

**MINNETONKA PLANNING COMMISSION
MINUTES**

AUGUST 19, 2010

1. CALL TO ORDER

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

2. ROLL CALL

Commissioners A. Thomas, Adams, Daeges, Magney, and Cheleen were present. Lehman and Sjeklocha were absent.

Staff members present: Community Development Director Julie Wischnack, City Planner Loren Gordon, and Assistant Engineer Will Manchester.

- 3. APPROVAL OF AGENDA:** The agenda was approved as submitted with removal of 8A, an amendment to the existing Applewood Pointe PUD and master development plan at 5709 Rowland Road, at the applicant's request and a modification provided in the change memo dated August 19, 2010.

- 4. APPROVAL OF MINUTES:** August 5, 2010

A. Thomas moved, second by Magney, to approve the August 5, 2010, meeting minutes as submitted.

A. Thomas, Adams, Daeges, Magney, and Cheleen voted yes. Lehman and Sjeklocha were absent. Motion carried.

5. REPORT FROM STAFF

Gordon briefed the commission on land use applications considered by the city council at its meeting of August 16, 2010:

- Adopted a resolution approving a conditional use permit for construction of a pedestrian trail on the south side of the frontage road between Ridgedale Drive and Hopkins Crossroad.
- Adopted a resolution approving a conditional use permit for subdivision of the existing property at 5435 Woodland Road.
- Adopted a resolution approving items concerning Minnetonka Animal Hospital at 3318 Groveland School Road.
- Introduced an ordinance amending the master development plan for Applewood Pointe at 5709 Rowland Road.

- Adopted a resolution vacating the public drainage easement at 16115 Temple Lane and 16229 Temple Drive South.
- Discussed a concept plan for Hillside Senior Living at 5431 Williston Road. Councilmembers had mixed opinions.
- Adopted an ordinance amending city codes 300.29 and 710.005 regarding expansion of non-conforming uses.

Gordon announced that the September 2, 2010 planning commission meeting has been cancelled. The next meeting will be September 16, 2010.

6. REPORT FROM PLANNING COMMISSION MEMBERS

Adams attended the shoreline and storm water workshop conducted by the Minnehaha Creek Watershed District. He was impressed by the turnout. There were a variety of topics. He learned that Lake Minnetonka has some considerable impairment. According to a recent study, 65 percent of Lake Minnetonka's 122-mile shoreline consists of riprap. Riprap is either wood or rocks that line the shore instead of natural habitat and plants. Riprap increases runoff and erosion. It has an impact on the quality of the lake. Four bays are considered impaired. They traveled in a boat to view the impaired and healthy areas. He recommended visiting Big Island and Grays Bay Marina to see beautiful areas being managed correctly.

A. Thomas asked what the next step for the Hillside application would be since it received mixed reviews. Gordon explained the concept plan process.

7. PUBLIC HEARINGS: CONSENT AGENDA: None

8. PUBLIC HEARINGS

A. Amendment to the existing Applewood Pointe PUD and master development plan at 5709 Rowland Road. (07023.10a)

This item was removed from the agenda at the applicant's request.

B. Amendment to the master development plan for United Health Group at 9703 Data Park. (06060.10a)

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

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

Adams asked why space would be left between the building and the parking lot. Gordon explained that an architect suggested separating the buildings to provide efficiencies in energy and moving the floor plates to provide better building design.

Adams asked for the parking requirements of this type of application. Gordon explained that parking requirements for an office space are typically determined by the number of employees per square foot. This project used other approaches outside of the straight code. The city ordinance would require 1,400 parking stalls. The applicant proposes to exceed that amount by 192 parking stalls.

A. Thomas asked if the storm water pond would be able to handle the new proposal. Gordon described the existing, older system. The applicant decided to go with an alternative system to route water to the storm pond. Manchester explained that the new system would serve the same purpose. It would meet requirements. A new line would be installed to bypass the existing storm sewer line. Runoff would travel through the infiltration basin where it would be treated and discharged into the pond.

A. Thomas asked if the pond was a retention pond originally. Manchester answered affirmatively. The proposed pond would be an infiltration basin that would treat runoff prior to retention.

