1. **Call to Order**

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

2. **Roll Call**

Commissioners Odland, Rettew, Kirk, and Lehman were present. O'Connell, Knight, and Magney were absent.

Staff members present: Community Development Director Julie Wischack, Principal Planner Susan Thomas, and Natural Resource Manager Jo Colleran.

3. **Approval of Agenda:** The agenda was approved as submitted with changes and additions provided in the change memo dated January 8, 2015.

4. **Approval of Minutes:** December 11, 2014

   *Odland moved, second by Kirk, to approve the December 11, 2014 meeting minutes as submitted.*

   *Odland, Rettew, Kirk, and Lehman voted yes. O'Connell, Knight, and Magney were absent. Motion carried.*

5. **Report from Staff**

Wischnack briefed the commission on land use applications considered by the city council at its meeting of January 5, 2015:

- Introduced an ordinance related to a master development plan amendment for The Villas at Groveland.
- Adopted a resolution with conditions relating to fence design and location and a management plan for Unleased Dog Daycare.
- Entered into a purchase agreement for land on Shady Oak Road that would be impacted by improvements to Shady Oak Road.

The first meeting to discuss the Ridgedale-area vision at the Ridgedale library will be held January 21, 2015.

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

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

Knight joined the meeting.

A. Amendment to the sign plan for Westwind Plaza.

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

Thomas reported. She recommended denial of the application based on the findings listed in the staff report.

Kirk asked for the definition of “logo.” Thomas said that usually a logo is a branding icon. If the applicant states that “Chuck and Don’s Pet Food and Supplies” is the business’ logo, then the argument could be made that it is the logo, but the proposed sign would still be well beyond ordinance requirements for a logo.

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

Odland moved, second by Kirk, to adopt the resolution on pages A9-A13 of the staff report with modifications provided in the change memo dated January 8, 2015 which denies an amendment to the Westwind Plaza sign plan for a wall sign for Chuck and Don’s Pet Food Warehouse exceeding 24 inches based on the following findings:

1. The proposed amendment is not consistent with the intent of the sign plan. The intent of the sign plan is to adapt the standards of the sign ordinance to the unique characteristics and visibility needs of a development.

2. There are no circumstances unique to the tenant space which warrant providing an increased wall sign for a tenant of less than 12,000 square feet.

3. The existing illuminated tenant sign provides the tenant adequate visibility from the adjacent roadway. The proposed sign would more than double the height of the existing sign.

Odland, Rettew, Kirk, Knight, and Lehman voted yes. O’Connell and Magney were absent. Motion carried.
Chair Lehman stated that an appeal of the planning commission’s decision must be made in writing to the planning division within 10 days.

B. Items concerning One Two One Development located at 14217 Stewart Lane.

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

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

Wischnack provided an overview of tax increment financing (TIF). Under TIF, the difference in tax dollars between the newly developed property and the “pre-developed” property are captured and used to pay the costs to do the improvements including property acquisition and clean up, demolition, and relocation. The project and site improvements would not have been done, but for the TIF making the financing possible. The TIF district is eventually eliminated. The EDAC and city council deal with TIF districts.

The public hearing was opened.

Keith Weigel, 14209 Glen Lake Drive, stated that:

- A building should be built that does not need variances.
- Glen Lake Shores, Glen Lake Landing, and The Atrium did not require variances. Beacon Hill did have a variance to allow a setback to be 30 feet instead of 40 feet.

Grace Sheely, 14325 Grenier Road, stated that:

- She was concerned that eminent domain was done to create a park path, but the proposal has the path located in the 40-foot variance for the building. There should be 40 feet for a path that does not involve setbacks. It is still really important.
- A path without stairs is needed. There are 6 senior housing facilities in the area.
- The path belongs on the west side. The Glen Shores building has the right setbacks.
- The original plan included 124 parking stalls. The proposal would have 93. It does not make sense that the number of units increased from 45 to 54 and the amount of parking decreased. There is no
room for parking on Stewart Lane or Excelsior Boulevard. It needs more parking to plan for potential future uses.

- The building should be setback 85 feet due to its size based on what was originally there.

