

**CITY OF MENDOTA HEIGHTS
DAKOTA COUNTY, MINNESOTA**

**PLANNING COMMISSION MINUTES
October 27, 2009**

The regular meeting of the Mendota Heights Planning Commission was held on Tuesday, October 27, 2009, in the Council Chambers at City Hall, 1101 Victoria Curve at 7:00 P.M.

The following Commissioners were present: Chair Lally, Commissioners McManus, Norton, Povolny, Viksnins, Hennes and Field. Those present were Public Works Director John Mazzitello, Assistant to the City Administrator Jake Sedlacek, and Planner Steve Gritman. Minutes were recorded by Rebecca Shaffer.

Approval of September 22, 2009

COMMISSIONER MCMANUS MOVED, SECONDED BY COMMISSIONER HENNES, TO APPROVE THE MINUTES OF SEPTEMBER 22, 2009 AS PRESENTED.

**AYES: 7
NAYES: 0**

Hearings

**PLANNING CASE #09-36
Heart to Home, Inc.
659 South Freeway Road
Conditional Use Permit**

Planner Steve Gritman reviewed a map showing the property located at 659 South Freeway, which is 0.46 acres in size and is zoned R-1, One Family Residential. A recent zoning ordinance amendment added customized (assisted) living facilities for the elderly as conditional uses to Section 12-1E-3B. The applicant is seeking a conditional use permit to allow up to seven residents live in a single family home. State guidelines already allow for up to 6 persons in such a facility.

Mr. Gritman said this single family home was built in 2007 and is 2,722 sq. ft. in size and is currently being used as a group home residence for senior assisted living. State law requires that the city allow for licensed care facilities such as this with up to six residents. The applicant has submitted a letter of intent, stating that their objective is to provide a holistic approach to senior care and memory care by allowing aging adults the opportunity to live in residential care homes where they will be actively involved with the community and will receive 24 hour senior care and memory care.

Mr. Gritman reviewed the customized living facility requirements and staff's comments (in italics):

- The assisted living facility is a state licensed facility. *The applicant's letter of intent states that Heart to Home agrees to maintain appropriate assisted living licensure with the State of Minnesota and has submitted copies of license/registrations/inspections reports. The number of residents approved by thy state shall be clarified by the applicant. A number of corrections / requests were identified in the "Report on Plans" and staff recommends that a condition be included that all of these corrections/requests shall be satisfied. The Food and Beverage reports also show that this establishment is approved to open upon compliance with the order to obtain covered waste receptacles in the toilet rooms.*
- No more than 7 people (not including the facility manager and professional care attendants shall reside on the premises. *The applicants have indicated that they agree to comply with the condition that they have no more than 7 residents in the home, which is the number of residents allowed by state law.*

- The facility has no more than 6 sleeping rooms (not including rooms utilized by the house manager and professional care attendants). *The floor plans indicate four (4) bedrooms, along with a sunroom, library/sitting room, great room, dining room, utility room, and kitchen.*
- Two of the facility occupants are legally married and share a room. *The applicant's letter states that they agree to comply with the conditions that two of the facility occupants must be legally married and share a room.*
- Facility residents shall be 65 years of age or older. *The applicant's letter states that they agree to comply with the conditions that facility residents must be 65 years of age or older.*
- Applicant must provide proof that the room size meets current state licensing standards for two persons. *The applicant's letter states that the sleeping rooms will meet the Minnesota state minimum requirement of 70 sq. ft. per person.*
- Facilities shall be constructed or altered in a manner which is consistent with the single family residential character of the neighborhood. *The home appears to be consistent with the single family residential character of the neighborhood.*
- All applicable requirements of the State Building and Fire Codes are satisfied. *The applicant's letter states that they agree to comply with the state's building and fire codes.*
- The emission of noise shall be in compliance with and regulated by the State of Minnesota Pollution Control Standards, Minnesota Rules 7030, as amended. *The applicant's letter states that the emission of noise shall be in compliance with and regulated by the State of Minnesota Pollution Control standards, Minnesota Rules 7030 as amended.*
- The property shall be at all times found in compliance with the City's Property Maintenance Code as well as all other applicable municipal codes. *The applicant's letter states that the property shall at all times be compliant with Mendota Heights' property maintenance code as well as all other applicable municipal codes including but not limited to minimum parking requirements.*

Staff feels that the proposed use is compliant with the general and specific review standards and therefore is recommending approval of the proposed conditional use permit subject to the following conditions:

- a. The number of residents approved by the state shall be clarified by the applicant
- b. All conditions from Minnesota Department of Health shall be satisfied
- c. Copies of license / registration renewals from the State shall be submitted to the city.