In response to Chair Cheleen's question, Gordon answered that the proposal would actually increase the amount of green space and decrease the amount of hard surface cover on the site.

Dennis Spalla, United Health Group Senior Director of Development, 9900 Bren Road, representing the applicant, stated that staff did a good job summarizing the changes to improve the design and efficiencies of the building. The proposal would be better for the project, occupants, site, and area. Separating the parking would open up the first three floors and allow for more conference, training, and common areas in the building. The changes would allow more daylight and would be critical to achieve LEED certification. He described the benefits of the new drainage system. The proposal would allow more room for bike racks, lockers for the bikers, and a larger fitness center. A wellness center is being considered. There is a Minute Clinic in the 9900 building. The 266 trees removed from the site would be planted on the properties. Approximately 60 would be replaced because they are currently in poor condition. At least 65 trees would be donated to the city. No healthy tree would go to waste.

Adams asked how the redesign would help achieve LEED certification. Mr. Spalla said that there would be more daylight in the building instead of having a shadow from the parking structure. That is one critical element of achieving certification.

Adams was glad to hear that there are people biking to work. He asked what percentage of employees bike to work in the summer. Mr. Spalla did not have a number, but knew that there are more employees biking to work now than ever before. United Health Group (UHG) promotes biking to work by giving rewards, hosting events, and providing opportunities to get bikes fixed at the work place. Employees stay longer, feel better, and it carries into their relationships with family and friends. Their mission is to help people live healthier lives.

Adams asked why more than one parking stall per employee would be needed. Mr. Spalla explained that additional parking is needed for conferences. There could be 200 additional visitors at one time. There is a shortage of parking in the 9900 building parking lot. If he does not arrive at work early, then he may have to park in a different parking lot and take a shuttle to his building. The site hosts many conferences and training opportunities. To have the headquarters here in Minnesota is quite an investment and a commitment to the city.

Chair Cheleen asked if the Minnesota Department of Transportation (MNDOT) has approved the proposal. Gordon said that the applicant and staff are working with MNDOT to see if the infiltration pond is appropriate. It would be located in a right-of-way. The official approval has not been received yet, but staff has had positive conversations with MNDOT staff so far. If not, there is a backup plan for water treatment.

The public hearing was opened.

Doug Jines, 6020 Blue Circle Drive, represented businesses along Blue Circle Drive. He stated that:

- UHG has a policy of prohibiting smoking on its grounds and the public sidewalk.
- UHG employees smoke on his property. He brought photographs of people smoking on his property. He asked one smoker why he was smoking there and he said that it was because that is where “everyone” told him to go.
- The smokers killed the grass under the trees from being trampled and cigarette butts being left on the ground.

- He contacted the police in the spring. The officer contacted UHG regarding thousands of cigarette butts on his property. UHG staff cleaned up the cigarette butts, but the number is building up again and the number of smokers is increasing again.
- UHG employees are encouraging its employees to smoke on the 6020 Blue Circle Drive property.
- He contacted the police this week and Sergeant Allen Ringate recommended installing “no trespassing” signs which will be done.
- The owners of his association request that UHG provide a smoking area for its employees to keep their smokers and cigarette butts off of neighboring properties.
- Prior to the completion of Phase One, he never anticipated smokers would be lined up down the road and underneath the trees to smoke.

Stewart Lind, 6018 Blue Circle Drive, stated that:

- The size of the problem is compounded by the number of employees.
- The smoking rate in Minnesota is 17.6 percent. He calculated there would be 572 smokers working right across the street at UHG with additional smokers at conferences.
- The only thing the designer forgot was a place for employees to smoke. Initially, the smokers would hang over the edge of the parking ramp and smoke. That was fine with him. One day, the smokers moved to his property.
- In the winter, the plowed snow and smokers pile up on his property.
- He went out to stop the plows, but as soon as he is gone the snow was plowed on his property again.
- UHG representatives tell plow drivers to plow on his side of the road and tell the smokers to smoke on his property.
- In the winter, he has a lot of smokers standing in his snowdrifts. He questioned how safe it is for smokers to stand on snow banks next to traffic. He was concerned someone would get hurt or killed.
- He requested UHG provide a place for its smokers to smoke.
- He showed pictures of damage caused by snow being plowed onto his property.
- His building is not very far from the edge of the road.
- A plan for the smokers and snow should be in place before approval of the application. Even if it is stopped from now until the time the next building is done, it would start again.