Jim Zachman, 14194 Glen Lake Drive, stated that:

- It seems like the proposal has been driven by TIF. The TIF report he saw at the EDAC meeting shows a $2 million surplus. He did not see a need to push things through that would be contrary to the plan. He heard over and over from the previous city manager that a price had to be paid to take steps forward. The TIF problem has been solved.
- Obviously, the project wants to go ahead. Time is not a big issue. Let’s give the developer another extension. The requirement of tax increment from Site C is not there. The proposal being rammed through gives about 50 percent of the money originally projected.
- Planning staff ought to take a little more time to study the agreements. Commitments were made to a lot of people to get the TIF approved.
- It would cost nothing to do it right and it would benefit a lot of seniors. Seniors need the property values to go up.

No additional testimony was submitted and the hearing was closed.

Chair Lehman noted that staff explained the reasons for the proposed location of the trail in the staff report. Wischnack explained that there is a drop in elevation of 20 feet on the west side. The north side is wider and has a drop in elevation of 14 feet. She was open to suggestions. Commissioners may amend the conditions of staff’s recommendation. For this site, a specific location for the trail should be discussed due to the site’s issues restricting its location. The trail would be located on the west side or north side of the site. Staff has provided their opinion.

Chair Lehman asked staff to address the size of existing R-5 buildings and the previous proposal with the current proposal. Thomas noted that ordinance requirements have changed over time. Some of the buildings were built in the 1970s and 1980s. The proposal’s setbacks would be within the range of setbacks that have been approved for the various sites. There is one setback that is being proposed that would be a foot less than what was previously approved. The other setbacks would be slightly greater than what was previously approved for the
site. Thomas explained that under the R-5 zoning code, side-yard setbacks are required to be equal to 1.5 times the height of the building.

Chair Lehman reviewed the proposed parking provided in the staff report. The staff report also covers future uses and found that the site would be five stalls short for a heavier use. Thomas agreed. The parking ordinance requires two parking stalls per apartment unit. Staff believes the parking code is outdated and requires more parking than necessary. The Institute of Transportation Engineers (ITE) manual is now being used to provide a more realistic approach. Rather than requiring parking stalls per living unit, the number of bedrooms should be used for rental apartment uses to determine the adequate number of parking stalls.

Chair Lehman noted that TIF is not part of the planning commission’s purview. Wischnack noted that the city council is advised by a financial consultant and legal counsel. Both have reviewed the proposal. She has no concerns with the TIF portion of the proposal.

In response to Kirk’s question, Wischnack explained that the city council has control over what type of units would be constructed. A cooperative is a model of ownership like a condominium. Kirk agreed.

Kirk asked if commissioners could require an age restriction. Wischnack answered in the negative. That would be an unfair housing requirement. The owner of the building may require a tenant to be 55 years or older. The city does not enforce building owner’s policies.

Kirk asked what prompted the eminent domain to be done in 2006 and the level of obligation that the community might perceive. Wischnack explained that the city has a deed for the west, skinny parcel that was purchased with the use of eminent domain but it has not been recorded. The city would enter into a contract agreement to deed the parcel to the developer if the proposal moves forward. In 2006, it was designated that the trail would have to be on the development property and connect to Kinsel Park, but the location within the development was not determined at that time. The setbacks have been measured with the assumption that the skinny parcel on the west side would be included in the development site.

In response to Kirk’s question, Wischnack explained that the developer would grant an access easement to the city to allow public use of the trail. Tonka on the Creek is a similar development. Locating that trail was also difficult due to the topography.
Kirk asked if the trail would have to be accessible. Wischnack stated that the north location would have a better slope. Neither trail location would allow the trail to meet ADA accessibility requirements. The city is required to provide accessibility to the park. There are other accessible entrances to the park.

Kirk suggested locating the parking lane on the northeast which would locate the drive lane behind the townhouses. Wischnack said that the developers did provide a drawing of that plan. She would allow the applicant to explain why that would not work. Kirk could think why that would not work, so he concluded that the proposal would be the best location for the site.

Kirk asked if the number of parking stalls would be impacted by the building housing seniors. Thomas explained that a senior development requires fewer parking stalls than a development not designated for seniors. The proposal would meet and exceed the senior development parking requirement. Staff is still comfortable that the site would accommodate parking for a use housing a variety of ages.

