



**PLANNING COMMISSION MEETING MINUTES**  
**July 27, 2015**  
**7:00 p.m.**

**1) Call to Order**

Heck opened the meeting at 7:00 p.m.

Chair Heck wanted to express condolences to the Stulberg family on the recent passing of Commissioner Mike Stulberg.

In attendance: Chair Mark Heck, Planning Commissioners: Michael Molitor, Lora Sandholm, Peter Vickery, and Sylvia Allen, Council Liaison Mayor Lisa Whalen; Staff: Community Development Director David Abel, Associate Planner Nick Olson, City Attorney Ron Batty, City Clerk Kris Linguist, and Attorney Andrew Biggerstaff, Kennedy and Graven.

Absent: Bob Pollmann

**a) Approval of Agenda**

Chair Heck requested any changes to the agenda. Chair Heck requested to add item 3a) Discussion of Electing a Vice Chair for the commission, Chair Heck asked for unanimous consent of the agenda as amended.

Motion passed 5-0.

Absent: Pollmann

**b) Approval of Minutes of June 22, 2015**

Motion by Sandholm, second by Heck to approve the minutes from June 22, 2015 as presented.

Motion passed 5-0.

Absent: Pollmann

**2) Public Hearing**

**a) CONDITIONAL USE PERMIT: Application from John Leonard of Redemption House requesting a reasonable accommodation pursuant to the Federal Fair Housing Act, 42 U.S.C § 3604 (f)(3)(B). Specifically, they are requesting that the City treat the residents as a family by waiving the number of unrelated persons that can reside together as a family, and treat the use of the dwelling as single-family use at 7590 Susan Lane, Agriculture Zoning (A), PID# 09-117-24-24-0002**

Community Development Director Abel presented the staff report found on the Website dated July 27, 2015. Highlights included in the presentation were:

- An outline of the timeline of events as they pertain to Redemption House and 7590 Susan Lane
  - May 2014 Home is purchased by an LLC in Texas

- Late 2014/Early 2015 Phone call received from neighbor regarding suspicious vehicle
  - March 23, 2015 Email from concerned neighbor and phone calls from curious neighbors received
  - March 24, 2015 Community Service Officer Mike Wocken visits home
  - March 25, 2015 Community Development Director David Abel reaches out to residents of 7590 Susan Lane by phone and email
  - March 28, 2015 Redemption House held an open house for neighbors
  - April 16, 2015 Correspondence received from Hennepin County regarding septic system upgrade
  - April 22, 2015 City Administrator Mike Barone, Community Development Director David Abel, City Attorney Ron Batty, Sergeant Mike Kokesh, Associate Planner Nick Olson, Mayor Lisa Whalen, and Councilmember Pam Mortenson visit site
  - April 24, 2015 Letter sent to John Leonard regarding code violation
  - May 20, 2015 Associate Planner Nick Olson, Building Official Jessica Archer, and Councilmember Patricia Thoele visit site
  - May 22, 2015 Letter sent to John Leonard in regards to conditional use permit application
  - May 28, 2015 Letter sent to John Leonard requiring additional items for application
  - June 18, 2015 Letter sent to John Leonard noting complete application
  - July 7, 2015 Notice sent to neighbors within 500 feet of 7590 Susan Lane
  - Tonight July 27, 2015 Public Hearing regarding Conditional Use Permit
- Applicant proposes to use the property as a residential sober living home
  - Property will be used as the residence for individuals who are disabled due to alcoholism or chemical dependency.
  - Property will provide a strong supportive community through which individuals can live in an environment free from pressures and temptations.
  - All residents must agree to follow the house rules outlined in a rulebook and share in house duties.
  - The City considers this a request under the Federal Fair Housing Act.
  - The applicant is requesting that the maximum number of residents that will be housed at the site at any given time, including and landlord(s), paid staff or live-in house managers be 13.
  - Staff outlined the guidelines for the conditions of a conditional use permit
  - The Federal Fair Housing Act requires regulatory agencies to grant an accommodation if it is reasonable
  - The proposed use meets all of the factors of a conditional use permit. The following findings of fact have been made:
    - There is a special need for this type of housing to serve people with alcohol and drug dependency as, to the knowledge of staff,

the City of Minnetrista does not currently offer any alternatives for this type of housing.

