



REQUEST FOR BOARD OF ADJUSTMENTS AND APPEALS DISCUSSION

Date: January 10, 2011

Board of Adjustments and Appeals Item: B.

Department Approval

City Manager Approval

Item Description: Appeal from Woods Edge Homeowners Association and Old Highway 8 Neighborhood residents regarding property zoning decisions made by the City Council on December 13, 2010

BACKGROUND

On December 13, 2010, the Roseville City Council adopted a new zoning map as part of the overall zoning code update. The new zoning map became effective on December 21, 2010. On December 20, 2010, the City Manager received an appeal by the Woods Edge Homeowners Association and surrounding Old Highway 8 neighborhood residents regarding the decision to rezone 3253 and 3261 Old Highway 8 from R-1 Single Family Residential District to HDR-1 High Density Residential District.

The basis of appeal for the Old Highway 8 property is as follows:

- 1) Failure of public notice as mandated in Roseville Code 108.01B regarding Public Hearing. The failures and errors in public notification had the effect of confusing, inconveniencing and discouraging public participation.
- 2) The owner of 3261 Old Highway 8 and the trustee of 3253 Old Highway 8 and his contractor verbally attacked and intimidated some neighbors after the Public Hearing. Though the Police were called, the incident caused neighbors to be fearful of participating or opposing the rezoning.
- 3) The Council gave no substantial reasons that their decision was in the best interest of the community. They accepted staff recommendation even though it was based on erroneous reports of density and zoning of surrounding properties.
- 4) More than 30 homeowners attended, emailed and testified to the true nature of the community, citing:
 - a. Development of previously zoned business properties into single-family and townhouse residences
 - b. Previous Council decisions to limit density and height and to protect wetland abutting the parcels.
 - c. The parcels' history of flooding abutting properties.
 - d. Lack of infrastructure, traffic control, sidewalks, crosswalks, and bike paths.

e. Risks to school children walking to several nearby schools.

These legitimate homeowner concerns are consistent with the stated values and goals of Community Development in Roseville

5) The Roseville Planning Commission recommended future zoning of “medium density development”

City staff, along with the City Attorney, has reviewed the appeal and have determined that there is no provision under the new City Code to allow for residents to appeal a decision made by the City Council to the Board of Adjustment and Appeals. (The City Council also serves as the Board of Adjustment and Appeals). Under Chapter 1009.08 Appeals, only decisions of the Variance Board, an administrative ruling of the Community Development Department, or an administrative action approving or denying an application or request related to the zoning code can be appealed to the Board of Adjustment and Appeals. The decision regarding the rezoning of 3253 and 3261 Old Highway 8 on December 13, 2010 was a legislative decision made by the City Council, not an administrative decision, and thus not appealable to the Board of Adjustment and Appeals. A letter to the representative of those appealing was sent informing them that the Board of Adjustment and Appeals does not take up appeals to legislative decisions made by the City Council. Instead the Appellants recourse is to seek judicial review of the action pursuant to Minnesota Statutes 462.361.

Despite the fact that the previous City Code appeared to allow for appeals to legislative decisions made by the City Council directly to the Board of Adjustment and Appeals, the recently adopted code is in effect and only allows appeals to Variance Board decisions and administrative rulings of the Community Development Department as previously mentioned.

It should be noted, however, that the finding by staff that the appeal to a legislative decision by the City Council is not appealable under City Code, is in itself appealable to the Board of Adjustment and Appeals since that finding is an administrative ruling.

STAFF RECOMMENDATION

No action is needed at this time. This case is for informational purposes. If an appeal is received regarding the abovementioned administrative ruling, the Board of Adjustment and Appeals will need to look at the administrative ruling and determine whether staff’s determination is correct that under Chapter 1009.08 of City Code a legislative decision made by the City Council is not appealable.

REQUESTED COUNCIL ACTION

No action requested.

Prepared by: Patrick Trudgeon, Community Development Director (651) 792-7071

Attachments: A: Appeal from Woods Edge Home Owners Association and Old Highway 8 neighborhood residents regarding the rezoning of 3253 and 3261 Old Hwy. 8
B: Memo from City Attorney regarding procedure for processing appeals.
C: Memo for City Attorney responding to questions regarding the petitions from Mayor Roe.
D: Letter from City Staff to Rita Mix January 5, 2011

Appeal of City Council Decisions

Date: December 20, 2010

To: City of Roseville *Bill Malinen, City Manager*

From: Woods Edge Homeowners Association and Old Highway 8
Neighborhood Residents

Regarding: Appeal of Decisions of Roseville City Council Regarding Zoning of 3253 and 3261 Old Highway 8 and Petition of Surrounding Property Owners

We, the members and property owners of Woods Edge Homeowners Association, 3201-3223 Old Highway 8, appeal the decision made by the Roseville City Council on December 13, 2010, to change the Zoning of adjacent parcels at 3253 and 3261 Old Highway 8 from Low Density Single Family Residential (R-1) to High Density Residential (HDR-1). We make the Appeal according to Roseville Code Chapter 1015.04(C) on the following bases:

1. Failure of public notice as mandated in Roseville Code 108.01B regarding Public Hearing. The failures and errors in public notification had the effect of confusing, inconveniencing and discouraging public participation.
 - A. While a Public Hearing was scheduled for September 29 and notices were mailed, the actual hearing was cancelled. Notice of the rescheduled hearing was only available on the publication of the agenda just two days before the hearing.
 - B. The start time of the Public Hearing was stated as "5:30 p.m."* The Statute requires Public Hearings to take place between 6:00 and 10:00 p.m.
 - C. Earlier in the process of providing public information about the changes in zoning of "anomaly properties," published listing misstated the parcels as being in New Brighton and staff reports

*Received by
Margaret W. Durcol
12/20/10*

consistently referred to the parcels as being “on Long Lake Road.”*

2. The owner of 3261 and the trustee of 3253 and his contractor verbally attacked and intimidated some neighbors after the Public Hearing. Though the Police were called, the incident caused neighbors to be fearful of participating or opposing the rezoning.
3. The Council gave no substantial reasons that their decision was in the best interest of the community. They accepted the staff recommendation even though it was based on erroneous reports of density and zoning of surrounding properties.*
4. More than 30 homeowners attended, e-mailed and testified to the true nature of the community, citing a.) development of previously zoned business properties into single family and townhouse residences, b.) previous Council decisions to limit density and height and to protect wetland abutting the parcels,* c.) the parcels’ history of flooding abutting properties, d.) lack of infrastructure, traffic control, sidewalks, crosswalks and bike paths, and e.) risks to schoolchildren walking to several nearby schools. These legitimate homeowner concerns are consistent with the stated values and goals of Community Development in Roseville.
5. The Roseville Planning Commission recommended future zoning for “medium density development.”

We, the property owners abutting/surrounding the parcels at 3253 and 3261 Old Highway 8 appeal the decision to deny our Petition on the following bases:

1. The Petition was submitted to the Community Development Director on November 16, 2010. It contains signatures of 50 of the 73 property owners (69%) surrounding/abutting the parcels scheduled to be rezoned.
2. The City Attorney in a letter to the Director recommends that the Petition be “declined” stating that only the Planning Commission or Council can initiate a change in Comprehensive Plan. However, The Planning Commission did initiate the very same change named in the Petition on October 6, 2010.

