

**MINUTES OF THE BROOKLYN PARK PLANNING COMMISSION  
REGULAR MEETING**

SEPTEMBER 09, 2009

**Approved Minutes**

The meeting was called to order at 7:06 p.m.

**1. CALL TO ORDER**

**2. ROLL CALL/ PLEDGE OF ALLEGIANCE**

Those present were: Commissioners Holm, Jechorek, Johansen, Cupka, Lessard Nguyen, and Sullivan, Planning Director Sherman, Senior Planner Larson and Council Liaison Rich Gates.

Those absent and excused were: Chair Conn

**3. EXPLANATION BY CHAIR**

**4. APPROVAL OF AGENDA**

MOTION, JOHANSEN, SECOND NGUYEN TO APPROVE THE SEPTEMBER 9, 2009 MEETING AGENDA AS SUBMITTED. *MOTION PASSED UNANIMOUSLY.*

**5. CONSENT ITEMS**

**6. PUBLIC HEARING**

**A. Highpointe Preschool- Case# 09-112- Rezoning and a zoning code text amendment to allow the operation of a 6 child daycare/preschool facility at the Riverview United Methodist Church site at 2100 93<sup>rd</sup> Way N.**

Senior Planner Larson reviewed the staff report and staff recommendation to approve the Rezoning and zoning code text amendment. He stated that Highpointe has operated for 5 years in the Riverview United Methodist Church building south of Willowstone Park.. When this church was built, prior to Hwy 610, the access was off of 93<sup>rd</sup> Avenue North or County Road 30. This site lost that access when Hwy 610 came in. The only way to get to the church since that time was through the neighborhood. The current access is either off 97<sup>th</sup>, down Newton or to go down Russell, which was County Road 12, then down 93<sup>rd</sup> Trail and then down Newton. This is a small 7,100 sq ft. building constructed in the 1960s. The church is closing operations come next summer and wants to sell this building to Highpointe Preschool. This preschool is not affiliated with the church. The property is currently zoned R3, single family residential district. If a daycare was the primary use, with under 12 children, the current zoning would permit it. If they

## APPROVED MINUTES

have over 12 children, it would not be allowed. Current zoning does not allow them to operate as they are with about 20 student and they would like to have 60 students. Staff recommends re-writing the zoning code to change it to PI , Public Institution District, which is currently used for schools. Staff proposes to modify the language in the code to add daycares and pre-schools. This property would then need to be re-zoned from R3 to PI to do this. Staff received e-mails from residents both in support and in opposition. A lot of those in opposition were concerned about traffic. The City Traffic Engineer did a traffic study in the area for 48 hrs in several areas. Traffic speed is a concern in some areas but the increase in traffic was not significant. The Traffic Engineer estimated that if the property were re-developed with about 7 new homes it would compare to the traffic from the study. Staff recommends approval.

Applicant Bill Croteau was introduced. He stated he spoke with people in the neighborhood and found that many didn't even know Highpointe was there. He stated that he found some interest by some home owners to buy some of the land backing up to their yards. Mr. Croteau advised that 6:30-9:00AM is their morning drop-off timeframe, and that 3:30PM- 6:00PM is their pick-up timeframe. He stated that there is not a mad rush to their front door in the mornings or evenings. He stated that if the property was redeveloped for new homes, traffic would be equal to what Highpointe is looking at to expand their operation. He advised that his family lives in Brooklyn Park. The preschool/daycare would generate property taxes, which the church does not. They do not plan to build any extra buildings. They would like to increase the preschool classes, expand the child care, and have summer programs up to 3<sup>rd</sup> or 4<sup>th</sup> grade. They are looking at this at the request of their current parents. Some of their families live in the neighborhood and walk to pre-school. They have a perfect learning environment for children with the park right there, teaming with wildlife.

The hearing was opened for public comment.

LuAnn Becker, 9532 Newton Avenue North, spoke of her concerns about the traffic study report involving only a couple of days on a holiday weekend. She stated that an increase to 60 children is 4 trips up and back along her street. She questioned what route fire department or emergency vehicles would take. There was supposed to be two routes to this property and now there are not. The city has a lot of buildings unoccupied. She stated that the Noble Avenue mall has three vacant units. There are other options to look at. She stated that the ordinance should not be changed for one business.