No additional testimony was submitted and the hearing was closed.

Mr. Spalla was surprised. The reason for the tobacco-free workplace policy is to promote healthy lives. It is the company-wide goal to reduce the use of tobacco on its property. He did recall Mr. Jines' memo prohibiting smokers from smoking on his business' property. He apologized profusely to his neighbors who have been harmed by UHG's employees, conference attendees, contractors, or vendors who work on site. That is essentially violating UHG's policy on someone else's property. That is not right. UHG does not want to see people smoke or harm property. He saw a vendor smoking under the bridge at Bren Road. At the time, he did not say anything because he did not feel it was his place to restrict a vendor who was on public property. Clearly, UHG's neighbors were seeing this every day in significant numbers. He will take the issue to UHG's head of human relations and talk about how to establish preventative measures from employees going to neighbors' properties. That was not intended. UHG supervisors are not telling smokers to go to other properties. He assured commissioners, neighbors, staff, and the city council that it would be addressed. He apologized again to UHG's neighbors.

The public hearing was opened.

Mr. Jines could not imagine how horrible the addiction to tobacco is. He is looking for responsible neighbors. Telling employees to smoke on public land is not being a good neighbor. He requested UHG create a location to be responsible for its employees who smoke. His business would never allow his employees to do this to another business.

The public hearing was closed.

Adams asked if Mr. Spalla had a response to the snow removal issue. Mr. Spalla was not aware that UHG's plows were pushing snow off of the public right of way onto other property. He saw the damage to the grass. It could also have been caused by the city's plows. Wischnack said that issue would have to be observed when there is snow and a remedy considered at that time. The city should be contacted when it happens. Wischnack agreed that a condition of approval could be added to address snow removal.

Chair Cheleen appreciated Mr. Spalla's apology. There are situations that he has seen, Methodist Hospital as an example, of a smoking area with filtration out near the parking lot. He understood the "no smoking" policy of UHG. A motion

could include requesting UHG representatives meet with Mr. Jines and Mr. Lind and come to some resolution.

A. Thomas stated that he would not want to be UHG and have neighbors calling to alert him that his employees were trespassing all of the time. If the issue was excessive noise from a property, then the complainant would call the police department and it would be a violation of the noise ordinance. He was not sure of trespass laws. UHG representatives need to meet with neighbors to resolve the issue. A community service officer could meet with both parties if needed. It is an important issue that needs to be resolved. If his neighbor was continually doing something on his yard, he would have them arrested. He supported recommending that the city council enforce an agreement that UHG and its neighbors can live with. Otherwise, the action would continue.

Adams asked A. Thomas if it should be a condition of approval. A. Thomas answered affirmatively. Then it would get done. This would get the sides together to sit down and rationally discuss how to prevent this from happening. Adams requested staff's input. Gordon was unsure if the city could regulate non-land-use-related conditions of approval. The recommendation deals with impacts of the project on the property in relation to land use. Commissioners could make a soft recommendation to the city council. Staff will evaluate the recommendation and look into if the city can regulate some type of facility to mitigate that activity. A. Thomas was not saying that the city require UHG to provide a place for smoking. He wanted UHG to get together with neighbors and work out a plan that would be adhered to by both groups. To A. Thomas, trespass is a land issue. The issue of people trespassing on someone else's property because of a business' policy needs to be looked at.

While Daeges sympathized with the plight of the neighbors, she felt the issue was inappropriate for the planning commission to address. It is outside the scope of the commission's responsibilities in relation to the proposal. There appears to be a gentleman's agreement that all of the involved parties will sit down with possible solutions and find a remedy that will leave everyone satisfied. It is not within the commission's purview to add anything in addition to the proposal as it stands in relation to this issue.