In response to Kirk’s request, staff provided a drawing that shows a conforming building. The builder provided the drawing the last time to show what the site would allow from a setback and height standpoint. The drawing has nine floors. Staff drew the 76-foot setback on the drawing with the 46-foot setback. The building would meet all natural resources setbacks on the site. Kirk saw a site benefit to what would be happening in the southeast area where the retainage areas and Glen Lake are located. Based on the height of the buildings, the setbacks seemed tight to the property lines. The variance for the setbacks is somewhat being driven by the 2006 proposal. It was approved in 2006. Thomas explained that the variance standards have stayed the same. In 2006, there were unique circumstances associated with the property. The unique circumstances have not changed. The variance findings would be the same. Commissioners may come to a different conclusion.

Rettew asked if the ITE standards for parking include parking for staff. Thomas answered that an assisted living facility would, but a senior cooperative use would not. There would be one staff member.

Kirk said that the elevation decreased, but the height of the roof of the building increased from 980 feet in the previous proposal to 983 feet in the current proposal. Thomas answered that the square footage of the proposed building was decreased. The wing on the north property line shrunk. Wischnack clarified that the height reduction occurred in the rear of the building. The rear of the proposed building in 2006 was 65 feet and now 57 feet. The original building
included 2 levels of parking which created a much higher view shed from the rear of the building. It depends on the side of the building. The mass of the proposed building is similar in the front and decreased in the rear compared to the approval from 2006.

Kirk said that the developer of Applewood Pointe was able to sandwich the building between Minnetonka Boulevard and the trail in a way that was more empathetic to the environment. Parts of the building were stepped back so it would not seem so massive. The proposed building seems quite large to him. The lack of articulation of the building makes the front abrupt architecturally against the property lines. Wischnack provided that the building would look similar to the architecture of the Duffy building. It would have four stories over a parking garage. The Duffy building site has much smaller setbacks than the proposal. Kirk noted that the adjacent uses are different. Wischnack agreed.

Odland asked Kirk if he felt the building would be too large for the area. Kirk answered affirmatively. He appreciated the developer reducing the overall square footage, but the mass has not been reduced enough. A larger retaining wall was added to the south. The four floors would remain at a similar height. Odland felt that was a fair statement. She asked how to restate that she would like the building changed so that it would not appear as large.

Kirk said that the zoning merits R-5. The number of units could be reduced to 45. That might help. It would not help to have 45 larger units. The overall square footage of the building could be reduced. He preferred a plan that would not require variances and fit within the building footprint. He would like to see the setbacks be more generous or the building articulated or stepped down in a way that would not create a four-story, abrupt wall next to a walking path or neighboring properties. The other points made are consistent with the comprehensive guide plan. He struggled with the mass and size of the building. He would like the mass of the building reduced. In his mind, it did not help to remove the lowest floor and add a retaining wall. He did not know if it would be possible to step the building as it neared Glen Lake.

Rettew felt like the commission would be trying to design the proposal which is not in its purview. He agreed with Kirk’s sentiments, but was inclined to accept the proposal before them as “good enough.”

Odland commended Kirk for identifying the problem that the building would be too massive and suggesting a solution.
Rettew said that requiring a specific design style would be out of the commission’s purview.

Odland noted that the number of units was decreased, but the mass of the structure did not change. Leaving the wall at the same height is not a solution. The building is too large for the property. The commission does have a duty to set a precedent of what would be appropriate.

Knight agreed that building the retaining wall and keeping the building at the same elevation would not solve anything. He would like to see something a little smaller. He knew nothing of what would be financially feasible. A decrease in the number of units would not change the situation if the units would be made larger.

Chair Lehman never expects a previous commission's actions to be binding on current or future commissions. He respects the decisions of the 2006 planning commission and city council. He believes strongly that the commission needs to look at all of the factors. He was inclined to support a proposal that was similar to one approved by the city council in 2006 and staff's recommendation. It was a tough decision.

*Kirk moved, second by Odland, to recommend that the city council deny final site and building plans and associated variances for One Two One Development at 14217 and 14301 Stewart Lane.*

*Odland, Kirk, Knight, and Lehman voted yes. Rettew voted no. O'Connell and Magney were absent. Motion carried.*

Chair Lehman voted to pass the motion to deny to allow the item to move on to the city council for review although he was more inclined to support staff’s recommendation.

9. Adjournment

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

By: _______________________________

Lois T. Mason