

Mark Noble

From: Adam Driscoll <Adam.Driscoll@chrobinson.com>
Sent: Sunday, July 2, 2023 11:41 AM
To: Planning; Mark Noble
Cc: Asal Salehpoor
Subject: Community Impact letter - American Heritage Assisted Living: 2205 Wildwood Drive

Hello,

To whom it may concern, my wife and I would like to share our concerns and opposition to the business that is being illegally operated in our neighborhood (AHAL). I realize that you and your offices are getting a lot of communication around this right now, and many of our concerns are in direct alignment with other neighbors and members of our community that have, and will continue to speak out. Therefore, I will keep this relatively brief and straightforward:

Concerns

- Traffic
 - o Increased level of both automobile and foot traffic in our neighborhood
 - o Residents, their friends and family members, staff, visitors, mail delivery, health care and other service people, prospective clients, business owners, etc...
 - o AHAL is located at the end of our cul-de-sac, where increased traffic is of maximum detriment
- Safety
 - o We have no sidewalks in our neighborhood – elderly people, especially in wheelchairs/walkers going up and down the sides of our street is dangerous
 - o Constant stream of different workers coming and going at all times of the day and night – these people are not thoroughly background checked and we have no idea who they are
 - These people see inside our garages, windows, homes when we are there and gone...
- Violations
 - o This business is operating in violation of not only in several of our city laws/ordinances, but also our neighborhood covenants – which every home in our community is subject to
 - Operating of a for-profit business, no CUP, installation of a chain link fence, awnings/signs and other commercial business aesthetics, etc
- Property Values
 - o Self-explanatory – this illegal business operation has a negative effect on all of our property values
- General
 - o Many vehicles parked in the driveway and public street at various times throughout the day/night
 - o People (staff, family/friends) loitering around the property – staff taking breaks on our neighbors lawns and leaving garbage behind
 - o For the past 2 years since purchasing the property, Nancy has been intentionally deceptive and misleading to the city, our neighbors, and community about her intentions for this property . . . there is a reason for that
 - o All of our residents now have a financial burden/obligation to fight this, to the extent yet unknown, between: legal fees, higher HOA dues as a result, etc.

Thank you for your time, attention, and energy in helping our community resolve this manner appropriately.

Respectfully,

Adam & Asal Driscoll - 2363 Wildwood Dr

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Mark Noble

From: Meyer <kjmeyer6@gmail.com>
Sent: Sunday, July 2, 2023 10:06 PM
To: Mark Noble; Planning
Subject: Impact Statement for July 6th meeting regarding American Heritage Assisted Living
Attachments: Nancy Schreiner CUP letter 2.docx

Hello Mr. Noble and Shakopee Planning Department,

Please find attached our impact statement for the July 6th meeting with the Shakopee Planning Commission/Board of Adjustments and Appeals.

Sincerely,
Keith and Jillayne Meyer

TO: The Shakopee Board of Adjustment and Appeals, and to whom ever else it may concern:

Hello, my name is Keith Meyer. My wife, Jillayne, and I are residents of Whispering Oaks Estates.

This letter is in opposition to the proposal being submitted by Nancy Schreiner to grant her an “**after the fact**” Conditional Use Permit to run an assisted living care facility in the middle of a residential community.

Nancy has violated Article 2, Section 2 of the Declaration of Covenants, Conditions, and Restrictions for Whispering Oaks Estates Development which states “each lot shall be for Residential Use Only, and for single family purposes only, and **Not** for hotel, commercial, business, or other non-residential purposes”.

Unfortunately, Nancy has not only violated the covenants of our developments’ homeowners association by building and operating an assisted living care facility, she has also violated the City of Shakopee’s Conditional Use Permit process by opening a business in the middle of a residential development without applying for a Conditional Use Permit. The City of Shakopee’s Conditional Use Permit process states that “A conditional use is a use that is generally permitted within a zoning district but requires special review and limitations because, if not carefully located or designated, it may have a detrimental impact on neighboring properties or the city. A conditional use permit may be granted **ONLY** when the following findings are met: (there are five findings for the CUP, but I am only commenting on three here).

