**Unapproved**
**Minnetonka Planning Commission**
**Minutes**

**Aug. 19, 2021**

**1. Call to Order**

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

**2. Roll Call**

Commissioners Henry, Maxwell, Banks, Hanson, and Sewall were present. Powers and Waterman were absent.

Staff members present: City Planner Loren Gordon and Assistant City Planner Susan Thomas.

**3. Approval of Agenda**

***Banks moved, second by Hanson, to approve the agenda with two additional comments provided in the change memo dated Aug. 19, 2021.***

***Henry, Maxwell, Banks, Hanson, and Sewall voted yes. Powers and Waterman were absent. Motion carried.***

**4. Approval of Minutes**: July 15, 2021

***Henry moved, second by Maxwell, to approve the July 15, 2021 meeting minutes as submitted.***

***Henry, Maxwell, Banks, Hanson, and Sewall voted yes. Powers and Waterman were absent. Motion carried.***

**5. Report from Staff**

Gordon briefed the commission on the land use application considered by the city council at its meeting of Aug. 9, 2021 which was the introduction of items related to the Goddard School.

There is a tour for planning and economic development authority commissioners scheduled to be held Aug. 26, 2021 to visit completed land-use projects.

The next planning commission meeting is scheduled to be held Sept. 2, 2021.

**6. Report from Planning Commission Members**: None

**7. Public Hearings: Consent Agenda**: None

**8. Public Hearings**

## A. Items concerning the Goddard School at 14900 Hwy 7

Chair Sewall 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.

Hanson confirmed with Gordon that one comment from a resident was received who had no problem with the proposal. Gordon stated that a neighborhood meeting was held and no one from the public attended. The property was proposed for a retail use a few years ago and the potential traffic impact was studied at that time. The proposed use would generate very little traffic except for drop off and pick up times each day.

In response to Henry's question, Gordon explained that the portion of land for sale is upland, so the stormwater pond capacity would not be affected. A stormwater chamber keeps the water volume to a certain level. The plan's stormwater features have been preliminarily approved by engineering staff.

Gordon explained that the number of parking stalls would exceed ordinance requirements and fit the needs of the use as shown in other Goddard School locations.

Nicole and Brant Dennis, applicants, introduced themselves. Ms. Brant thanked city staff for providing them with preliminary feedback and the commission's time. She stated that:

- She has been a teacher for 20 years. She will be at the facility every day. The proposal would be a good fit with the rest of the quality schools in the area.
- She hopes to break ground this fall and open summer of 2022.
- There would be a total of 25 staff members, but they would not be on site at the same time. The amount of proposed parking would be sufficient for other similar Goddard School locations.
- The school could accommodate up to 142 students from age zero to five years. There would be nine classrooms, two playgrounds, and 20 to 30 children would be on the playground at a time.
- The hours of operation would be 7 a.m. to 6 p.m. Monday through Friday.

Mr. Dennis explained that the plan has been adjusted to save as many trees as possible. Removing two parking stalls put the total number at 35 stalls. The pick-up and drop-off area would be on the west side in the horseshoe area. The east lot would be staff parking which would continue into the main parking lot if needed. It is a tight site to replace the trees that would be removed. His preference would be to work with staff on a tree replacement plan, but if it would be required to keep one of the oak trees, then he would prefer to keep the tree in the parking lot.

Mr. Dennis explained that each classroom has to have door access to the rear of the building, a five-foot sidewalk, and a fence. That excavation alone would disrupt the tree that would have been in the playground, kill two spruce trees, and it would not be possible to move the playground enough to prevent disturbing the oak tree by less than 40 percent. The grade requires digging down where the oak in the proposed playground would be located. The oak tree east of that, number six, is further down the hill and away from the building so it would not be affected by the sidewalk.

In response to Maxwell's question, Mr. Dennis explained that access to the trash dumpster would have to be worked out. One parking stall might have to be blocked off on trash pick-up day.

Chair Sewall asked if the applicant had discussed the possibility of parking vehicles on the neighboring property with the property owner. Mr. Dennis answered affirmatively. The lease agreement gives the applicant dedicated access to 24 stalls. The partnership with Youngstedts has been favorable so far, so he did not anticipate an issue.

Banks asked if there would be events when most of the parents would be at the site at the same time. Aaron Amic, owner of the Plymouth Goddard School, answered in the negative. A once-a-year graduation would be held off site.

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

Hanson confirmed with Gordon that staff is comfortable with the plan saving tree nine instead of tree five. Revised plans with the changes would need to be submitted and reviewed by staff before the city council reviews the proposal.