Wischnack added that addressing the trespass issue with the police department is the way to go. As far as regulating people who use the trail system and roadways, that may not be something the city would be able to do. She agreed with Daeges that the issue is outside of what the commission usually deals with, but commissioners and staff may promote a solution and assist working through the issue before the city council meeting. That will be done.

Chair Cheleen agreed that Daeges is correct, but commissioners could make a recommendation without consequence that the parties meet and try to come up with a solution.

Adams moved, second by A. Thomas, to recommend that the city council approve the amendment of the master development plan approving final site and building plans for United Health Group Data Park Expansion Phase II at 9703 Data Park Drive (see pages A64-A72 of the staff report) with a strong recommendation that UHG meet with neighbors to agree upon a solution to deal with the trespass, littering, and property damage issues.

Approval is based on the following findings:

- 1) The proposal would meet all ordinances and standards for a site and building plan approval.

Approval of the site and building plans 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:
 - Site Layout Plan date-stamped August 2, 2010
 - Grading and Erosion Control Plan date-stamped August 2, 2010
 - Utility Plan date-stamped August 2, 2010
 - Landscaping plan date-stamped August 2, 2010
 - Building elevations date-stamped August 2, 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.
 - a. The following must be submitted for the grading permit to be considered complete.
 - (1) Final site, grading, drainage, utility and erosion control plans must be submitted for staff approval. Revised plans must be submitted for approval after the issues below have been addressed prior to construction of the site improvements. All sheets must be signed by a professional engineer or

architect as applicable, licensed in the state of Minnesota. Based on the plans received, the following was noted:

Vacation of Existing Data Park Drive

- 1) All documentation must be provided for the vacation of Data Park Drive east of Blue Circle Drive. All easements deemed necessary by the city shall remain; including access, trail, and utility. An all inclusive maintenance agreement for Data Park Drive must be provided and include streets, utilities (water, sanitary sewer, storm sewer, etc.) and streetlights, and include maintenance responsibilities on city owned Blue Circle Drive to and from Data Park Drive to Bren Road E.
- 2) Provide document illustrating city owned vs. private owned utilities, streets, streetlights, etc.
- 3) Provide cross access agreements for all properties affected by the Data Park Drive vacation.

C100- Existing Conditions

- 4) Show all existing easements.

C200 – Site Demolition Plan

- 5) Provide temporary traffic control as applicable for demolition operations.

C300 – Site Layout Plan

- 6) Provide detail/standard plate for curb and gutter type.
- 7) Provide plan for any proposed signage or striping revisions to Data Park Drive and site areas.

C401 – Erosion Control Plan

- 8) Provide SWPPP.
- 9) Confirm all erosion control meets current NPDES and regulatory agency requirements.
- 10) An estimate of the volume of material being moved within the site, onto the site, and away from the site should be included in the plans.
- 11) Provide soil stockpile locations on the plan.

C500 – Overall Site Utility Plan & C501 – Site Utility Plan

- 12) Gate valves must be installed on Blue Circle Drive at Data Park Drive and approximately 700-ft south of Data Park Drive to separate city water lines from private water lines created from the vacation of Data Park Drive.
- 13) The plans show alternative to bypass the existing storm sewer system along the east side of the property, extending south through the Comcast property. This plan requires MnDOT and Comcast property approvals. Original storm sewer design from April 5th, 2010 or alternative design may be necessary provided MnDOT and Comcast property approvals are not obtained by the applicant.
- 14) Core drill must be provided on connections to all existing sanitary manholes.
- 15) Provide invert elevation for the proposed 8-inch sanitary sewer service. Confirm 8-inch service line capacity is adequate for proposed demands.
- 16) Confirm all proposed watermain crossings do not conflict with existing or proposed storm sewer.
- 17) City of Minnetonka Fire Department must confirm hydrant placement and fire protection is adequate.
- 18) Label all storm sewer casting types.
- 19) Consider draintile at low point catch basins.
- 20) Confirm/clarify property boundaries, individual city right of way and MnDOT right of way limits on the plans.