Lisa Righterhouser, 9508 Logan Avenue North, stated that her child attends Highpointe Preschool. They ride their bikes to the pre-school in the morning, love the location, love the park, and have another younger son they hope can go there also. She is a teacher in the Osseo school district and is very impressed with the curriculum and thinks taking this facility and moving it to a mall would be a disservice.

Patty Drout questioned Senior Planner Larson as to why this parcel was not re-zoned when HWY 610 was put in. She stated that she would love to see more taxes. Her son went to Highpointe and she is a proponent. She stated that the traffic patterns should be looked at, and that parents with children are parents driving too slow or generally at the speed limit. These parents are very aware of what is going on. She stated that a strip mall would not be the right fit for this business. The

## APPROVED MINUTES

curriculum is built on nature and the learning experience would not be the same and would not work there.

Jennifer Houck stated that she has lived here in Brooklyn Park for nine years. She has two children who have gone to or currently attend Highpointe Preschool. Her family is members of the Riverview United Methodist Church also. She stated that Highpointe has a unique program that is unparalleled in this community. They are significantly less expensive than other daycares in the area, in some cases up to one third less. It is difficult for working parents to use a pre-school so the daycare component has to be looked at. The setting and location is a big part of what makes a program successful. This location is very safe, and there is nature right out the front door. This cannot be replicated in other settings. This is a family owned business and she stated that she wants to see small and local businesses succeed. She asked the Planning Commission to vote in favor of this.

Reverend Rachel McKiver-Maury is the Pastor at Riverview United Methodist Church. She stated when Hwy 610 was put in it was a huge detriment. The congregation has made the painful decision to discontinue operations there and the options were to sell to a developer or sell to Highpointe Preschool. They wanted to make the decision that adds the most value to the community. Reverend McKiver-Maury stated that a decision was made that a low cost daycare spot in our community was the best option and they support this.

James Salsman, 9556 Oliver Avenue North, spoke with Mr. Croteau briefly this morning about high speed concerns in the mornings and afternoons. He advised Mr. Croteau to tell the parents of his students to watch their speed. With the increased traffic it will add more maintenance on their roads, which are the resident's responsibility. They pay per lot size and repairs are part of that.

Ernie Bergen, 9313 Newton Avenue North, stated that the bottom line is that the city is trying to re-write this for a business in their neighborhood. He stated they don't want a business in their residential neighborhood. The road study was done for 1 day. Highpointe Academy has already had their graduation ceremony and are down on kids right now. It is a Holiday weekend. He stated that he does not believe the traffic study is a true reflection of the traffic. People are speeding to get their children there on time. A good use of this property would be if the City bought this land and extended the park, or if the church wanted to donate it, that would be another option.

Matthew Payne, 2000 96<sup>th</sup> Avenue North, stated that he has lived there for one and a half years. He stated that he has been off work for the last 6 months and traffic is not like during the regular school year. Another traffic issue is bus issues due to Riverview Elementary. He stated that he is not discrediting this business for what it's offering. He stated that a better test is needed during high traffic times. If Riverview closes, that could also change traffic. Normal ebb and flow for the current busses would continue as well as adding busses for elementary students. This would affect not just Newton but also West River Road. There is also traffic due to the park due to sports. The City has wanted to re-develop the area for low income housing. As a resident, he would like to see a decrease in the speed limit. He questioned if there were accident reports from

## APPROVED MINUTES

the area. He stated that he didn't know the preschool was there until his wife told him it was there.

Ron Long, 2009 96<sup>th</sup> Avenue North, stated he has been selling houses in Brooklyn Park since 1980. He is a former elementary school physical education teacher. As a realtor, he stated the more traffic on your road, the less your house is worth. He stated that it looks like Riverview School is targeted to close. Highpointe would have the same benefits as their current site if they were to lease that property. That site has the same facilities nature-wise. He stated that his business has worked hard as a company to re-furbish four houses in this neighborhood. This is de-stabilizing the neighborhood as it will bring an increase in traffic.