- The applicant does not propose to make any changes to the property or structure.
- There is no impact on surrounding uses as the proposed use is similar to that of a single family home unit.
- There is no foreseen changes needed to the zoning regulations for the City of Minnetrista. The proposed use will meet all the requirements as if it was a single family residence which is permitted under City Code.
- There will be no undue financial or administrative burden on the City of Minnetrista. The proposed use should operate much like a single family unit.
- The homeowner has upgraded the septic system to accommodate the number of bedrooms in the home.
- The home currently does not pose any safety hazards and currently meets the minimum safety requirements adopted by the City of Minnetrista through the 2015 Minnesota Residential Code.
- The City received many letters expressing concern from residents in the neighborhood.
- The City received a letter from Attorney Peter J Diesnner, Esq. from Speeter & Johnson who is representing many of the residents from Susan Lane expressing the wish for denial of the Conditional Use Permit.

Staff recommends that the Planning Commission recommend to the City Council to approve the reasonable accommodation pursuant to the Federal Fair Housing Act, 42 U.S.C § 3604(f)(3)(B) by conditional use permit for the property located at 7590 Susan Lane based on the above findings of fact and subject to the conditions outlined below:

1. Record this resolution with the county;
2. The maximum number of residents in the home, including any and all landlord(s), paid staff, or live-in house managers be 13;
3. Any expansion of the property including, but not limited to, increase in number of residents, additions to the existing structures, or any new detached structures shall require an amendment to the conditional use permit;
4. The septic system must remain compliant with Hennepin County;
5. The applicant shall obtain all necessary permits and approvals from the City and other applicable entities with jurisdiction prior to any future construction;
6. The applicant shall be responsible for all fees incurred by the City in review of this application;
7. The City may inspect the property with notice, at any time, for the purposes of insuring the conditions of the Conditional Use Permit are being met;
8. The City Council reserves the right to review and revoke the CUP upon violation of any term or condition;
9. Any other conditions deemed necessary by the Planning Commission to ensure the property does not impose an undue

burden on city services or fundamentally alter the character of the neighborhood.

City Attorney outlined the Federal Fair Housing Act for the commission.

Vickery inquired if the CUP is granted, will it stay with the property if the use is no longer in effect. City Attorney Batty outlined the CUP permitting process and the use will stay with the property as long as it meets the conditions of the CUP.

Attorney Fabian Hoffner representing the Redemption House spoke on what the Redemption House is and how it operates.

Sandholm inquired on how long a typical resident of the Redemption House resides there. Hoffner stated six months to a year with an extension option.

Allen inquired why the Redemption House did not start the CUP process earlier. Hoffner stated that they didn't mean to be disrespectful of the process.

Chair Heck inquired about the cost for the House. Hoffner stated that there is a participation fee.

Sandholm inquired if a staff person is on site at all times. Hoffner confirmed that there is a staff person on site at all times.

Chair Heck opened the public hearing at 7:29 p.m.

Heck questioned if there were other homes of this sort and how many in Minnesota. The response was there are many sober homes in the Twin Cities area.

John Curtis, Vice President of the Minnesota Association of Sober Homes (MASH), is the CEO of The Retreat – Wayzata, spoke on behalf of MASH regarding the operational standards of MASH, how every MASH home has to be inspected, training provided to the house managers twice a year and spoke about the credibility of John Leonard, founder of The Redemption House.

Chair Heck inquired of the percentage of residents that complete the program. Curtis stated that very few don't complete the program. That the residents quietly co-exist in the community.

There was discussion on the safety of the people that reside in the home.

Allen inquired about how the residents are chosen. Curtis stated that there is an application, screening, and interview process. He also stated that there are no court ordered participants, that there are only people of their own free will that are accepted.

Vickery inquired about what a normal day would be like. Curtis gave a general outline on how most sober houses run their daily programs.