* * documentation provided



3. The City Ordinance 1016.01C that allows petitions by abutting property owners in matters of zoning was intended to protect citizen-stakeholders rights to influence zoning or development that directly affects their property. The City has initiated this change in zoning, making it dependent on and subsequent to the Comprehensive Plan. Thus by disallowing the Petition on the basis that abutting property owners have no standing to petition a change in the Comprehensive Plan, the abutting property owners are being denied the ability to exercise their right to petition or otherwise influence zoning and land use decisions that affect their own property. Denial of petition rights in this circumstance is contrary to the intent of the Ordinance.

We urge the City of Roseville to schedule an appropriate hearing for this Appeal at their earliest convenience.

Sincerely yours,

A handwritten signature in cursive script that reads "Rita L. Mix".

Rita Mix

Woods Edge Homeowners Association, president
Old Highway 8 Neighborhood Residents, coordinator

3207 Old Highway 8
Roseville MN, 55418



PLANNING COMMISSION
PUBLIC HEARING NOTICE

TIME & PLACE: The Planning Commission will meet at 5:30 p.m. on Wednesday, September 29, 2010 in the City Hall Council Chambers.

PURPOSE: Request for consideration of **CHANGING THE 2030 COMPREHENSIVE LAND USE PLAN DESIGNATION** of 2 parcels from High Density Residential to Low Density Residential and the subsequent **REZONING** of the same parcels from High Density Residential to Low Density Residential 1

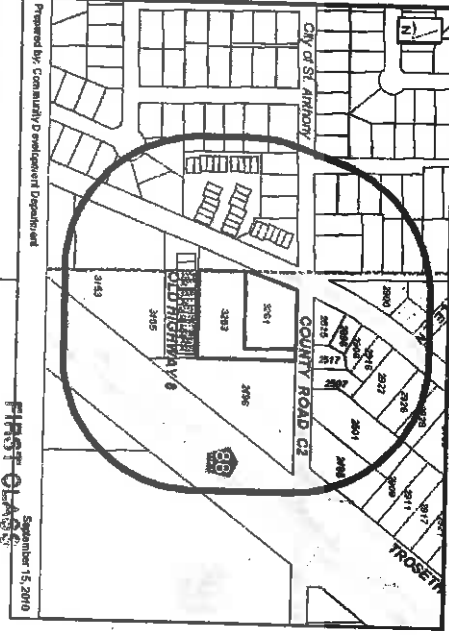
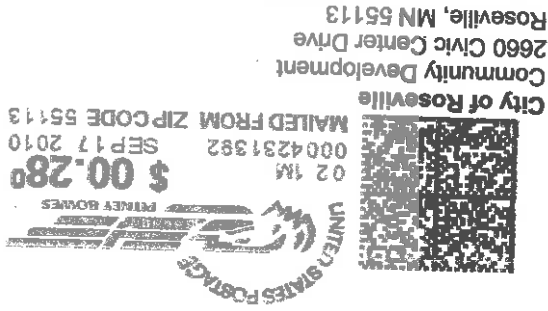
SITE: 3253 Old Highway 8 **PIN:** 05-29-23-32-0002
3261 Old Highway 8 **PIN:** 05-29-23-32-0001

APPLICANT: Roseville City Council (Proj. File 0004 & 17)

Three ways you can learn more and participate:

1. Review the Staff Report (available 9/24/2010) at: www.ci.roseville.mn.us/pc-agenda
2. Call or email Thomas Paschke, City Planner, at 651-792-7074 or thomas.paschke@ci.roseville.mn.us prior to the hearing. Mail a letter or fax it to 651-792-7070.
3. Attend the Public Hearing and address the Planning Commission, or view it on Cable Channel 16.

Please see map on reverse side for property location.



RITA MIX
3207 Old Highway 8
Minneapolis MN 55418-2558

Documentation
statement
1B

Item 1.C.

Item 3.

None of the
higher density
properties cited
directly about
the parcels.

Roseville Common
is medium
density.

ROSEVILLE
REQUEST FOR PLANNING COMMISSION ACTION

DATE: 9/29/2010
ITEM NO: 5d

Division Approval

Agenda Section
PUBLIC HEARING

Item Description: Request to change the Comprehensive Plan – Land Use Designation and Zoning of property at 3253 and 3261 Old Highway 8 (PROJ004 and 0017).

1.0 BACKGROUND

- 1.1 During the City Council's discussion regarding the Official Zoning Map on July 12, 2010, a citizen addressed the Council seeking a change to the current land use designation of 3253 and 3261 Old Highway 8 from the existing High Density Residential to Low Density Residential.
- 1.2 The City Council supported the change and directed the Planning Division to proceed through the process to amend the current Comprehensive Plan – Land Use Designation.

2.0 STAFF COMMENTS/RECOMMENDATIONS

- 2.1 The subject two properties along property to the east and south have had a Comprehensive Land Use guiding of High Density at least since the late 1970's. In 2000 the Woodsedge Townhomes (directly south), a medium density residential development, was approved and constructed and in 2001 the Roseville Commons Condominium, a high density residential development (directly east), was approved and constructed.
- 2.2 In review of other adjacent parcels the Executive Manor Condominiums, a high density development, lies south of the Woodsedge Townhomes; single family homes and a few duplexes/townhomes that are medium density lie across Long Lake Road; and directly west across Old Highway 8 is town home development that would be considered medium density.
- 2.3 Given the location of the two parcels at the intersection of Old Highway 8 and Long Lake Road, and given the existing density in the direct area, the Planning Divisions does not see a compelling reason to reduce the density from high to low.
- 2.4 On July 28, 2010, the Planning Division held the public open house regarding approximately 70 anomaly properties that had been determined by the Planning Staff to be incorrect or inappropriate and the subject two properties along Old Highway 8. Only the property owner of the 3253 Old Highway 8 property was in attendance to comment on this proposed change and he opposed the change to low density residential.
- 2.5 The Roseville Planning Division recommends that the Comprehensive Plan – Land Use Map designation remain High Density Residential on 3253 and 3261 Old Highway 8.

3.0 SUGGESTED PLANNING COMMISSION ACTION

By motion, recommend to the City Council that the Comprehensive Plan – Land Use Map designation for 3253 and 3261 Old Highway 8 remain High Density Residential versus be changed to Low Density Residential.

Prepared by: Thomas Paschke, City Planner

Attachments: A: Site Map

Notes of previous

PC + Council

decisions

provide documentation on:

1. errors in
staff reports

4. a. b. ~~and~~.

reduced height,

restricted
density

zoning R6

wetland

REQUEST FOR CITY COUNCIL ACTION

DATE: 07/14/99

UF58 NO:

Agenda Section:

HEARING

Plat Approval:

Manager Approved:

Description:

Mendota Homes - Request for an amendment to Planned Unit Development #1197 for preliminary/final plat consideration and concept/final development plan consideration for a 10 unit town home development.
(PF #3123)

1.0 REQUESTED ACTION

1.1 Mendota Homes seeks an amended Planned Unit Development (#1197), preliminary and final plat approval, and concept/final development plan approval in order to develop the vacant one (1) acre parking lot located between Old Highway 8 and Highway 88. The proposed development would include 12 town homes, two (2) located in St. Anthony and 10 located in Roseville. Access will be provided from Old Highway 8, which lies in St. Anthony. The 12 town home development would provide 22 to 28 new residents.