Melissa Krutchmer, 10461 Vera Cruz Drive, has two children both of whom are or have been at Highpointe Preschool. She supports the move to expand Highpointe.

Janet Harnoise, 9509 Newton Avenue North, questioned why the speed limit is 30mph when it used to be 20mph. She questioned lowering the speed limit. This is a family owned- business. She asked what would happen if something happened to the owners of Highpointe. Would this business get sold to another daycare or would it become a different use that will not help the neighborhood a bit. She questioned why the study was done for just two days. She suggested doing the study for a full week so that they are getting Monday through Friday traffic. People enjoy their kids going there. She questioned if they would get the same attention if they raised it up to 60 children. There is land behind the Noble strip mall, behind the stores. Consider other options, too. If there is something put in other than a daycare and there are more kids there is a chance of decreases in property value even further than with the traffic.

David Master, 1901 96<sup>th</sup> Avenue North, stated he is a stay at home dad with three kids. When Highpointe Preschool takes the kids to the park his kids have to leave. He stated the traffic study is not accurate. He stated that he has called numerous times on people speeding through the neighborhood.

Nicole Vergin, 9319 Newton Avenue North, stated that her problem is with traffic flow. If they add more students, it will add a lot of traffic. She stated she does not believe the accuracy of the traffic study for the same reasons everyone else does not. They say they will use the existing building. Ms. Vergin questions what will stop them if they want to expand it if this is re-zoned. They have five to six acres. She questioned how common it is to put something like this in a residential area. She stated this is not compatible with her area. They are a quiet, suburban, no outlet neighborhood. There is no other avenue for them to go in or out of this property. They have to go past their houses. She stated that she does not want this in her neighborhood.

Sharon Brale has lived in Brooklyn Park for 28 years. She lives on 88<sup>th</sup> Avenue North. She questioned if the speed limit is determined by the state. She stated that no one is happy with traffic on their street. She stated her street is not supposed to be a thru-street but there is tons of traffic. She does not know where they are going. She stated that everyone hates traffic. She questioned how people can be sure all these people are going to Highpointe. She stated that it's kind of nice to have a small business in an area like that. Her son went there 16 or 17 yrs ago and the district had the pre-school at that time.

## APPROVED MINUTES

Thomas Molen, 9328 Newton Avenue North, stated that he is sad for the church as they have been good neighbors over the years. His stated that his main concern is about if this business fails down the road, what else comes in after that if this is opened up to different ordinance. He stated that this request isn't a huge deal to him.

Ernie Bergen re-approached the podium and stated that he lives at end of Newton Avenue and he is not assuming where the cars go, he knows where the cars are going. He lives in the second house from the end of the street. If this business had another alternate location people would still be bringing their children to Highpointe, just not through his neighborhood.

Chad Gomez, 9533 Morgan Avenue North, stated traffic is a concern. He stated people are afraid for their kids. Attendance at National Night Out included 30 to 50 kids under 12 years old. The neighborhood has grown with families and kids. He stated that he is concerned for everyone else's well-being. He stated Newton is a speeding territory. The speed limit is the same as it is on West River Road. He stated the traffic in the neighborhood is crazy with all the sports, busses, garbage trucks. He stated that traffic is his big concern- accidents can happen.

The public hearing was closed and comments confined to the Planning Commission members.

Commissioner Holm questioned Senior Planner Larson about why the property was not re-zoned when the church was cut off from 93<sup>rd</sup> Avenue North when Hwy 610 was constructed. Larson stated that the current zoning regulations allow churches in almost all zoning districts. The rules for churches in R3 state that they have to be along an arterial roadway so zoning was fine. When Hwy 610 went in, the status was changed to legal non-conforming. If the land was vacant today and they wanted to build a building there it would not be allowed. The City wouldn't normally go through re-zoning unless there were possibly re-development opportunities. The speed limit is 30MPH on residential streets except for urban areas in certain cases. The state sets the speed limit on streets.