Vickery inquired on how the outreach is handled on a government level. Curtis stated that MASH has an excellent working relationship with the Cities of Minneapolis and St. Paul.

John Leonard, founder of the Redemption House, stated that there are many sober living homes some as close as Minnetonka, Chaska, and two sober homes in Mound. He was unaware of any other sober homes in Minnetrista.

Allen questioned why they didn't come in to inquire about the process sooner. Leonard stated that in searching the City Code, he could not find a specific code that addressed sober homes. City Attorney Batty stated that most cities do not have a section in the City Code addressing sober homes.

Vickery asked if the neighbors had contacted Leonard regarding the home. Leonard stated that they had an open house and a discussion at that time.

Leonard stated that they are quiet neighbors and use a van when taking the residents of the home to and from their meetings and activities.

Chair Heck asked if the residents are allowed to leave the house. Leonard stated that they can leave and visit family but have to have prior authorization first.

Leonard stated that the house is only for men and they have to be eighteen years of age or older.

Aaron Stutter, Redemption House resident, stated that he has been at the house since February 9, 2015 (the first day it was operational). He stated that the program has made a tremendous impact on his life and spoke of his journey on how he got to become a resident. He has acquired learning tools to having a better life.

Vickery asked Stutter what a typical day is like at the house. Stutter outlined what a typical week consists of. He stated that only a couple of the residents are local and only some get visitors at the Home.

Mark Summers, 5646 Kramer Road, stated that he is the Treasurer and board member of the Redemption House. He spoke of his daughter's addiction and experience with Sober Homes. He stated that he is proud to have a sober house in Minnetrista.

Samuel Kim, Resident at the Redemption House, commented that the only one true complaint would be about a suspicious vehicle in the neighborhood. He stated that the House is trying to be good neighbors and couldn't understand why there is such an opposition to the sober house.

Peter Diessner, Attorney for the residents on Susan Lane, outlined his letter dated July 23, 2015 that was submitted to the City and his interpretation of the Federal Fair Housing Act.

Laurie Genereux, 1205 Scott Dr., spoke of her concerns about traffic. There are increased taxis, UPS trucks, visitors and on-lookers. She hears and sees all the traffic. She is requesting that the planning commission recommend denial of the Conditional Use Permit application.

Chair Heck asked Ms. Genereux how many vehicles travel the road. She estimated that there were approximately 8 trips a day but could be as much as 13 times a day.

Allen asked if the traffic was her only issue. Genereux stated that it was her only complaint.

Elizabeth Schreiner, 7530 Susan Lane, gave her personal background of being a nurse and experience with recovering addicts. She had comments about the rules of the Redemption House. She felt a sober home does not fit the characteristic of the neighborhood. She stated that prior to the sober house, the traffic was almost none existent. She stated that it very hard for their Neighborhood Watch Group to function properly because of all the new vehicles coming and going. She doesn't feel secure in the neighborhood any longer.

James Nelson, 7500 Susan Lane, gave his personal credentials to the commission. He felt this House would have a negative environmental impact on the area. He also had concerns that the House didn't contact the local government prior to moving in. He also had concerns about the expansion of the number of people in the neighborhood.

John Tschumperlin, 7575 Susan Lane, commented on ethics of the way the Redemption House went about starting the organization. He commented that they are now asking for forgiveness instead of for permission prior to starting. He respectfully asked the commission to deny the request.

Kim Anderson, 7560 Susan Lane, stated that it didn't matter what type of business would have moved in there, he would have an objection to it, it's not the sober house particularly. He stated that it is a small knit neighborhood and that he has seen more strangers in a month than he has in a year. He commented that they have not been very friendly. He felt the character of the neighborhood has changed. Heck asked if his concerns also included the increased traffic and Anderson stated it did.

Shannon Bruce, 7500 Fielding Trail, in favor of the Redemption House. She stated that she has talked with most of the residents there and they are very nice men. She commented on the scholarships that are given so that these men can reside at the House. She also commented on what it takes to save a life.

Leonard commented about the issues on how much money it takes to run the House. He stated that it is not about making money and that the organization is a non-profit 501c3 governed by a board of directors, similar to a church.