Maxwell likes the plan. There is a need for this type of use. She agreed with keeping tree nine instead of tree five. She trusts the applicant to determine the need for parking by looking at similar sites with the same use and the back-up parking being available at Youngstedt's. She recommends providing signs to direct the traffic pattern. She supports the proposal.

Henry encouraged utilizing sustainable measures to save energy. He supports the proposal. The use is needed in the city. The presentation was very good. The use would be located on a frontage road. The location would be a safe, high-visibility spot. He appreciated the applicant working with staff to save as many trees as possible. He agrees with saving tree nine instead of tree five which may be more likely to survive.

Banks supports the proposal. The applicants did a great job with the presentation. Staff's recommendations have been taken into consideration. He understood the reasons for the removal of tree five. He loves the look of the building. It would be an improvement to the corridor. He recommends adding solar panels and other sustainable measures if possible. It would be a great improvement to the Hwy 7 corridor and replace a vacant building.

Hanson looks forward to supporting the proposal. He appreciates the applicants working with staff and neighbors. He understands the reasons for removing tree five instead of tree nine. The applicants have worked with Youngstedts and have additional parking if needed next door.

Chair Sewall supports the proposal. He stated that a trash day in January with snow piled up might create an issue, but he trusted that the applicants would find a creative solution to make it work. He appreciates the exhaustive review of the trees and tree preservation by the applicant and staff. He loves to see collaboration at work. He was glad tree nine would be able to be saved.

***Maxwell moved, second by Hanson, to recommend that the city council adopt the attached ordinance and resolution for the Goddard School located at 14900 State Hwy 7 with a modification to allow a parking reduction to protect tree number nine and remove tree number five.***

***Henry, Maxwell, Banks, Hanson, and Sewall voted yes. Powers and Waterman were absent. Motion carried.***

This item is tentatively scheduled to be heard by the city council on Sept. 13, 2021.

**B. Ordinances regarding licensed residential care facilities.**

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

Thomas reported. From staff's perspective, the existing ordinance functions well. Since 1986, the city has reviewed nine applications for facilities that serve more than six residents; however, if the majority of commissioners and councilmembers choose to change the ordinance, then staff would recommend approval of the conditional use permit option listed in the staff report.

Maxwell asked if the ordinance amendment would restrict the number of residential care facilities that could be located within a designated distance from each other. Thomas answered in the negative. Staff discussed it, but noted that could create a legal issue that would allow approval of the first application, but may deny all subsequent applications for the same use.

Maxwell confirmed with Thomas that each interim use permit (IUP) would go through the entire review process. Thomas explained that an addition could be reviewed as part of the IUP application to make sure the subjective standards continue to be met. The condition that requires half of a parking stall for each resident is based on the standard set by the Institute of Transportation Engineers for parking requirements for assisted living facilities.

Banks asked if the proposed ordinance amendment would impact any facility currently in operation. Thomas explained that existing facilities would become non-conforming uses and would continue to operate in accordance with their current conditional use permit standards. If the use would cease operation for 12 months or more, then the legal non-conformity status would become invalid.

Maxwell asked if the city has received complaints regarding the residential care facilities currently in operation. Thomas explained that the majority of complaints received are in reference to care facilities with six or fewer residents since the city has no review authority for those facilities. When the city requested resident input on residential care facilities, the city received responses both in opposition and in support.

Hanson noted a previous application to locate a 12-person residential care facility on Lake Street Extension. Since the city council denied that application, the property owner has subdivided the property and could legally construct a six-person residential care facility on each property. Thomas explained that it would be illegal according to state law to limit the number of residential care facilities allowed within a certain distance from each other. Staff found roughly 60 properties that could meet all of the standards regarding property size and setbacks; that are located on a collector or arterial street; and are not publically owned.

Chair Sewall confirmed with Thomas that the property owner may lease a site to a business operator of a residential care home.

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

In response to Henry's question, Thomas explained that the proposed conditional use permit (CUP) amendment option would allow for new construction of a building if the site would meet a 50-foot-frontyard setback. The IUP ordinance amendment option would require utilization of an existing house that would most commonly not have a 50-foot setback. The IUP would have an expiration based on a change of the state license holder, license type, or type of facility. The property could easily revert back to being used as a single-family residence.

In response to Chair Sewall's question, Thomas explained that if an operator of a residential care facility with an IUP sold the business, then the buyer would still have to go through the entire review process.

Maxwell stated that:

- She opposes the third option. A residential care home with seven to ten residents needs to be allowed.
- The differences between the CUP and IUP are the expiration, setback, and whether to construct a new building or utilize an existing single-family residence. From the perspective of a resident moving into a care facility

or family member placing a loved one in a care facility, she would like to know that the permit would not expire if the owner would sell the business and potentially force the resident to move somewhere else. She would prefer to keep continuity.
- The 50-foot setback would be unnecessary, especially with the 100 percent floor area ratio (FAR) requirement. The condition requiring a building to match the character of the neighborhood should be a condition of the CUP.
- A new building should be allowed to be constructed. The city should not limit that option for a property owner.