Stormwater Management

- 21) Obtain Nine Mile Creek Watershed approval. All watershed requirements must be met independent from the city's review.
- 22) Provide MnDOT approvals to construct the proposed infiltration basin within MnDOT right of way.
- 23) Provide Comcast approvals to construct the proposed storm sewer on Comcast property.
- 24) Provide proposed soil boring (SB1) information as shown per the plans for the proposed infiltration area.
- 25) Provide Phase I analysis to document contamination status of the infiltration area.
- 26) Submit stormwater calculations for review. This includes:

1. Stormwater narrative describing compliance with the city's stormwater design guidelines and standards.
 2. Stormwater runoff rate analysis for the 2-, 10-, and 100-year storms.
 3. Stage-volume calculations on the proposed infiltration basin.
- 27) Provide stormwater proprietary device to capture sedimentation within UHG site. The device shall trap sediment prior to stormwater entering the proposed outlet pipe to the proposed infiltration basin.
- 28) Submit maintenance plan for all stormwater facilities including proprietary devices and infiltration basin.
- 29) The proposed plan provides quality treatment within the city's regional water quality pond. The city of Minnetonka owns the north half of the pond and the city of Eden Prairie owns the south half of the pond. The city has no dedicated easement to access this pond to perform necessary maintenance.
1. Provide city with a permanent access easement for future region pond maintenance.
 2. Provide city with agreement to contribute 30% funds for any future regional pond maintenance.
- (2) 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.
- (3) 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.
- b. Prior to issuance of a grading permit:
- (1) Submit an electronic PDF copy of the plans and specifications.

- (2) Submit two full size and three 11x17 sets of construction drawings and three sets of project specifications.
 - (3) Submit all required administration and engineering fees.
 - (4) Submit a SWPPP.
 - (5) 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.
 - (6) Permits may be required from other outside agencies including, but not limited to Hennepin County, the Nine Mile 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) Prior to issuance of a building permit:
- a. Submit the following items for staff review and approval:
 - (1) A 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.
 - (2) A letter of credit or cash escrow for 125% of a bid cost or 150% of an estimated cost of all required landscaping.
 - (3) An illumination plan for staff approval.
 - (4) All required hook-up fees.
 - (5) Evidence of the release of the obsolete access easements to 9705 Data Park Drive (Comcast site) and a copy of a deed for a new access easement to 9705 Data Park Drive for the relocated access drive.

- (6) Payment for public and on-site traffic signs and installation, as required by the city engineer.
- (7) Record this ordinance with the county.
- (8) The project architect must verify the required volume of water for the building and ensure that there will be adequate fire flow to the building.
- (9) 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.
- (10) 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.
- (11) Payment of fees as calculated under the Opus Area Overlay Ordinance.
- (12) The following conditions must be completed before occupancy of the Phase II building.
 - (a) Bren Road West must be expanded to three westbound lanes from the Highway 169 interchange to Green Oak Drive.

- (b) The Highway 169 bridge over Bren Road must be widened and improved, as required by the city and MnDOT, including the addition of a free-right-turn lane from eastbound Bren Road to southbound Highway 169.
 - (c) Addition of a third lane on Bren Road East, from Green Oak Drive to Data Park Drive, including widening the one-lane drive that connects Bren Road East to Data Park Drive.
- (13) The north-south storm sewer easement must be vacated, subject to city council approval.
- (14) Implementation of an alternative storm water system design if feasible and agreeable to United Health Group, Comcast Cable, and the city.
- (15) Vacation of Data Park Drive subject to the following conditions:
 - (a) The city will retain easements over the vacated right-of-way for drainage, utilities and trail purposes.
- (16) An electronic CAD file or certified as-built drawings in microstation or DXF and PDF format.
- 4) The property owner is responsible for replacing any required landscaping that dies.
- 5) All rooftop and ground-mounted mechanical equipment, and exterior trash and recycling storage areas, must be enclosed with materials compatible with the principal structure, subject to staff approval. Low profile, self-contained mechanical units that blend in with the building architecture are exempt from the screening requirement.

A. Thomas, Adams, Magney, and Cheleen voted yes. Daeges voted no. Lehman was absent. Motion carried.

9. ADJOURNMENT

*Adams moved, second by A. Thomas, to adjourn the meeting at 7:45 p.m.
Motion carried unanimously.*

By: _____
Lois T. Mason
Planning Secretary