Commissioner Lessard brought up the traffic study. He questioned if this was not the proper time to do the study, then what traffic was going to Highpointe: if they were not in session, then who was speeding? As to the closure piece of Riverview, no one knows what's going on. That is not decided yet. He questioned what can be done to reinvestigate the traffic study. Senior Planner Larson stated that this issue came up two weeks ago at the neighborhood meeting so a study was done as soon as possible to have information to share at this meeting. A study can be re-done before going to the City Council.

Commissioner Holm stated that this may not be a bad idea. It has been a big concern that this was done before the holiday weekend. He advised it may be a more realistic study.

Commissioner Johansen stated that his daughter attends Riverview Elementary, so he lives near there also. He questioned how much traffic is going to the park as opposed to going to the daycare. He is concerned about changing the code and the zoning. When the PI district was created he thought it would be for non-profit such as religious institutions and city owned

## APPROVED MINUTES

buildings, parks etc. and to put a private taxable entity in a PI district is something he is struggling with. He stated that he does agree with the comments that have been made.

Commissioner Jechorek stated that this is difficult for her as Highpointe Preschool is a gem and asset to the community. She has concerns about the site's future. As a Planning Commissioner she stated that it is her job to plan for the future, not just the present. She stated that she cannot be in favor of the re-zoning.

Commissioner Cupka stated that he is conflicted also. He stated he is suspect of the traffic study and thinks it should be re-done. He thinks this will always be a sticking point if it is not re-done. He stated that traffic is not the problem, that the speed of the traffic is the problem. He would like to continue this to the next meeting. The pros to this are that this is a taxable site and the program seems to be really high end. He stated that he does not have enough information to vote accurately.

Commissioner Nguyen asked Mr. Croteau if they had checked other locations. Mr. Croteau stated that they had. They have spoken with the Noble strip mall but they do not want a 1,500 square foot playground off the side of a building. They have looked at another building also but they did not accept their offer. Mr. Croteau stated that time is of the essence. They have looked at several properties. They are not opposed to having a fenced in playground, though they don't need one where they currently are. The whole issue is that there is usually not green space available, and there would not be on Noble Avenue. There is also a pre-school right across the street

Commissioner Nguyen questioned the student/teacher ratio. Mr. Croteau stated that it is 1:10 by law, but they usually have 3:10 at this time.

Commissioner Nguyen asked the church if any developers have approached them to purchase their land. Rachel Maury stated that they have talked with developers in the past but have not received a lot of interest to date. The current market realities especially make this the case.

Commissioner Nguyen questioned the use of the park. Thomas Molen stated that two ball fields are used most nights of the week. They also have a lacrosse field and use the park for football practices. There is a hockey rink at the park, too. Commissioner Nguyen questioned the amount of people there every night. Mr. Molen stated that generally in summer there are thirty to forty kids at the park if there are no games there and that would be about three to four nights a week. Commissioner Nguyen questioned if all of that traffic goes down Newton. Mr. Croteau stated that people do use the parking lot of the church. He stated maybe twenty-five or thirty percent of the use of the park comes from there. Most of the people are there between 5:00PM and dark. There is about an hour overlap with daycare parents.

Commissioner Nguyen asked who does property management and maintenance on the church property. Mr. Croteau stated that he does some mowing and weeding. He will have the responsibility for that if they own the business. The parking lot is the responsibility of the church now but they will take that over, too. Commissioner Nguyen stated that everyone can see the value of the pre-school to the community. He stated that everyone can also agree that traffic will

## APPROVED MINUTES

increase. He stated that it is a hard decision for him if the state sets the speed limits. He understands the challenges of a small business having to move.

Commissioner Sullivan stated his concern about the traffic study and the fact that it needs to be re-done. He stated that even if this property is re-developed as residential, there will still be an increase in traffic. He stated that he has to look at what is in the best interest of the city. There is also a concern about the noise level from Hwy 610. If this property were to stay residential, the extension of Hwy 610 will put more traffic on 610 and the traffic noise will increase.

