to decrease its depth. The outlet to Lake Ashley was open and functioning the last time it was checked. Mr. Stanley will have it checked and unplugged if necessary.

Chair Cheleen asked how many employees would be working on site most of the time. Mr. Coyle said that on a busy weekend there could be up to 16 employees, but the average is 6 to 8 employees. Many do use public transit to commute. The 4 parking stalls are deemed adequate.

Chair Cheleen asked if there would be a large change in impervious surface. Mr. Coyle stated that the increase would be .03 to .04 of an acre. Measures would be in place for storm water management. Rain gardens would be used for infiltration and rate control. An outlet would be located in the gardens that would prevent an overflow and discharge to the floodway in the rear of the site. The existing drainage areas would be maintained north of the site and south of the site on Wayzata Boulevard.

In response to Chair Cheleen's question, S. Thomas stated that the neighborhood still has "no parking" signs. A property owner may petition the engineering department to add more.

Chair Cheleen asked if there could be screening on the north corner. He received a positive response.

Chair Cheleen asked if the applicant would be willing to meet with staff regarding appropriate landscape materials. Mr. Coyle would be happy to meet with Collieran.

Lehman recalled a provision in the sign ordinance that would allow a banner that might designate the drop-off entrance. Scott-Sims confirmed that the property

owner could have a temporary sign utilized mainly to open a grand opening of the location. The city allows directional signs on a more permanent basis.

A. Thomas asked if the old front of the building would be the drop off side, then would keeping both entrances open be a possibility. Scott-Sims invited the applicant to address that question.

Mr. Coyle stated that was not considered because that would require moving the delivery bay. Apparently, it functioned well for many years in its current location. Mr. Coyle said that the truck traffic for the site would be minimal. A. Thomas asked if people would drop things off that would go into the trailer. Mr. Coyle said that donations would be dropped off at the bay. Employees would bring it inside to sort. Merchandise deemed recyclable would be put in the trailer.

Chair Cheleen clarified that the semitrailer would not be there longer than it takes to unload and load the trailer. It would not be there over night.

Gordon noted that the city ordinance does not restrict parking of semis on commercial property.

Adams had considerable commiseration with the neighbors. His neighborhood has one exit and entrance point off of County Road 73. He has the same concerns. His neighborhood has a lot of stray delivery trucks taking the wrong road. That is one of the things Minnetonka residents live with being located near healthy retail locations. He was sorry to hear of issues with law enforcement of both traffic laws and conditions of a retail area. He never experienced that. The police have always been responsive. That is nothing the planning commission can address, but it can be addressed by the chief of police.

Adams was concerned with traffic problems on the site created by deliveries occurring at the same time as retail patrons entering and exiting. It is hard to run a retail establishment without deliveries. He commended staff and the developer for coming up with a creative solution to the drop off issue with the lane on the west side of the building. The application would not have even been reviewed by the planning commission if the drop off lane would not have been included. The applicant could have occupied the site without a variance. He commended the applicant for listening to the community and planning staff. He did not agree with putting up a fence. Fences are a problem. They fall down and become an eye sore. Some appropriate vegetation is the best solution for screening. He urged the developer to seek a cross parking agreement with Festival if parking becomes an issue in the future. There is a lot of unused space at Festival. He had trouble believing four employee parking spaces would be adequate, but, if

more is needed, a cross-parking agreement would be appropriate. He took comfort in the fact that the applicant is a local developer. He supported staff's recommendation.

Sjeklocha reviewed the choices and felt the best solution is partially what is in the proposal. The owner and developer have listened, attempted to understand, and addressed the neighborhood's concerns. She supports screening and deferred the details to be worked out by staff working with the applicant based on community input. She wants the snow removal plan to be referenced as a condition in the proposal. She would like prohibition of an outdoor sound system a condition of approval. She supported keeping the four parking stalls and liked the idea of a cross-parking agreement. Removing the east access would create left in and right out access. The proposal is a very good proposal with those changes.

Lehman was troubled with the elimination of the southeast entrance and exit to Wayzata Boulevard. The traffic flow looked troublesome to him. He was not sure if it would work well. He was willing to let it be tried, but he recommended that the southeast access not be permanently closed at this time. Down the road, the access on Wayzata Boulevard could be helpful to decrease traffic on Horn Drive.

A. Thomas agreed with most of the comments by commissioners. He invited residents to contact the area's ward councilmember or mayor or both if one has a problem. The applicant is trying to accommodate neighbors and that is why the commission is looking at the plan. The proposal is better than the current site. That is the bottom line. He agreed with Lehman to make the east entrance temporarily closed to see if it works or not. Keeping traffic off the residential street is a priority. He would agree with putting planters there or keeping it open. He had no problem with the four employee parking stalls. The drainage issue should be followed through by examining the pipe to Lake Ashley. He could go either way with requiring a fence for screening. He supported the proposal.

Chair Cheleen recommended that residents work with staff to have appropriate street signs that are clear and easy to read. Chair Cheleen suggested residents go to a city council meeting or talk to a councilmember to report traffic issues. He found it hard to believe that the police would wash their hands of the issue since an agreement was made that the business would not unload on the streets. He concurred with other commissioners' changes. He reemphasized that the applicant work with the appropriate people to pick out the vegetation for screening.