Commissioner McManus asked for clarification of the number of people and the relationships to each other that will be allowed to live in this facility. Mr. Grittmann said that staff is asking the applicant to clarify this and further explained how two people will be able to share a room if they are either legally married, or the two people are of the same sex. Mr. Grittmann said the city has no say in the relationships if there are no more than six residents, but with seven residents, the city may make these restrictions under the conditional use permit on a case by case basis.

Mr. Josh Cesaro (one of four of the facilities managers) and Ms. Paulette Vrem (head nurse and co-owner), both working at 659 Freeway Road, Mendota Heights, were available for questions. Mr. Cesaro explained their desire to keep elderly couples together when there is a need for one or both to use various levels of care. Ms. Vrem said this facility provides great care for these residents and a lot of couples are coming forward requesting this type of facility. Mr. Cesaro said the majority of their residents have been long-time residents in Mendota Heights and West St. Paul.

Commissioner Hennes asked if this facility was built specifically for this use and this facility has always been used for this purpose. Mr. Cesaro said that was correct, and they currently have four (single) individuals in residence there.

Commissioner Povolny said he toured the facility and was very impressed with it.

Commissioner McManus asked for clarification on the capacity of this facility. Mr. Cesaro said the state has licensed this facility for six people and it is up to the municipality to determine if more than that (up to ten) will be allowed. This would apply to both their facilities (659 South Freeway and 2351 Pagel Road). Ms. Vrem said the four bedrooms in this facility are quite large and would accommodate a couple.

Ms. Vrem reminded everyone that this is a licensed residential care facility and should not carry the stigma of a group home.

Chair Lally opened the public hearing.

Tom Norman, 674 South Freeway Road, spoke of his concern that this facility may grow larger by adding more and more people over time. Mr. Norman said he is also concerned about the parking and the safety of the residents who may be in the front yard being very close to the roadway.

Commissioner Field asked the applicant to respond in regards to the parking situation. Mr. Cesaro explained that the residents do not drive, and that the only cars would be staff's vehicles and perhaps a few visitors. Current staffing levels will not change with one additional resident. Staff is required to park in the driveway, and the garages are kept open for emergency fire exit purposes as well as serving to protect residents from getting into and exiting cars as there is a wheel chair ramp. Some visitors do park in the street.

Mr. Cesaro explained that staff is shared between the two residences with approximately ten full time staff, having two people on staff during the day and evening, with one overnight awake staff member.

Commissioner Viksnins asked if there are any other parking locations other than the driveway and the street. Mr. Cesaro said there is not.

Seeing no one coming forward wishing to speak, Chair Lally asked for a motion to close the public hearing.

COMMISSIONER NORTON MOVED, SECONDED BY COMMISSIONER FIELD, TO CLOSE THE PUBLIC HEARING.

AYES 7
NAYES 0

COMMISSIONER MCMANUS MOVED, SECONDED BY COMMISSIONER POVOLNY, TO RECOMMEND APPROVAL OF THE CONDITIONAL USE PERMIT TO ADD ONE ADDITIONAL RESIDENT TO THE FACILITY AS REQUESTED BY THE APPLICANT WITH THE CONDITIONS AS PROVIDED BY THE PLANNER A THRU C AS LISTED IN THE STAFF REPORT.

AYES 7
NAYES 0

Commissioner Norton explained to Mr. Norman that the applicant cannot come back and ask for more residents as this conditional use permit pertains to this property and is limited only by the seven as requested.

PLANNING CASE #09-37
Heart to Home, Inc.
2351 Pagel Road
Conditional Use Permit

Planner Steve Grittmann reviewed a map showing the property located at 2351 Pagel Road, which is 0.5 acres in size and is zoned R-1, One Family Residential. A recent zoning ordinance amendment added customized (assisted) living facilities for the elderly as conditional uses to Section 12-1E-3B. The applicant is seeking a conditional use permit to allow up to seven residents live in a single family home. State guidelines already allow for up to 6 persons in such a facility.

Mr. Gritman said this single family home was built in 2008 and is 5,022 sq. ft. in size. State law requires that the city allow for licensed care facilities such as this with up to six residents. The applicant has submitted a letter of intent, stating that their objective is to provide a holistic approach to senior care and memory care by allowing aging adults the opportunity to live in residential care homes where they will be actively involved with the community and will receive 24 hour senior care and memory care.