Commissioner Lessard asked Planning Director Sherman about whether there is an option or conditional use allowing the church to maintain the property and lease it to the daycare and leave things as is. Sherman stated that this would not be allowed in a residential district either. She also stated that the church does not want to own this property and this business wants to own their facility, so this is not the solution they are looking for.

Commissioner Sullivan asked if Highpointe bought the building and leased it to a church would they still be in compliance? Planning Director Sherman stated that ownership is not the issue. She stated that the primary use is still the primary use.

Commissioner Nguyen asked if there is any possibility of monitoring traffic in the neighborhood. Planning Director Sherman stated that the state regulates speed and sometimes they have actually increased limits. Commissioner Nguyen asked if stop signs and speed bumps are a state issue. Senior Planner Larson stated that stop signs are not to be used for traffic and controlling speeding and speed bumps are controversial in the maintenance world.

Commissioner Johansen questioned the option of doing what Brooklyn Center did where the streets are narrowed to slow traffic. This is supposed to have a psychological effect. Senior Planner Larson stated that we have that in Village Creek, but it does cost to build it and the question then comes up as to who pays for it.

Commissioner Holm Stated that he does not like re-zoning of this property as the opposition is far outweighing the support. Once the zoning has been changed, we cannot go back and change it. He stated that he believes daycare parents are the one doing the speeding. He doesn't think he can approve this the way it sits.

Commissioner Cupka asked enforcement options. Senior Planner Larson stated that the COPS unit could be asked to do enforcement there. Commissioner Cupka stated that the revision of the verbiage is the biggest issue for him due to other possible uses in the PI district.

Commissioner Lessard questioned if many of the neighbors didn't know Highpointe was there should it stop the Planning Commissioners from approving this. He questioned if traffic flow and speed should be the deciding factor and stated that he approves this.

Commissioner Johansen stated that he is prepared to vote against the first two and approve the third. He stated that he struggles with changing the code and the zoning. He would love to see

## APPROVED MINUTES

this specific owner stay here. He recommends re-doing the traffic study and sending this to the City Council.

Commissioner Sullivan asked Planning Director Sherman if this is an all or nothing vote. She stated that if re-zoning is denied there would not be a recommendation to change the wording in the code. Commissioner Sullivan stated that changing the wording in the code could be good, but not for this property. Planning Director Sherman suggested doing that at a later time if this is the direction the Planning Commissioners decide to go. She stated that if this business was a non-profit, this would not even need to be done.

Commissioner Jechorek stated that she agrees with Commissioner Sullivan about adding the new wording to the code, that it makes sense to put it into the PI district language.

Commissioner Lessard asked what 3Rs is zoned as. Planning Director Sherman stated that it is PCDD and guided for office uses. Commissioner Lessard stated that Hwy 610 caused this by cutting them off from 93<sup>rd</sup> Avenue and is a reason the church is leaving,

Commissioner Johansen stated that privately owned daycares and preschools should not be in the PI district.

Commissioner Holm asked the difference between daycares and pre-schools.

Mary Croteau, Director of the preschool stated that pre-schools and daycares are one in the same under the state guidelines. They decided to call Highpointe a preschool because they offer a curriculum. Under state guidelines, they are actually licensed as a daycare center.

**MOTION JOHANSEN, SECOND HOLM TO RECOMMEND DENIAL OF ORDINANCE AMENDING SECTION 152.433 OF CITY CODE ADDING DAYCARES AND PRESCHOOLS AS PERMITTED USES IN THE PUBLIC INSTITUTION ZONING DISTRICT.**

***THE MOTION TO DENY FAILED 4-3 (JECHOREK, LESSARD, SULLIVAN, CUPKA DISSENT)***

**MOTION SULLIVAN, SECOND LESSARD TO RECOMMEND APPROVAL OF AN ORDINANCE AMENDING SECTION 152.433 OF CITY CODE ADDING LANGUAGE TO THE CODE ALLOWING PRESCHOOLS AND DAYCARES IN THE PUBLIC INSTITUTION DISTRICT.**