***Sjeklocha moved, second by Lehman to approve the resolution approving the site and building plan review dated April 15, 2010, with variances for Goodwill Retail Store at 13820 Wayzata Boulevard with the following changes: examination of the drainage pipe connecting the site to Lake Ashley; temporary instead of permanent closure of the east access to Wayzata Boulevard to be reviewed after traffic patterns have been established and engineering staff, the city's traffic consultant, and the applicant come to an agreement prior to any change; prohibition of an outdoor sound system; applicant's landscape plan and screening will be approved by staff; and the following conditions:***

- 1) Adopt the resolution on pages A28–A36 of the staff report, which approves final site and building plans, with drive-aisle setback variance from 20 feet to 5 feet, and a variance from the master development plan requirement for a Goodwill Retail Store at 13820 Wayzata Boulevard. The resolution is based on the following findings.
  - a. Aside from the requested variances, the proposal would meet the ordinances and standards for site and building plan approval.
  - b. The requested drive-aisle setback variance would meet the required standards for a variance, because:
    - (1) UNIQUE CIRCUMSTANCE and UNDUE HARDSHIP: The subject property is located at the intersection of a major collector street and local street. The location of commercial building at such an intersection is not common within the city. This location creates an undue hardship in trying to preserve the more residential character of the local street while at the same time enabling the functionality of the commercial use.
    - (2) NEIGHBORHOOD CHARACTER: The requested setback variance would not negatively impact the essential character of the neighborhood. In fact, in order to limit access from the local – neighborhood – street onto the site, the drop-off drive aisle must be located on the west side of the building in close proximity to the side property line.
  - c. The requested variance from the master development plan requirement would meet the required standards for a variance, because:

- (1) **UNDUE HARDSHIP and UNIQUE CIRCUMSTANCE:** The applicant would be able to develop the property without variances and therefore, with a master development plan. However, undue hardship is created in an attempt to balance neighborhood concerns, staff recommendations, and the functionality of the site.
- (2) **NEIGHBORHOOD CHARACTER:** The essential character of the surrounding neighborhood, including residential and commercial properties, would not be negatively impacted by a lack of master development plan being in place for the site. The site has functioned as a commercial retail property since the late 1950s without a master development plan.

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

- a. Subject to staff approval, the site must be developed and maintained in substantial conformance with the following plans, unless modified by the conditions below:
  - Site plan date-stamped April 15, 2010
  - Landscaping plan date-stamped April 9, 2010
  - Building elevations date-stamped March 31, 2010
- b. A grading permit is required. Unless authorized by appropriate staff, no site work may begin until a complete grading permit application has been submitted, reviewed by staff, and approved.
  - (1) The following must be submitted for the grading permit to be considered complete.
    - (a) Final site, grading, drainage, utility and erosion control plans must be submitted for staff approval. Final site plan must show the temporary closing off of the easterly driveway access point along Wayzata Boulevard to be reviewed by engineering staff and the city's traffic consultant once traffic patterns have been established. Final grading plans must be in conformance with the approved site plan.

- (b) Individual letters of credit or cash escrow for 125% of a bid cost or 150% of an estimated cost to comply with grading permit, landscaping requirements, and to restore the site. The developer may submit one itemized letter of credit, if approved by staff. The city will not release or reduce the letters of credit or cash escrow until work has been completed according to the plans approved by the city.
  - (c) A construction management plan. The plan must be in a city approved format and must outline minimum site management practices and penalties for non-compliance.
- (2) Prior to issuance of a grading permit:
- (a) Submit an electronic PDF copy of the plans and specifications.
  - (b) Submit two full size and three 11x17 sets of construction drawings and three sets of project specifications.
  - (c) Submit all required administration and engineering fees.
  - (d) Submit a SWPPP.
  - (e) Install a temporary rock driveway, erosion control, and tree and wetland protection fencing for staff inspection. These items must be maintained throughout the course of construction.
  - (f) Permits may be required from other outside agencies including, but not limited to Hennepin County, the Minnehaha Creek Watershed District, and the MPCA. It is the applicant's and/or property owner's responsibility to obtain any necessary permits. Copies of all required permits must be submitted to the city.
- c. Prior to issuance of a building permit:

- (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. If the builder is the same entity doing grading work on the site, the construction management plan submitted at the time of grading permit may fulfill this requirement.
  - (b) A landscaping and tree mitigation plan. The plan must meet minimum landscaping and mitigation requirements as outlined in ordinance. The PID section of the ordinance requires that landscape berms and buffers intended to screen development projects from single family residential areas shall be installed with the commencement of construction activity if determined appropriate by the city. Staff must review the landscaping plan to ensure adequate buffering of adjacent residential properties.
  - (c) Cash escrow in an 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:
    - 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
    - If compliance is not achieved, the city will use any or all of the escrow dollars to correct any erosion and/or grading problems.
  - (d) An illumination plan to be reviewed and approved by staff in order to minimize negative impacts to adjacent residential properties.

- (e) An electronic CAD file or certified as-built drawings in microstation or DXF and PDF format.
  - (f) A letter of credit or cash escrow for 125% of a bid cost or 150% of an estimated cost of all required landscaping.
- (2) Submit all required hook-up fees.
- d. Conformance with the site plan improvements as contained in Figure 3 of the traffic report (page A18) including closure of the easterly access drive to Wayzata Blvd.
  - e. All trash and recycling receptacles must be stored inside the building at all times.
  - f. The applicant must submit to city staff both owner and tenant "Point of Contact" information for site Operations and Maintenance. This information may be distributed to area property owners.
  - g. The property owner is responsible for replacing any required landscaping that dies.
  - h. All rooftop and ground-mounted mechanical equipment must be enclosed with materials compatible with the principal structure, subject to staff approval. Low profile, self-contained mechanical units that blend in with the building architecture are exempt from the screening requirement.
  - i. Separate sign permits are required for proposed wall and freestanding signs.
  - j. Construction must begin by December 31, 2011, unless the planning commission grants a time extension.

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

9. ADJOURNMENT

*Adams moved, second by Thomas, to adjourn the meeting at 10:45 p.m.  
Motion carried unanimously.*

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