Mr. Gritman said this case is very much like the previous one at 659 South Freeway Road with similar customized living facility requirements and staff's comments (in italics):

- The assisted living facility is a state licensed facility. *The applicant's letter of intent states that Heart to Home agrees to maintain appropriate assisted living licensure with the State of Minnesota and has submitted copies of license/registrations/inspections reports for 2351 Pagel Road. The number of residents approved by the state shall be clarified by the applicant. The project plans and specifications reviewed by the Minnesota Department of Health were for new construction of a facility housing a maximum of six individuals for memory care or dementia, again the number of residents and all the conditions identified in Report on Plans will need to be clarified. Food and beverage requirements require that all food contact surfaces are properly washed, rinsed and sanitized as required.*
- No more than 7 people (not including the facility manager and professional care attendants shall reside on the premises. *The applicants have indicated that they agree to comply with the condition that they have no more than 7 residents in the home, which is the number of residents allowed by state law.*
- The facility has no more than 6 sleeping rooms (not including rooms utilized by the house manager and professional care attendants). *The floor plans indicate five (5) bedrooms, along with a sunroom, great room, utility room, and kitchen.*
- Two of the facility occupants are legally married and share a room. *The applicant's letter states that they agree to comply with the conditions that two of the facility occupants must be legally married and share a room.*
- Facility residents shall be 65 years of age or older. *The applicant's letter states that they agree to comply with the conditions that facility residents must be 65 years of age or older.*
- Applicant must provide proof that the room size meets current state licensing standards for two persons. *The applicant's letter states that the sleeping rooms will meet the Minnesota state minimum requirement of 70 sq. ft. per person.*
- Facilities shall be constructed or altered in a manner which is consistent with the single family residential character of the neighborhood. *The home appears to be consistent with the single family residential character of the neighborhood.*
- All applicable requirements of the State Building and Fire Codes are satisfied. *The applicant's letter states that they agree to comply with the state's building and fire codes.*
- The emission of noise shall be in compliance with and regulated by the State of Minnesota Pollution Control Standards, Minnesota Rules 7030, as amended. *The applicant's letter states that the emission of noise shall be in compliance with and regulated by the State of Minnesota Pollution Control standards, Minnesota Rules 7030 as amended.*
- The property shall be at all times found in compliance with the City's Property Maintenance Code as well as all other applicable municipal codes. *The applicant's letter states that the property shall at all times be compliant with Mendota Heights' property maintenance code as well as all other applicable municipal codes including but not limited to minimum parking requirements.*

Staff feels that the proposed use is compliant with the general and specific review standards and therefore is recommending approval of the proposed conditional use permit subject to the following conditions:

- a. The number of residents approved by the state shall be clarified by the applicant
- b. All conditions from Minnesota Department of Health shall be satisfied
- c. Copies of license / registration renewals from the State shall be submitted to the city.

Chair Lally recognized that this particular property and home is slightly larger than the one at 659 South Freeway Road.

Commissioner Viksnins asked if the parking for these facilities fit within the character of the neighborhood. Mr. Gritman said the City Council was very careful in creating this conditional use with relation to parking requirements, and that increasing the residence to 7 people, there should be no issues.

Chair Lally opened the public hearing.

Tom Norman, 674 South Freeway Road, asked why this goes through the conditional use permitting process. Chair Lally explained that this will allow the city to review these applications on a case by case basis.

Pete Koelsch, 2347 Pagel Road, said he is the neighbor to the immediate north, and said he has been very pleased with this facility and is a very attractive property. Mr. Koelsch the current parking situation with slanted parking is somewhat odd, and does not seem to fit with the neighborhood.

Gerry Barte, 2350 Pagel Road, said he is the neighbor across the street to the property and said things are better with the current parking situation and asked if the facility can minimize some of the vendor trucks. Mr. Barte said the facility is not a bad neighbor and does not mind living near this facility, but is concerned about what it could become should the assisted living facility move out and the home be converted into a less desirable group home.

Seeing no one coming forward wishing to speak, Chair Lally asked for a motion to close the public hearing.

COMMISSIONER NORTON MOVED, SECONDED BY COMMISSIONER VIKSNINS, TO CLOSE THE PUBLIC HEARING.

AYES 7
NAYES 0

COMMISSIONER NORTON MOVED, SECONDED BY COMMISSIONER POVOLNY, TO RECOMMEND APPROVAL OF THE CONDITIONAL USE PERMIT BASED ON THE FINDINGS OF FACT OUTLINED ON PAGE 6 OF THE STAFF REPORT AS WELL AS THE CONDITIONS SET FORTH ON PAGE 4 OF THE STAFF REPORT.

Further Discussion

Commissioner Viksnins asked if the conditional use permit requires that the use of this facility is solely for assisted living. Mr. Gritman said that is correct and they are not for any other type of use. Chair Lally said there are provisions in the code that regulates that.

Chair Lally said in cases that relate to other group home uses, such as Sober House, there is a whole different set on circumstances that come into play, and municipality limits to the number of occupants relates to the fire codes.

Commissioner Viksnins asked the applicant to always take into account the needs and sensitivities of the neighbors.

AYES 7
NAYES 0

PLANNING CASE #09-38
Stonewall, Inc.
2517 Concord Way
Wetlands Permit for HR-PUD (High Density Residential PUD)

Mr. Gritman reviewed a map showing the property located at 2517 Concord Way, which is located in a townhome community at the corner of Brookfield Lane and Concord Way and is zoned HR-PUD. There are five townhome buildings in this development.