1.2 Planned unit development (PUD) is a zoning district which may include single or mixed uses, one or more lots or parcels, and is intended to create a more flexible, alternative, efficient approach to the use of land. Because of the flexibility it offers, Roseville has used PUD's as the primary zoning tool in redevelopment projects. In considering proposed planned unit developments, the City considers all standards and purposes of the Comprehensive Land Use Plan to achieve a maximum coordination between the proposed development and the surrounding uses and historic landmarks, the preservation of woodlands, ponding, and wetlands, and the protection of health, safety and welfare of the community.

1.3 The process also allows the City to consider the location of the buildings, compatibility with existing areas and other features with respect to the topography of the area and existing natural features; the efficiency, adequacy and safety of the proposed layout of internal streets and driveways; the adequacy and location of green areas; the adequacy, location and screening of parking areas; and such other matters as the City may find to have a material bearing on the stated standards and objectives of the Comprehensive Land Use Plan.

1.4 The tentative hearing and action schedule for this project is as follows:

07/14/99

Planning Commission hearing and action on the concept plan

07/26/99

City Council action on the concept/final development plan and action on PUD Agreement, preliminary/final plat

2.0 PROJECT BACKGROUND

- 2.1 Mendota Homes has a purchase agreement for the vacant (former parking lot) parcel located north of the Executive Manor Condos, 3155 Old Highway 8. The site is relatively flat, gradually sloping from the southwest to the northeast. There are no structures on the current parcel; the entire site is pavement.
- 2.2 The portion of the lot that lies in Roseville is 125 feet in width by 330.4 feet in depth or 41,300 square feet. The parcel is a small but a workable redevelopment site for a town house development. The site was identified as Phase 2 of the original Mendota Homes PUD which included Phase 1, a 30 unit senior housing complex northeast of the Phase 2 proposal.
- 2.3 The proposed architecture will be single level structures with walkout or lookout basements and a height from the main floor of 20 feet. The exterior will be maintenance free siding and brick, metal fascia and soffit, and asphalt shingles. Gutters and downspouts will direct the rainwater and snow melt away from the site. Decks and/or patios are proposed with each structure. The front of each town home and its two-stall garage will face south toward the Executive Manor Condo's. The estimated value of the finished project is \$1.5 to \$1.8 million.
- 2.4 Mendota Homes submitted the required concept development plans, including site, drainage, landscape, and building elevations. Because the site is reducing the existing impervious site area ponding is not required. However, storm water will drain to the adjacent parcel, northeast of the proposal. The drainage pond on the previously approved three story, 30 unit condominium building has ponding capacity for Phase 2.
- 2.5 The front yard is considered that west parcel boundary or that portion that lies adjacent to the parcel within Hennepin County. The side yards are considered the north and south parcel boundaries. The rear yard is the east parcel boundary. Setbacks for the site development are as follows:

	Front Setback	Side Setback	Rear Setback	Parking per unit	Percent Lot Coverage
Code requirement (R-6)	30 feet	15 feet	30 feet	2 stalls	NA
PUD request	11 feet*	6 feet**	13 feet	4 stalls	75%

* This building setback, though considered a front yard, is an interior yard due to the lots true frontage being provided via Hennepin County and Old Highway 8.

** The side yard building setback located to the north has been created to allow flexibility knowing that a deck may someday become a three season porch and then a four season porch, and allowance of this modification without having to amend the PUD each time this change occurs.

PF# 3123

- 2.6 Section 1008 of the City Code outlines the requirements and procedures for a planned unit development.

3.0 STAFF REVIEW & CONDITIONS

- 3.1 The City's Comprehensive Plan map designates this area for High Density Residential. The zoning of the site is Limited Business District "B-1". The zoning would be revised to R-PUD with an underlying zone of R-6, Townhouse District. High density allows residential developments from 10 to 36 units per acre. Highway 88 and the previously approved PUD lies to the northeast; the Executive Manor Condos, zoned Limited Business (B-1) lies to the south (residential uses are permitted in a B-1 zone); two single family residential homes, zoned Single Family (R-1) to the north; and town homes within the City of St. Anthony are located to the west.
- 3.2 The City's Comprehensive Plan text currently does not specifically address any of this particular site, however does address the adjacent triangular 30 unit senior housing site previously approved by the City. Further, the policies within the plan provide direction to eliminate blight, upgrade neighborhoods with a mix of compatible uses, and diversify and solidify the tax base.
- 3.3 In conjunction with the application for concept development plan approval, a project site plan, grading and utility plan, landscape plan, building elevations and floor plan have been submitted and reviewed by staff in preparation of this report.
- 3.4 Based on the proposed redevelopment of the site it is necessary to place the principal structures as close as 16 feet from the north property line; and decks, patios, and/or three/four season porches to within six (6) feet of the north property line; and the turn-around private driveway to within two (2) feet of the east property line. Cross parking and access easements will be necessary between the two (2) units located in Hennepin County and the 10 units located in Ramsey County.
- 3.5 Off-street parking space for the storage of two (2) vehicles within a garage and two (2) vehicles in the driveway is sufficient. Additional guest parking is provided adjacent some of the units.
- 3.6 Because this project is an empty nester (single level) town home development, traffic is not anticipated to significantly increase along Old Highway 8. Staff estimates no more than eight (8) trips (in or out) from each unit or a total of 96 trips per day. Traffic counts completed in 1997 indicate a 24-hour movement of 6,732 vehicles.
- 3.7 Due to the close proximity to the adjacent condominiums to the south, staff has worked with Mendota Homes on achieving a quality development that does not have the typical characteristics of a town home development. These items include staggering the setbacks of structures; the incorporation of decks and/or patios; differing rooflines between structures; and the addition of architectural components such as 1-1/2 story foyers. Plans

recommended (0-1) approval of the request by Mendota Homes, subject to the review and recommendations outlined in Section 3 of the Report for Planning Commission Action dated July 14, 1999.

6.0 RECOMMENDED CITY COUNCIL ACTION

- 6.1 By motion, approve the concept/final development plan and preliminary/final plat which allows the construction of 10 town homes by Mendota Homes, Inc. to be located on a one (1) acre parcel at 3201 Old Highway 8 (approximately) based on the review and conditions outlined in Section 3 of this report, and authorize the Mayor and City Manager to sign when review is complete.
- 6.2 By motion, subject to City Attorney final review and approval, approve the PUD agreement (draft attached) and authorize the Mayor, City Manager, and appropriate staff to sign the agreement when the review is complete.
- 6.3 By motion, approve an ordinance amending the City of Roseville Zoning Map from "B-1" Limited Business District to Residential - Planned Unit Development (R-PUD) with an underlying base zoning of "R-6" Townhouse District, subject to final review of all documents by the City Attorney (draft attached) for the Mendota Home property located at 3201 (approximately) Old Highway 8, (PID # 052923320003).

Attachments: Location map; Site Plans; Photos of site, and aerial photo.
Prepared by: Thomas Paschke, City Planner (490-2236)
Q:\Planning Files\3121_Wirth Companies\RCA (072699).doc

REQUEST FOR CITY COUNCIL ACTION

DATE: 01/26/98

ITEM NO: 1-2

Department Approval:

Manager Approved:

Agenda Section:

*DW/KC**XRC*

LAND USE

Item Description: Mendota Homes, Inc. request for approval of a preliminary plat for a one lot subdivision at the intersection of County Road C2 and Highway 88 (Phase I of a PUD - PF#2891).