***MOTION PASSED 4-3 (JOHANSEN, HOLM, NGUYEN DISSENT)***

**MOTION JOHANSEN, SECOND JECHOREK TO RECOMMEND DENIAL OF AN ORDINANCE AMENDING CHAPTER 152 OF CITY CODE RE-ZONING THE PROPERTY AT 2100 93<sup>RD</sup> WAY N FROM R3 TO PI .**

***MOTION TO DENY PASSED 5-2 (CUPKA, LESSARD DISSENT)***

**MOTION JOHANSEN, SECOND LESSARD TO RECOMMEND APPROVAL OF SITE PLAN REVIEW 09-112 FOR A DAYCARE FACILITY AT 2100 93<sup>RD</sup> WAY N**

*VOTE ON MAIN MOTION: MOTION PASSED 6-2 (JECHOREK, SULLIVAN DISSENT)*

Commissioner Holm advised that this application will be considered by the City Council on 9/28/09.

**B. Edinburgh Center Grading- Case# 09-111 Conditional Use Permit for grading work at the Edinburgh Center located at 8555 Edinburgh Centre Drive**

Senior Planner Larson stated that this is an application to fill an area that has become a wetland over the years and the applicants have been working with the Watershed District for approval to grade this property. Their proposal is to remove several trees there to clean it up at the north end of the site. They would like to fill a portion of this property. The Planning Department staff recommends approval.

Applicant Mr. Jon Bessesen of the Benchmark Commercial Real Estate Group stated that they have worked on development of this area over the years. They have received approval to fill in the wetland area by the Watershed District. When this is completed, they will have a buildable pad for future development.

The hearing was opened for public comment. Seeing no one approach the podium, Commissioner Holm closed the public hearing and confined comments to the Planning Commission members.

Commissioner Johansen asked if this is an accidental manmade wetland. Mr. Bessesen stated it was. Commissioner Johansen stated that he spoke with a tenant that has questions about other tress dying, and maintenance issues like 2 foot long grass obscuring fire hydrants. Mr. Bessesen stated that they want to take down as many trees as possible, and that they will re-develop the site. They want to fill in, landscape, sod it, and maintain it.

Mr. Rick Plessner is the owner of Edinburgh Center and he stated that he intends to restore the site to potentially buildable and then let the market dictate what happens next. He stated they would like to see a single user for that property. They just acquired this site a couple of years ago when it was in tax-forfeiture. He stated that they had been waiting for the Watershed District approval, which they now have. They will bring the level of the site up so that the tenants can have a good environment.

**MOTION LESSARD, SECOND JOHANSEN TO APPROVE CONDITIONAL USE PERMIT 09-111 FOR GRADING AT 8555 EDINBURGH CENTER DRIVE SUBJECT TO CONDITION IN THE DRAFT RESOLUTION .**  
*MOTION PASSED UNANIMOUSLY.*

Commissioner Holm advised that this application will be considered by the City Council on 9/28/09.

**7. DISCUSSION ITEMS**

Senior Planner Larson stated that he passed out a press release from Hennepin County about the Bottineau Transitway. They will be conducting open houses from the end of September into the first week of October. The Brooklyn Park meeting will be held on Wednesday, October 7th in the Council Chambers and encouraged commissioners to attend.

Planning Director Sherman reminded the Commissioners of the groundbreaking for the Hennepin County Medical Center at Village Creek Shoppes.

**8. OTHER BUSINESS**

**A. Approval of Minutes – August 12, 2009**

MOTION LESSARD, SECOND JOHANSEN TO APPROVE THE MINUTES OF AUGUST 13, 2009.

*MOTION PASSED UNANIMOUSLY.*

**9. INFORMATIONAL ITEMS**

**A. City Council Liaison for August 24, 2009 Meeting**

It was noted that Commissioner Lessard was the Council Liaison for the September 28, 2009 meeting.

**10. ADJOURNMENT**

MOTION LESSARD, SECOND NGUYEN TO ADJOURN THE REGULAR BROOKLYN PARK PLANNING COMMISSION MEETING.

*MOTION PASSED UNANIMOUSLY.*

Adjournment time was 9:51 p.m.

Respectfully submitted,

Kathy Valez  
Planning Assistant