Hanson stated that:

- He does not have a strong preference.
- There is a great need for this type of care based on current demographics.
- He favors the least burdensome option for an operator of a residential care facility. The CUP seems the least burdensome for a new provider to start a residential care home.

Banks stated that:

- In the past, residents expressed initial concern when a new residential care facility was proposed near them, but there have been few or no complaints received for operating residential care facilities that have CUPs. The facilities with CUPs can be looked at to make sure the conditions are being met. Facilities with six or fewer residents and no CUP are the ones that received the most complaints.
- The CUP ordinance amendment option would make the most sense.
- The 50-foot front and side setbacks would limit the site options.
- He leaned more toward the CUP option than the IUP.
- He questioned the need to make any changes to the ordinance.

Henry stated that:

- He leaned toward the IUP option to give the city more oversight if there would be a change in license holder. He did not see that being a roadblock for a resident to continue living there.
- A new building should be allowed to be constructed.
- The 50-foot setback would be restrictive since only 60 properties in the city would meet all of the requirements.

Maxwell felt a limit of 10 residents would be reasonable or nine residents based on what would be approved with the square-foot-per-resident requirement. It would make sense to give guidance to applicants right away of the resident-number limit.

Chair Sewall stated that:

- He likes the change from 12 residents to 10 residents since commissioners and councilmembers have previously voiced support to decrease the number to 10.
- He would prefer the IUP as long as there would be no lapses that would prevent the current residents from staying in the care residence. He asked if an IUP would create the possibility that residents would be evicted. Thomas said that staff would have to research that possibility.
- He does not like the term "expiration" of the IUP, but he likes the chance to meet a new business owner.
- He supports allowing a new building to allow upgrades such as sustainability features.
- He was o.k. with the proposed setbacks.

Chair Sewall noted that commissioners did not have a consensus to pass a motion for one of the three options provided, but all could live with the CUP or IUP options. Thomas appreciated all of the constructive comments.

***Banks moved, second by Henry, to recommend that the city council adopt an ordinance modification regarding licensed residential care facilities similar in appearance to their comments.***

***Henry, Maxwell, Banks, Hanson, and Sewall voted yes. Powers and Waterman were absent. Motion carried.***

This item is tentatively scheduled to be heard by the city council on Sept. 13, 2021.

**C. Ordinance regarding accessory dwelling units (ADU) in residential zoning districts.**

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

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

Hanson confirmed with Thomas that the ordinance does not require compliance with the Americans with Disabilities Act. Thomas stated that ADUs would have to comply with state building code requirements.

Banks confirmed with Thomas that ADUs had previously been approved with a variance from ordinance requirements.

Maxwell asked why the attached structure would be limited to 950 square feet when a detached structure is allowed to be 1,000 square feet in size. Thomas agreed with her

point. Adding the 50 square feet makes complete sense. The 950 square feet was carried over from the size of the interior ADUs.

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

Hanson looks forward to supporting adding this type of housing stock. A property owner should be able to take advantage of having a large lot. On Powers' behalf, he noted that residents do not own the view from one's property. He likes the way the prosed ordinance amendment is written. He agrees with changing the size limit to 1,000 square feet.

Maxwell likes the idea of providing guidance for residents considering adding attached and detached accessory structures. Her preference for the maximum would be to allow 950 square feet or 35 percent FAR whichever is greater rather than smaller. If either size would fit within the subjective standards, then she favors going with the larger one rather than the smaller one.

Henry likes the subjective standards, since it would not be a one-type-fits-all solution. He would like to see some language to prevent the removal of a 200-year-old oak tree. He supports detached ADUs.

Banks supports staff's recommendation. The modification is long overdue and makes sense. It would provide more housing options.

Chair Sewall agrees that the proposal makes sense. He would like ADUs to be considered when reviewing the tree preservation ordinance. He supports staff's recommendation.

***Hanson moved, second by Maxwell, to recommend that the city council adopt the ordinance regarding accessory dwelling units in residential zoning districts.***

***Henry, Maxwell, Banks, Hanson, and Sewall voted yes. Powers and Waterman were absent. Motion carried.***

This item is tentatively scheduled to be heard by the city council on Sept. 13, 2021.

**9. Adjournment**

***Henry moved, second by Banks, to adjourn the meeting at 8:30 p.m. Motion carried unanimously.***

By: _____
Lois T. Mason

Planning Secretary