1.0 REQUESTED ACTION

- 1.1 Mendota Homes, Inc. is requesting approval of a preliminary plat for a one-lot subdivision at the intersection of County Road C2 and Highway 88 (Phase I of a residential planned unit development).
- 1.2 The City Council approved the concept development plan for Phase I of the project, which is proposed for construction within this one lot subdivision, on January 12, 1998. Action on the final development plan and the final plat will be placed on the February 9, 1998, City Council agenda.
- 1.3 The project as proposed includes a three-story 30 unit condominium building as a first phase on this parcel, with a similar three-story 30 unit rental apartment building proposed as a second phase on an adjacent parcel. The applicant is not seeking approvals for any aspect of Phase II of the project at this time.
- 1.4 A planned unit development is a zoning district which may include single or mixed uses, one or more lots or parcels, and is intended to create a more flexible, creative and efficient approach to the use of land.

The planned unit development review process also requires coordination with the subdivision regulations; therefore, subdivision review in accordance with the City's subdivision regulations is carried out simultaneously with the review of the PUD. This provision applies whether the PUD includes one parcel or multiple parcels.

- 1.5 The hearing and action schedule for Phase I of the project is as follows:

03/12/97	Planning Commission sketch plan review of Phase I
12/10/97	Planning Commission hearing and action on Phase I concept plan
01/12/98	City Council action on Phase I concept plan
01/14/98	Planning Commission action on preliminary plat for Phase I
01/26/98	Anticipated City Council action on preliminary plat for Phase I
02/09/98	Anticipated City Council hearing and action on final plat, action on final development plan, action on subdivision agreement, and action on PUD agreement for Phase I

2.0 BACKGROUND

2.1 Mendota Homes, Inc. holds a purchase agreement for a 2.97 acre parcel (2.8 acres with required right-of-way dedication for County Road C2) at the intersection of County Road C2 and Highway 88, which is owned by Williams Pipeline Company. The property is located in an R1, Single Family Residential District, and is designated as MR, Medium Density Residential (4-10 dwelling units per acre) on the City's Comprehensive Plan Map. Adjacent land uses include single family residential to the north across County Road C2, industrial to the east and southeast across Highway 88 (Williams Brothers tank farm), single family residential on large lots directly to the west, townhomes (medium density residential) to the west across Old Highway 8, and condominium buildings (high density residential) to the southwest.

2.2 Section 1008 of the City Code outlines the requirements and procedures for a planned unit development, including the coordination with subdivision regulations.

Section 1102 of the City Code outlines the requirements and procedures for the subdivision (platting) of property, including the data necessary for preliminary plat review.

Section 1103.07 of the City Code outlines the requirements for park land dedication or payment in lieu thereof.

3.0 STAFF COMMENT

3.1 In reviewing the request for preliminary plat approval, staff made the following findings:

1. The Comprehensive Plan designates the triangular-shaped parcel as Medium Density Residential.
2. In conjunction with the application for concept development plan and preliminary plat approval, the following documents have been submitted and reviewed by staff in preparation of this report:

- * preliminary plat
- * a grading and erosion control plan for Phase I and Phase II, including layout of off-street parking areas, location of buildings, and delineation of wetland (dated 11/10/97);
- * a landscaping plan for Phase I (dated 07/11/97);
- * building elevation plans for Phase I (dated 11/10/97);
- * building floor plans for Phase I (dated 11/10/97)

3. The preliminary plat meets the requirements of Section 1102 of the City Code. The preliminary plat and other documents submitted in conjunction with this request include all of the necessary data required for preliminary plat review.
4. The proposed name of the one lot subdivision is Roseville Commons, which does not duplicate the name of any plat previously recorded in Ramsey County.
5. The proposed dedication of 33 feet for roadway purposes for County Road C2 meets City requirements and is adequate. An easement for roadway purposes is currently located in this location and will be released by the City upon approval and recording of the final plat.
6. The proposed drainage and utility easements shown on the preliminary plat meet the City's requirements and are adequate. There are currently a number of adjacent properties which drain to the existing wetland via overland flow or drain tile; therefore, the easement over the wetland/storm water ponding area is only necessary to maintain use for other adjacent properties. The City is not interested in owning and/or maintaining the wetland at this point in time; therefore, a drainage easement over the wetland would not be accepted by the City.
7. A deferred assessment in the amount of \$15,616.47 must be paid prior to recording of the final plat and development of the site. This deferred assessment is from four separate improvement projects, including a 1961 sanitary sewer project, a 1962 water main project, a 1993 paving project, and a 1993 storm sewer project.
8. The final grading plan and utility servicing plan will need to be reviewed and approved by the Director of Public Works prior to any permits being issued for the project.
9. It is the policy of the City to require the installation of sidewalks, or payment in lieu of installation in the amount of \$15 per linear foot, adjacent to multi-family residential development.
10. The dedication of land for park purposes and/or the amount of any payment in lieu of park land dedication will be finalized prior to final plat approval.
11. The preliminary plat as proposed is in harmony with the general purpose and intent of the City's Comprehensive Plan. Title 10 of the City Code (Zoning), and Title 11 of the City Code (Subdivisions).
12. The preliminary plat and proposed project will not adversely affect the public health, safety, or general welfare.

4.0 STAFF RECOMMENDATION

- 4.1 Based on the findings outlined in Section 3.1 of this report, staff recommends approval of the preliminary plat for a one lot subdivision for Phase I of a residential planned unit development at the intersection of County Road C2 and State Highway 88.

5.0 PLANNING COMMISSION ACTION

- 5.1 On January 14, 1998, the Planning Commission held a public hearing on the request. John Mathern of Mendota Homes, Inc. was present to answer questions and provide additional information. Dorothy Ohnsorg (2523 Maple Lane) expressed concerns with the density of the proposed Phase II and Barb Anderson (2922 Old Highway 8) asked for details regarding traffic entering and exiting the site. No other residents present commented on this request.
- 5.2 The Planning Commission discussed the installation of sidewalk along County Road C-2, how storm water from this site will be pre-treated prior to entering the pond, the impact of this development on traffic in the area (minimal), and the possibility of reducing the amount of exterior off-street parking with a proof of parking provision.
- 5.3 The Planning Commission recommended approval of a preliminary plat for a one-lot subdivision at the intersection of County Road C2 and Highway 88 (Phase I of a residential planned unit development), based on the findings in Section 3.1 of this report (7-0).

6.0 SUGGESTED CITY COUNCIL ACTION

- 6.1 By motion, approve the preliminary plat for Roseville Commons, a one-lot subdivision at the intersection of County Road C2 and Highway 88, based on the findings in Section 3.1.

Attachments: location map; notification map (with zoning and comprehensive plan designations); notice of public hearing (sent to all properties within 350 feet of Phase I and Phase II, plus additional area north of County Road C2); preliminary plat; grading and drainage plan for Phase I and Phase II.