The applicant is seeking a wetlands permit to rebuild two existing retaining walls located on the north side of the wetland area, which are failing. The application is for the reconstruction of these retaining walls with a stone retaining wall structure rather than the existing block wall that is currently there.

Staff recommends approval of the requested wetland permit as the project will improve the existing situation resulting in increased protection of the wetland's water quality. If the retaining walls are not rebuilt, the water quality of the wetland will be threatened and will adversely impact the surrounding environment. Staff feels that a natural wall such as is proposed is good for the environment.

Mr. Justin Ferren, owner of Stonewall, Inc., talked about the severe dilapidation of the wall and will be talking to the homeowners association about their current irrigation system and the current saturation of the land in this area.

Chair Lally asked Mr. Ferren what precautions are taken in relation to protection of the wetland during the construction. Mr. Ferren said the construction will be done in sections and silt fencing will be installed to protect the water.

Chair Lally opened the public hearing. Seeing no one coming forward wishing to speak, Chair Lally asked for a motion to close the public hearing.

COMMISSIONER NORTON MOVED, SECONDED BY COMMISSIONER FIELD, TO CLOSE THE PUBLIC HEARING.

AYES 7
NAYES 0

COMMISSIONER HENNES MOVED, SECONDED BY COMMISSIONER VIKSNINS, TO RECOMMEND APPROVAL WETLANDS PERMIT FOR THE HR-PUD FOR 2517 CONCORD WAY BASED ON THE FINDINGS IN THE PLANNERS REPORT.

AYES 7
NAYES 0

PLANNING CASE #09-39
City of Mendota Heights / Jake Sedlacek
Zoning Ordinance Amendment

Mr. Gritman explained that the City of Mendota Heights had recently passed an amendment to the Zoning Ordinance adding a conditional use permit to the Industrial District for "Accessory, Enclosed Retail Sales".

Mr. David Kutoff, Materials Processing Corporation, applied for this amendment in order to move his business into the City of Mendota Heights. The amendment was approved with a number of conditions, one which relates to the hours of operation. MPC is now requesting that the City consider extending their hours of operation to 7:00 pm on weekdays. No comments were taken at the public hearings for the previous zoning amendment or conditional use permit applications and staff recommends approval of the requested Zoning Ordinance Text amendment.

Commissioner McManus asked if this means that anyone in the industrial zoning district may have commercial sales during this time. Mr. Gritman said this will only apply to those who apply for a conditional use permit for that retail use and this change is in Subparagraph 9 of the conditional use permit clause and this is on a case by case basis.

Mr. Sedlacek, speaking as the applicant on behalf of the City of Mendota Heights, said this application has come forth by David Kutoff from MPC, who has the intention of being open until 7:00 pm only one day per week and that this flexibility in hours will provide them with the hours that they need.

Chair Lally opened the public hearing. Seeing no one coming forward wishing to speak, Chair Lally asked for a motion to close the public hearing.

COMMISSIONER FIELD MOVED, SECONDED BY COMMISSIONER VIKSNINS, TO CLOSE THE PUBLIC HEARING.

AYES 7
NAYES 0

COMMISSIONER MCMANUS MOVED, SECONDED BY COMMISSIONER FIELD, TO RECOMMEND APPROVAL OF THE ZONING ORDINANCE TEXT AMENDMENT TO SECTION 12-1G-2: CONDITIONAL USES, AMENDING THE HOURS OF OPERATION ALLOWED FOR ACCESSORY, ENCLOSED RETAIL SALES IN THE INDUSTRIAL ZONING DISTRICT, BASED ON THE FINDING THAT THE PROPOSED TEXT AMENDMENT IS COMPLIANT WITH THE ZONING ORDINANCE AND COMPREHENSIVE PLAN.

AYES 7
NAYES 0

Verbal Review

Mr. Sedlacek gave the following verbal review:

PLANNING CASE #09-29 Maureen Haggerty Conditional Use Permit/Wetland Permit
• Approved by the City Council as recommended by the Planning Commission.

PLANNING CASE #09-34 David Kutoff Conditional Use Permit for Retail Sales
• Approved by the City Council as recommended by the Planning Commission.

PLANNING CASE #09-35 Thomas Costello Variances
• Approved by the City Council as recommended by the Planning Commission.

Mr. Sedlacek updated the Planning Commission on the Halloween bonfire that will be held at Mendota Plaza. Mr. Sedlacek also updated the Planning Commission on the Maureen Haggerty case and the Mendota Plaza construction project.

COMMISSIONER NORTON MOVED, SECONDED BY COMMISSIONER FIELD, TO ADJOURN THE MEETING AT 8:00 P.M.

AYES 7
NAYES 0

Respectfully submitted,
Rebecca Shaffer, Recording Secretary