Bob Kogler, 1180 Scott Drive, commented that he didn't have issues with the traffic but with the number of people that resided in the house. He also commented that he felt they have not been honest from the beginning.

Samuel Kim, Redemption House, asked forgiveness from the neighbors and would like to make peace with them.

Chair Heck closed the public hearing at 9:22 p.m.

Molitor stated that the House is basically being run as a commercial business not like a fraternity house setting. He felt that there was a discrimination issue and that the House cannot just pick and choose which parts of the Act they want to abide by. He questioned if there were any police calls to the address. Abel stated there had been no incidents at the site except for the initial call in early 2015 about a suspicious vehicle.

Molitor commented that a licensed facility is only allowed six people but an unlicensed facility is asking to have thirteen people reside there. City Attorney Batty sited other things to consider such as a day care facility or extended families do not need licenses to be in Single Family Residential areas.

Vickery commented on the area being pristine and could see the concerns about traffic.

Molitor questioned how the House came up with the number of thirteen residents when a licensed facility can operate with six. Batty sited State Statutes regarding uses of facilities in Single Family Residential areas.

Attorney Hoffner explained that there are cases where it is stated that it is therapeutically effective to have twelve people.

Sandholm questioned where the City originally came up with the up to three non-related people in our current City Code. Batty did not know when that portion of the code was written.

Vickery commented that maybe some type of compromise could be arranged.

Molitor stated that the planning commission does not have to recommend thirteen.

Allen questioned if there was a reduction in the number of residents if that would reduce the amount of traffic. Leonard stated that the residents go everywhere together so it might only reduce traffic by five percent.

Motion by Heck, seconded by Allen to recommend the City Council to approve the Conditional Use Permit request from John Leonard of the Redemption House located at 7590 Susan Lane with the conditions listed in the staff report.  
Motion failed 2-3. Ayes – Heck, Allen. Nays – Vickery, Molitor, and Sandholm  
Absent: Pollmann

Motion by Sandholm, seconded by Vickery to deny the request as stated for the reason of it changes the fundamental characteristic of the neighborhood by increasing the number of residents of that neighborhood and would entertain a lesser amount of residents in the house.

Motion carried 4-1. Nays – Heck

Absent: Pollmann

This item will be on the August 17, 2015 Council Agenda

Chair Heck called for a short break at 10:00 p.m.

The meeting reconvened at 10:08 p.m.

Items b and c were switched.

b) **CONDITIONAL USE PERMIT: Application from Alex Andrev to construct a ground-mounted solar energy system at 5080 Trails End Circle, Staged Development District Zoning (SDD), PID# 01-117-24-42-0006**

Assistant Planner Olson presented the staff report dated July 27, 2015.

Highlights included in the report:

- The applicant is requesting a Conditional Use Permit in order to install a ground-mounted solar energy system.
- Staff does not foresee any issues associated with the request relating to noise, glare, odor, fire and safety, traffic or parking.
- Staff does not anticipate any issues associated with surrounding properties, views or the character and integrity of the neighborhood.
- The Comprehensive Plan shows this property guided as urban reserve which is consistent with the proposed use. The zoning map classifies this parcel as a Staged Development District. Staff finds this request to be reasonable considering the Comprehensive Plan, facilities and services.
- The proposed ground-mounted solar energy system will meet all required setbacks from lot lines and wetlands. No sensitive environmental features will be affected by this project.
- Notices were sent out to all property owners within 500 feet of subject property. Staff received favorable comments from one neighbor.
- The proposed use meets all of the factors of a conditional use permit. The following finding of fact have been made:
  - The proposed ground-mounted solar energy system is allowed by Conditional Use Permit in the Staged Development District;
  - The proposed use does not pose any discernable fire or safety hazards, nuisances, require additional governmental services or negative impacts on environmental features;
  - The request is consistent with the Minnetrista Comprehensive Plan.