60-day Time Limit: application submitted on November 10, 1997; application accepted as complete on November 19, 1997; decision deadline is March 9, 1998 (extended by City Council on 12/06/97)

Prepared by: Kim L. Lee, AICP (490-2236)
M:\RCA\PF2891B

REQUEST FOR PLANNING COMMISSION ACTION

DATE: 7/14/99

ITEM NO:

Department Approval:

Manager Approved:

Agenda Section:

PUBLIC HEARINGS

Item Description: Mendota Homes – Request for an amendment to Planned Unit Development #1197 for Concept and preliminary plat consideration of a 10 unit town home development.
(PF #3123).

1.0 REQUESTED ACTION

- 1.1 Mendota Homes seeks concept approval of an amended Planned Unit Development (#1197) and preliminary plat in order to develop the vacant one (1) acre parking lot located between Old Highway 8 and Highway 88. The proposed development would include 12 town homes, two (2) located in St. Anthony and 10 located in Roseville. Access will be provided from Old Highway 8, which lies in St. Anthony. The 12 town home development would provide 22 to 28 new residents
- 1.2 A planned unit development (PUD) is a zoning district which may include single or mixed uses, one or more lots or parcels, and is intended to create a more flexible, creative, efficient approach to the use of land. Because of the flexibility it offers, Roseville has used PUD's as the primary zoning tool in redevelopment projects. In considering proposed planned unit developments, the City considers all standards and purposes of the Comprehensive Land Use Plan to achieve a maximum coordination between the proposed development and the surrounding uses and historic landmarks, the conservation of woodlands, ponding, and wetlands, and the protection of health, safety and welfare of the community.

The process also allows the City to consider the location of the buildings, compatibility, parking areas and other features with respect to the topography of the area and existing natural features; the efficiency, adequacy and safety of the proposed layout of internal streets and driveways; the adequacy and location of green areas; the adequacy, location and screening of parking areas; and such other matters as the City may find to have a material bearing on the stated standards and objectives of the Comprehensive Land Use Plan.

- 1.4 The tentative hearing and action schedule for this project is as follows:

07/14/99	Planning Commission hearing and action on the concept plan
07/26/99	City Council action on the concept/final development plan and action on PUD Agreement, preliminary/final plat

2.0 PROJECT BACKGROUND

- 2.1 Mendota Homes has a purchase agreement for the vacant (former parking lot) parcel located north of the Executive Manor Condos, 3155 Old Highway 8. The site is relatively flat, gradually sloping from the southwest to the northeast. There are no structures on the current parcel; the entire site is pavement.
- 2.2 The portion of the lot that lies in Roseville is 125 feet in width by 330.4 feet in depth or 41,300 square feet. The parcel is a small but a workable redevelopment site for a town house development. The site was identified as Phase 2 of the original Mendota Homes PUD which included Phase 1, a 30 unit senior housing complex northeast of the Phase 2 proposal.
- 2.3 The proposed architecture will be single level structures with walkout or lookout basements and a height from the main floor of 20 feet. The exterior will be maintenance free siding, fascia, and soffit and asphalt shingles. Gutters and downspouts will direct the rainwater and snow melt away from the site. Decks and/or patios are proposed with each structure. The front of the town home and the garage access will face south toward the Executive Manor Condo's. The estimated value of the finished project is \$1.5 to \$1.8 million.
- 2.4 Mendota Homes submitted the required concept development plans, including site, drainage, landscape, and building elevations. Because the site is reducing the existing impervious site area ponding is not required. However, storm water will drain to the adjacent parcel, northeast of the proposal. The drainage pond on the previously approved three story, 30 unit condominium building has ponding capacity for Phase 2. Greater detail will be required as part of the final approvals.
- 2.5 Section 1008 of the City Code outlines the requirements and procedures for a planned unit development.

3.0 STAFF REVIEW & CONDITIONS

- 3.1 The City's Comprehensive Plan map designates this area for High Density Residential. The zoning of the site is Limited Business District "B-1". The zoning would be revised to PUD with an underlying zone of R-6, Townhouse District. High density allows residential developments from 10 to 36 units per acre. Highway 88 and the previously approved PUD lies to the northeast; the Executive Manor Condos, zoned Limited Business (B-1) lies to the south (residential uses are permitted in a B-1 zone); two single family residential homes, zoned Single Family (R-1) to the north; and town homes within the City of St. Anthony are located to the west.
- 3.2 The City's Comprehensive Plan text currently does not specifically address any of this

particular site, however does address the adjacent triangular 30 unit senior housing site previously approved by the City. Further, the policies within the plan provide direction to eliminate blight, upgrade neighborhoods with a mix of compatible uses, and diversify and solidify the tax base.

- 3.3 In conjunction with the application for concept development plan approval, a project site plan, grading and utility plan, landscape plan, building elevations and floor plan have been submitted and reviewed by staff in preparation of this report.

3.5. Based on the proposed redevelopment of the site it is necessary to place the principal structures as close as 16 feet from the north property line, decks and patios to within six (6) feet of the north property line, and the turn-around private driveway to within two (2) feet of the east property line.

- 3.6. Off-street parking space for the storage of two (2) vehicles within a garage and two (2) vehicles in the driveway is sufficient. Additional guest parking will be addressed in the final document.

- 3.7. Because this project is an empty nester (single level) town home development, traffic is not anticipated to significantly increase along Old Highway 8. Staff estimates no more than eight (8) trips (in or out) from each unit or a total of 96 trips per day. Traffic counts completed in 1997 indicate a 24 movement of 6,732 vehicles.

- 3.8. Because this development will be viewed from the condominiums to the south, staff has worked with Mendota Homes in achieving a quality development that does not have the typical characteristics of a twin home development. These items include staggering the setbacks of structures; the incorporation of decks and/or patios; differing rooflines between structures; and the addition of architectural components such as 1-1/2 story foyers. These items have been incorporated into the proposal, however, staff still feels that the development could be revised further to create more diversity. Staff suggests that the rooflines of the structures be redesigned, especially at garage locations. Further 1-1/2 story foyers or more diverse entry designs should be included at all entry locations and not be the typical dormer look.

- 3.9. If the Concept plan is approved, the PUD would be written to allow a 10 unit town home development with the underlying zoning R-6, Townhouse District and the setback reductions proposed in the attached plans. Easements for access and utilities must be in place from Old Highway 8 to serve all units, including the two (2) units in St Anthony.

- 3.10. The project as proposed is in harmony with the general purpose and intent of the City's Comprehensive Plan and Title 10 of the City Code (Zoning).

- 3.11. The proposed project will not adversely affect the public health, safety, or general welfare.

- 3.12. A complete utility, lighting, paving, grading, site, landscape, signage, and drainage plan

must be submitted to and approved by the City prior to consideration of the final development plan. Coordination of plans with the City of St. Anthony must also be completed.

- 3.13. Park dedication fees in lieu of land dedication will be collected at building permit issuance for each new townhome unit constructed in Roseville at a rate \$400.00 per unit.

4.0 STAFF RECOMMENDATION

- 4.1 Based on the review and conditions outlined in Section 3 of this report, staff recommends approval of the concept development plan and preliminary plat for a planned unit development amendment allowing the construction of 10 town homes on property directly north of Executive Manor Condos.

5.0 SUGGESTED ACTION

- 5.1 By motion, recommend approval of the concept development plan and preliminary plat for a planned unit development amendment that allows the construction of 10 town homes on property located directly north of the Executive Manor Condos, based on the review and conditions outlined in Section 3 of this report.
- 5.2 It is understood that the effective date of such a planned unit development will not occur until after the application submission and final approval of the planned unit development agreement, the final plat and publication of the zoning ordinance amending the City Zoning Map. No new construction may occur before the effective date of the ordinance.

Attachments: Location map, Site Plans, Photos of site, and aerial photo.
Prepared by: Thomas Paschke, City Planner (490-2236)
Q:\Planning Files\3123_Wirth Companies\RPCA (071499).doc

Application Deadlines: Accepted June 21, 1999, 60 day deadlines August 20, 1999.

CITY COUNCIL

City of Roseville Planning Commission Minutes Wednesday, July 14, 1999

1. Call to Order

Chair Klausung called the regular meeting of the City of Roseville Planning Commission to order at 6:30 p.m. in the City Council Chambers

2. Roll Call and Introduction

Present:	Chair Craig Klausung, Peggy Egli, Janet Olson, Ed Cunningham, Doug Wilke, James Mulder
Absent:	John Rhody
Council Members present:	Barb Mastel
Staff Present:	Dennis Welsch, Deb Bloom, Thomas Paschke

3. Approval of Minutes

Motion: Member Cunningham moved, seconded by Member Olson, to approve the minutes of the June 9, 1999 meeting of the Planning Commission as submitted.

Ayes: Mulder, Olson, Cunningham, Klausung, Wilke, Egli

Nays: None

4. Communications from the Public

None

5. Consent Agenda

5a. Planning File 3119: Accept withdrawal of City Center Task Force Request to establish Comprehensive Plan District for City Center.

Member Mulder asked for more information and requested that this item be moved to 7B.

6. Public Hearings

6a. Planning File 3123: Mendota Homes is requesting an amendment to PUD #1197 for Concept consideration of a ten-unit town home development on property located along Old Highway 8, north of Executive Manor Condos.
(PID 052923320003)

Chair Klausung opened the hearing and requested City Planner Thomas Paschke to present a verbal summary of the staff report dated 7-14-99. He described the purpose of the concept PUD and preliminary plat. He noted the existing site is a vacant parking lot and explained the zoning on the site and adjacent

sites. Paschke reviewed Phase I and preliminary Phase II of the existing PUD. The design of the townhome units was described as well as the preliminary plat illustrating the ten lots and the common area lot. There will be one twin unit and two four-unit buildings in Roseville. There would be up to 96 trips per day created by all units. The comprehensive plan states that the site is designated for High Density Housing. Park dedication would be \$400/unit. The staff recommended concept and preliminary plat approval with more guest parking, and refined design of the structures; final plat must include utility easements. Final plans will be prepared for a final approval later in the summer.

Member Olson asked for details on guest parking space. Thomas Paschke explained possible spaces for four additional spaces with screening and landscaping.

Member Olson asked for details of the fences on the existing property line (to be removed) as well as vegetation. (Most to be removed)

Chair Klausing asked for further details on parking for guests and code requirements for guest parking. He also asked for location of the fencing.

Member Wilke asked for details of the St. Anthony approvals – nothing would be approved in Roseville until St. Anthony approves.

Member Egli asked for examples of similar situations of PUDs in two cities. (None available)

Chair Klausing asked for details of the reasoning for a PUD. Could the developer build without a variance? What is being done to be different from normal code requirements? (Generally five-foot setbacks for driveways are required.)

Chair Klausing asked for details of the PUD process. Why does the Planning Commission review this only once?

Member Olson asked if the rear yard is also owned by Mendota Homes.

John Mathern representing Mendota Homes, explained the development project. He noted that the parking lot currently drains to the east, into a common area wetland. He noted the project is on the agenda in St. Anthony for the next week. All fences and asphalt on the site will be removed and there will be more green space when done than currently exists. Mr. Mathern described the townhome design and landscaping. He is reviewing alternatives for guest overflow parking of four spaces. The prospective owner is over fifty years and wants to stay in the area and wants few steps. The chain-link fence will be removed on both sides and the lot-lines will be replanted.

Member Olson asked for details of the asphalt that is two feet from the property line; the building is 16' to 18' from the east (rear) property line.

Member Egli asked if there was a sidewalk on Old County Road 8? Will there be linkage or pathway connecting the two properties and the pond? She explained her concern for the view of the project from the condominiums. Can there be better screening? (There is five feet of planting space.) Mr. Mathern said that a choice of trees, evergreens and shrubs is possible

Chair Klausing asked if tuck-under garages were considered? Can there be a

half-story tuck-under? (No, tuck-unders require more steps) Mathern said steps require a different buyer.

Chair Klausing asked what the market price will be? Mathern explained the market price will be \$159,000 to \$180,000.

Member Wilke asked if the fire staff has reviewed. (Yes, suggests a hydrant at the east end of the site)

Comments from the public.

Ray Maliner, representing the Executive Condominium Association, noted the association does not object to development, but to setback from Executive Manor "B" building, especially the driveway. Headlights and noise may be a concern. He read a letter objecting to the ten-unit development because it would face the condo, cars, buildings and construction dirt will be too close.

Mr. Maliner said condo members did not fully receive mailings. Nine of thirty-six members did not receive mailings.

Dorothy Ohnsorg, Maple Lane, noted that the original proposal was a thirty-unit building. The current proposal is much better design. Please inform her of additional hearings.

There being no further comment, Chair Klausing closed the hearing.

Member Mulder asked for setback dimensions of the condo Building "B" (18 feet from property line)

Chair Klausing noted he does like the senior housing concept and the lower building and density. He expressed concern about the setback to the south. He prefers the project grant a variance on the north side, moving the building farther away from Building "B".

Chair Klausing noted the site should be redeveloped from a parking lot. He noted that the developer could build on the site without rezoning. He preferred the senior project concept.

Member Wilke asked for clarification of the Chair Klausing idea to move the new buildings further to the north to allow more green space on the south side. Mendota Homes stated they would also plant on the condo property if requested.

Member Wilke liked the current setbacks in order to provide space on the north side.

Member Mulder agreed with Member Wilke to retain the current proposed setbacks; this is a more acceptable design than the thirty-unit building.

Member Olson stated she liked the proposal and the setbacks do not appear tight.

Member Cunningham stated that there is adequate screening along the driveway.

Motion: Member Cunningham moved, seconded by Member Wilke to recommend approval of the concept development plan and preliminary plat for a planned unit development amendment that allows the construction of ten townhomes on property located directly north of the Executive Manor Condos, based on the following findings from the staff report dated July 14, 1999:

1. The City's Comprehensive Plan map designates this area for High Density Residential. The zoning of the site is Limited Business District "B-1". The zoning would be revised to PUD with an underlying zone of R-6, Townhouse District. High density allows residential developments from 10 to 36 units per acre. Highway 88 and the previously approved PUD lies to the northeast; the Executive Manor Condos, zoned Limited Business (B-1) lies to the south (residential uses are permitted in a B-1 zone); two single family residential homes, zoned Single Family (R-1) to the north; and town homes within the City of St. Anthony are located to the west.
2. The City's Comprehensive Plan text currently does not specifically address any of this particular site, however does address the adjacent triangular 30 unit senior housing site previously approved by the City. Further, the policies within the plan provide direction to eliminate blight, upgrade neighborhoods with a mix of compatible uses, and diversify and solidify the tax base.
3. In conjunction with the application for concept development plan approval, a project site plan, grading and utility plan, landscape plan, building elevations and floor plan have been submitted and reviewed by staff in preparation of this report.
4. Based on the proposed redevelopment of the site it is necessary to place the principal structures as close as 16 feet from the north property line, decks and patios to within six (6) feet of the north