Staff recommends the Planning Commission recommend to the City Council to approve a Conditional Use Permit to allow for the installation of a ground-

mounted solar energy system on the property located at 5080 Trails End Circle subject to the following conditions:

1. The ground-mounted solar energy system must remain screened from view to the extent possible without reducing efficiency as approved.
2. If the ground-mounted solar energy system is not in proper working order, has ceased functioning for a period of more than six months or has not been maintained must be deconstructed and removed from the property at which point the Planning Commission and City Council shall review the Conditional Use Permit.
3. The applicant shall obtain all necessary permits and approvals from the City and other applicable entities with jurisdiction prior to any construction.
4. The applicant shall be responsible for all fees incurred by the city in review of this application.
5. The City may inspect the property, at any time, for the purposes of insuring the conditions of the Conditional Use Permit are being met.
6. The City Council reserves the right to review and revoke the CUP upon violation of any term or condition.
7. Any other conditions deemed necessary by the Planning Commission.

Molitor questioned why the ground-mounted panels don't have frost footings.

Chair Heck opened the public hearing at 10:15 p.m.

Morgan Southard, Construction Manager of the project stated that with the level of drainage the system doesn't require frost footings per their engineering firm that designed it.

Molitor questioned the size of the area of the panels would be over the 1,000 square footage of an accessory structure. Olson stated that it would increase the side yard setback require to 30 feet.

Molitor questioned if it is required to be plowed around during the winter months. Southard stated it is not required but recommended just in case of repairs.

There was discussion about the operation of the grid.

Chair Heck closed the public hearing at 10:25 p.m.

Molitor commented on the neighbor's written comment about adding another project to the property.

Motion by Sandholm, seconded by Heck to recommend the City Council approve a Conditional Use Permit to allow for the installation of a ground-mounted solar energy system on the property located at 5080 Trails End Circle subject to the conditions outlined in the staff report.

Motion carries 5-0.

Absent: Pollmann

c) **CODE TEXT AMENDMENT: Application from Heather Aud to amend City Code Section 505.01 Definitions to redefine lot coverage as it pertains to swimming pools**

Assistant Planner Olson presented the staff report dated July 27, 2015.

Highlights included in the presentation were:

- Applicant has submitted a code text amendment to have the City amend its definition for lot coverage in regards to swimming pools.
- City Code does not currently address swimming pools into the hard cover calculations.
- Every city is different in how they consider swimming pools when calculating hardcover. Some cities do not count the swimming pool or any required aprons, some only exempt the swimming pool itself, and some count both the pool and apron as hardcover.
- The proposed ordinance would provide an option for residents to exempt their pool from the hardcover calculations provided they install a rain garden to help offset the additional runoff. Otherwise, swimming pools will still be considered when determining total lot coverage.

There was discussion on hardcover issues.

Molitor questioned if the code should be changed. Mayor Whalen stated that it was a directive from the City Council for this to be a Code Amendment Change.

Molitor had concerns with enforcement issues of the rain gardens.

Chair Heck opened the public hearing at 10:45 p.m. None present.  
Chair Heck closed the public hearing at 10:45 p.m.

Motion by Sandholm, seconded by Vickery to recommend to the City Council to adopt Ordinance 432 Amending Section 505.01 Definitions with the following modifications: remove the one-quarter size requirement and add language, "...provided that an engineered rain garden is installed. The specifications, size and location of the rain garden will be subject to the review and approval of the City Engineer."

Motion carried 5-0.

Absent: Pollmann

**3) Business Items:**

**a) Discussion of electing a new Vice Chair for Commission**

Chair Heck brought up the discussion of electing a new Vice Chair for the Commission. There was some discussion on how it should be decided.

Consensus of the commission was to vote on it at the next meeting.

**4) Informational Items:**

**a) Staff Reports - None**

**b) Council Reports**

Mayor Whalen commented on paying utility bill on-line, hiring of Cassandra Tabor as the Human Resource/Communications Coordinator, and an update on the Water Treatment Plants.

**5) Adjournment**

Motion by Sandholm, second by Vickery to adjourn the meeting at 11:01 p.m.

Motion passed 5-0.

Absent: Pollmann

Respectfully Submitted,

*Kris Linqvist*, CMC  
City Clerk