- property line, and the turn-around private driveway to within two (2) feet of the east property line.
5. Off-street parking space for the storage of two (2) vehicles within a garage and two (2) vehicles in the driveway is sufficient. Additional guest parking will be addressed in the final document.
 6. Because this project is an empty nester (single level) town home development, traffic is not anticipated to significantly increase along Old Highway 8. Staff estimates no more than eight (8) trips (in or out) from each unit or a total of 96 trips per day. Traffic counts completed in 1997 indicate a 24 movement of 6,732 vehicles.
 7. Because this development will be viewed from the condominiums to the south, staff has worked with Mendota Homes an achieving a quality development that does not have the typical characteristics of a twin home development. These items include staggering the setbacks of structures; the incorporation of decks and/or patios; differing rooflines between structures; and the addition of architectural components such as 1-1/2-story foyers. These items have been incorporated into the proposal; however, staff stills feels that the development could be revised further to create more diversity. Staff suggests that the rooflines of the structures be redesigned, especially at garage locations. Further 1-1/2-story foyers or more diverse entry designs should be included at all entry locations and not be the typical dormer look.
 8. If the Concept plan is approved, the PUD would be written to allow a 10-unit town home development with the underlying zoning R-6, Townhouse District and the setback reductions proposed in the attached plans. Easements for access and utilities must be in place from Old Highway 8 to serve all units, including the two- (2) units in St Anthony.
 9. The project as proposed is in harmony with the general purpose and intent of the City's Comprehensive Plan and Title 10 of the City Code (Zoning).
 10. The proposed project will not adversely affect the public health, safety, or general welfare.
 11. A complete utility, lighting, paving, grading, site, landscape, signage, and drainage plan must be submitted to and approved by the City prior to consideration of the final development plan. Coordination of plans with the City of St. Anthony must also be completed.
 12. Park dedication fees in lieu of land dedication will be collected at building permit issuance for each new townhome unit constructed in Roseville at a rate \$400.00 per unit.

Ayes: Mulder, Olson, Wilke, Klausing, Rhody, Cunningham

Nays: None

Motion Carried 6-0

Member Cunningham stated that the developer should have screening on the southern portion of the property to minimize the visual impact of the condos.

6b. Planning File 3128: Joseph Duellman, Tom's Mobile Service, is requesting a variance to allow additional signage on a pre-existing non-conforming sign on property located at 1935 Rice Street North (PID 132923140019).

Chair Klausing opened the hearing and asked Thomas Paschke to explain the staff report dated 7-14-99. Paschke described the request and setbacks required. Pylon signs are structures requiring a thirty-foot setback. The Duellman sign is a pre-existing (1957) non-conforming structure. The site is 90% developed or paved. There are no alternative sites. The request is for less than half of the code allowance for this site. Staff recommended approval. The sign is four feet from the Rice Street right-of-way and twenty-one feet from the McCarrons Street right-of-way.

Member Mulder asked the height of the sign base. Is it too low to be safe for visibility along Rice Street?

Chair Klausing asked if applicant needed a variance from McCarrons Street right-of-way side yard? (No)

Chair Klausing asked if a variance is granted, would the sign be in conformance with the code (Yes) provided the size and height met the city code requirements in effect at that time. Site lines and the site triangle must be protected. Can conditions be attached? (Yes)

Tom Duellman, representing the site owners, answered questions.

Meeting Notice

The City of Roseville City Council will meet on Monday 7-26-99, 1999 beginning at 6:30 pm in the City Council Chambers within the City Hall located at the northwest corner of Lexington and County Road "C".

Your issue is on the agenda and is within the section circled below. A more complete agenda is available after noon on the Friday before the meeting. Please feel free to call 490-2206 for further details about the City Council agenda.

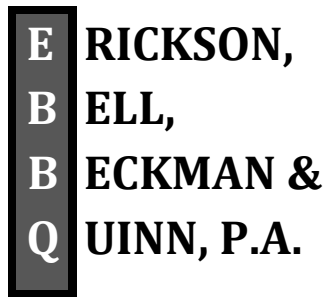
In order for your request to be considered by the City Council, you or your representative must attend this meeting to review the request and answer any questions.

The planning staff is also available to help answer questions about your specific project and the attached staff report. Planning: 490-2236; Community Development: 490-2279.

Agenda

Call to Order - 6:30 pm

- A. Communications/Public Comment
- B. Approval of Minutes
- C. Consent Agenda - One motion approves all items on the Consent Agenda
- D. Items Removed From Consent Agenda
- E. Organizational Business
- F. Reports and Recommendations
- G. Recognitions - 7:15 pm
- H. Hearings - Approximately 7:30pm.
 - I. Land Use
 - J. Ordinances
 - K. Additional Reports and Recommendations
 - L. Items Tabled
 - M. Other Business
 - N. Adjournment



1700 West Highway 36
Suite 110
Roseville, MN 55113
(651) 223-4999
(651) 223-4987 Fax
www.ebbqlaw.com

Attachment B

James C. Erickson, Sr.
Caroline Bell Beckman
Charles R. Bartholdi
Kari L. Quinn
Mark F. Gaughan
James C. Erickson, Jr.

Robert C. Bell – *of counsel*

TO: Mayor Roe and Councilmembers

FROM: Charles R. Bartholdi

RE: Land Use Appeals
Our File No: 1011-00196

DATE: January 5, 2011

As I indicated in my previous memorandum to you, the following three Land Use Appeals have been received by the City:

1. Appeal by “members and property owners of Woods Edge Homeowners Association” to the decision to change the zoning of the adjacent parcels at 3253 and 3261 Old Highway 8 from Low Density Single Family Residential (R-1) to High Density Residential (HRD-1) (“Woods Edge Appeal”).
2. Appeal by the “property owners abutting/surrounding the parcels at 3252 and 3261 Old Highway 8” to the decision to deny the petition to amend the Roseville Comprehensive Plan to recommend Medium Density Development with future zoning to be of density to greater than R-6 for 3252 and 3261 Old Highway 8 (“Old Hwy 8 Appeal”).
3. Appeal by Har Mar neighborhood residents to the decision to eliminate the R-1 zoning of the south end of the Har Mar parking lot (“Har Mar Neighborhood Appeal”).

As a result of the adoption of the New Zoning Map and Code on December 13, 2010 and publication on December 21, 2010 (“New Zoning Code”), the Board of Adjustments and Appeals no longer hears appeals relating to City Council land use decisions (See Section 1009.08). Section 1002.06A.2. of the New Zoning Code provides that the Community Development Department is to interpret the provisions of the Code. Following the delivery of my prior memorandum, the Community Development Department reviewed the Appeals, as required by Section 1002.06, and determined that the Woods Edge Appeal and Har Mar Neighborhood Appeal are appeals of City Council land use decisions and, consequently, are not reviewable by the Board of Adjustments and Appeals. Therefore, only the Old Hwy 8 Appeal needs to be considered by the Board of Adjustments and Appeals.

The Old Hwy 8 Appeal is an appeal of an administrative decision. Section 1009.08 of the New Zoning Code provides that such administrative decisions are appealable to the City Council,

acting as the Board of Adjustments and Appeals. Therefore, this appeal should proceed as follows:

1. The Old Hwy 8 Appeal should be referred to the Planning Commission for review at its next regularly scheduled meeting. As indicated to you previously, Minnesota Statutes § 462.354, Subd. 2, provides as follows:

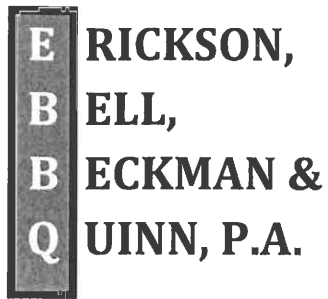
“In any municipality in which the planning agency does not act as the board of adjustments and appeals, the board shall make no decision and any appeal or petition until the planning agency, if there is one, or a representative authorized by it has had reasonable opportunity, not to exceed sixty (60) days, to review and report to the board of adjustments and appeals upon the appeal or petition.”

Consequently, the Board of Adjustments and Appeals should make no decision on this matter until the Planning Commission has had its opportunity to review and report on the Appeal.

2. Following the receipt of the report from the Planning Commission, the Board of Adjustments and Appeals should then hold a public meeting to consider and rule on the Appeal.

CRB/alb

cc: William J. Malinen
Patrick Trudgeon



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Charles R. Bartholdi
Kari L. Quinn
Mark F. Gaughan
James C. Erickson, Jr.

Robert C. Bell – *of counsel*

TO: Mayor Roe and Councilmembers

FROM: Charles R. Bartholdi

RE: Land Use Appeals
Our File No: 1011-00196

DATE: January 5, 2011

I have been asked to respond to several inquiries relating to the Appeal by the Woods Edge Homeowners Association and Old Highway 8 neighborhood residents. The following is my opinion regarding the inquiries:

1. Question: Under the Roseville City Code that was in effect at the time of the Petition, should the City Council have referred the petitioned request to the Planning Commission pursuant to Roseville City Code Section 1016.01C? Was the petition actually a request for rezoning? Is the request of a zoning of "no greater than R-6" sufficient to be a petition for rezoning as governed by Section 1016.01C of the previous Roseville Zoning Code?

Answer: The Petition asked for the following:

"We, the undersigned property owners, call on the Roseville City Council to amend the Roseville comprehensive plan to recommend "medium density development" with future zoning to be of density no greater than R-6 for 3252 and 3261 Old Highway 8."

The Petition is a request to amend the Roseville Comprehensive Plan. There is no stated request to rezone the property, only that a land designation of "no greater than R-6" be designated. Even if it were assumed that a rezoning was requested, no specific zoning classification was requested and no request was made that the property should be rezoned at this time. Finally, even if the Petition were considered a rezoning request, the Petitioner's have failed to hold the Open House which was required under Roseville Code Section 1016.02 prior to submitting a rezoning request. An administration determination was made that the Petition was for a Comprehensive Plan Amendment and that only property owners can request Comprehensive Plan Amendment not adjacent property owners. Since the Petition did not conform to the requirements of the Zoning Ordinance, the Petition did not have to be referred to the Planning Commission.

2. Question: Was or is there a procedure in the Roseville City Code or State Statute to allow for a petition by neighbors to apply for a change to the Comprehensive Plan Designation of a property that they do not own or control?

Answer: There is a procedure set forth in Section 201.07 of the Roseville City Code which allows a property owner to request an amendment to the Comprehensive Plan. However, such a request is limited to a request by a property owner and requires that an Open House be held prior to submitting an application. I am not aware of any state statute giving adjacent property owners the right to request a Comprehensive Plan change.

3. Question: Under the old Roseville City Code Section 1016.02, was an applicant supposed to hold an Open House in accordance with the requirements of Section 1016.02 prior to the application for rezoning being considered complete?

Answer: Yes, an application by a property owner required that an Open House be held prior to submitting an application for a rezoning.

4. Question: Which version of the Roseville City Zoning applies to the Appeal?

Answer: the Zoning Ordinance and Map which were adopted by the City Council at its December 13th meeting and published on December 21, 2010 ("New Zoning Ordinance") apply to all further proceedings on the Appeals. The general rule is to apply the law in effect when a decision is being made unless doing so would result in manifest injustice or there is statutory direction or legislative history to the contrary Bradley v. School Board of Richmond 416 U.S. 696 (1974), Interstate Power Co. v Nobles County Board of Commissioners 617 N.W. 2d 566 (2000), and Kiges v. City of St. Paul, 62 N.W. 2d 363 (1953). Therefore, the New Zoning Ordinance should be applied when future decisions are made regarding the Appeals.

5. Question: Under either version of the Roseville Zoning Code, is an appeal to the City Council, acting as Board of Adjustments and Appeals, of a City Council action allowed for?

Answer: Under Section 1015.04C of the prior Roseville Zoning Code, an appeal of a City Council action to the Board of Adjustments and Appeals was authorized with respect to... "any action approving or denying an application related to any matter addressed in title 10 or 11 of the Roseville City Code." This would include a City Council action. Section 1009.08 of the New Zoning Ordinance limits Appeals to decisions of a variance by the Variance Board, administrative rulings of the Community Development Department, and other administrative actions approving or denying an application or request related to any matter addressed in the Zoning Code. Section 1009.08 does not include a City Council actions.



January 5, 2010

Ms. Rita Mix
3207 Old Highway 8
Roseville, MN 55113

Dear Ms. Mix:

I have reviewed your appeal request dated December 20, 2010 regarding the recent City Council decision to rezone 3253 and 3261 Old Highway 8 from R-1 Single Family to HDR-1 High Density Residential.

In consultation with the Roseville City Attorney and review of the Roseville City Code, staff has come to the determination that your request for an appeal to the zoning change is not allowed under Chapter 1009.09 (A) of the Roseville City Code. Under Chapter 1009.08 (A) of the Roseville City Code, only decisions of the Variance Board, an administrative ruling of the Community Development Department, or an administrative action approving or denying an application or request related to the zoning code can be appealed to the City Council acting as the Board of Adjustment and Appeals. The decision regarding the rezoning 3253 and 3261 Old Highway 8 on December 13, 2010 was a legislative decision made by the City Council, not an administrative decision, and thus not appealable to the City Council acting as the Board of Adjustment and Appeals.

At the January 10, 2011 meeting of the Board of Adjustment and Appeals, staff will inform the City Council of this staff determination and there is not expected to be any further action on your appeal request. (Please note that the other appeal you have submitted regarding the rejection of the November 16, 2010 petition will be received by the Board of Adjustment and Appeals on January 10, 2010 with the recommendation that the appeal be referred to the Planning Commission for their consideration on February 2, 2011).

Feel free to contact me at (651) 792-7071 or at pat.trudgeon@ci.roseville.mn.us if you have any questions.

Respectfully,

CITY OF ROSEVILLE

A handwritten signature in black ink, appearing to read 'Patrick Trudgeon', written over the printed name.

Patrick Trudgeon, AICP
Community Development Director

C: John and Helen Henz
511 Riveria Drive
New Brighton, MN 55112
(Owner of 3253 Old Hwy. 8)

Thomas Arthur Ranallo
3205 Hilldale Ave NE Lower
Minneapolis, MN 55418
(Owner of 3261 Old Highway 8)