- 1) The use will not be injurious to the use and enjoyment of other properties in the immediate vicinity for the purposes already permitted, nor substantially diminishes and impairs property values within the immediate vicinity.
 - a. I would make the argument that granting this CUP **will** have a detrimental effect to the properties in the immediate vicinity by decreasing their value, and has already affected our quality of life here.
 - b. Also, the developments of both Whispering Oaks and Whispering Oaks Estates will be injured because of the increased traffic that we have already seen from the owners, employees, visitors, and healthcare companies coming to the facility. In our 19 years of living in this development, we have never seen such heavy traffic.
- 2) Adequate utilities, access roads, drainage, and other facilities have been provided.
 - a. Parking is an issue with the heavy amount of the stated people above coming to the facility throughout the day and night. We routinely see a parade of cars in the cul-de-sac. It appears the current shift employees back out of the driveway into the cul-de-sac to make parking spaces available for the next shift of employees. Once they are up in the driveway, the shift about to leave then pulls into the driveway on the back-end, so they can just leave at the end of their shift.
 - b. We have also seen blue painters tape affixed to the driveway to designate parking spots for all the people coming and going.
 - c. There are no handicapped parking spots that we can see, which may be in violation of the Americans with Disability Act (ADA) for a business.
- 3) The use is consistent with the purposes of the zone in which the applicant intends to locate the proposed use.
 - a. Clearly, the current City zoning for this development and also the covenants for the Whispering Oaks Estates development do not allow for a commercial business to be run in the middle of this residential development. This is a complete violation of both.

Michael Kerski

From: Ann Fruetel <annfruetel@gmail.com>
Sent: Friday, June 30, 2023 8:13 PM
To: Mark Noble; Planning
Subject: 2205 Wildwood Drive, Shakopee MN

We own the home at 2224 Wildwood Drive. We are vehemently opposed to the approval of the Conditional Use Permit for the business located at the addressed referenced above.

One of the primary reasons we built our home in the Whispering Oaks Estates neighborhood was the clearly defined covenants that were specifically developed to protect and maintain the integrity of our neighborhood and, therefore, value of our homes. The existing homeowners all respect, value and adhere to these covenants, without exception. This business is breach of several of our covenants, with the operation of a business being the most egregious of these violations.

Regarding the Conditional Use Permit; it is beyond comprehension that Ms. Shreiner, a licensed realtor in the State of Minnesota, blatantly disregarded the State and City requirement for application of this permit.

The negative impact of this business on our normally quiet residential neighborhood is significant. The volume of traffic has increased exponentially; completely negating the reason we chose to build our home in a quiet cul-de-sac.

While the disruption of our tranquil neighborhood is of immediate concern, our long-term concern is what the existence of this business in our residential neighborhood will do to the overall value of our homes and the impact will this have when we sell our properties.

The establishment of this business has a significant impact on our ability to enjoy the peace and serenity of our home and our beautiful neighborhood. We look forward to a satisfactory response from our city leaders and the denial of the permit application.

Respectfully,
John and Ann Fruetel

Sent from [Mail](#) for Windows

Michael Kerski

From: jordan.malay@icloud.com
Sent: Friday, June 30, 2023 10:29 PM
To: Planning; Mark Noble
Subject: Whispering Oaks Estates Assisted Living Impact Letter

Whispering Oaks Estates Impact Letter regarding American Heritage Assisted Living operating at 2205 Wildwood Drive

Jordan and Maria Malay - 2288 Wildwood Drive (within 500 ft of facility)

We do not support the use of a residential home in our neighborhood as a commercial, for profit assisted living facility and do not recommend approval of the conditional use permit sought by this property for the following reasons:

1) **Safety:** our neighborhood does not have sidewalks making it a dangerous place for residents with limited mobility to safely walk or use wheelchairs. The neighborhood is surrounded by thick woods and wetland areas which back up to high traffic highways. There is enormous potential for an elderly person, especially if they suffer from memory loss or dementia to become lost in places that pose many dangers. Neighbors have witnessed assisted care residents experiencing a medical episode while out on a walk and appearing to be lost on foot, wandering as far as the Home Depot vicinity approximately two miles away.

2) **Home Values:** this facility appears on Google maps as a focal point of our neighborhood. This will certainly deter potential buyers and limit the price they are willing to pay. This negatively affects the value of our homes. It is detrimental to potential sales and poses a compromise to the surrounding area. It creates a perception of lax zoning and desecrates investment. If this is allowed, it sets a precedent that commercial real estate may be conducted in any residential zone.

3) **Privacy:** the residents of this neighborhood are now constantly subjected to the stressful atmosphere associated with a fully operational commercial assisted care facility environment. The business website describes opportunities for large events such as outdoor concerts to be held for the facility residents and their extended families. The staff of the facility have treated neighboring homes' properties as if it is public space, often parking in front of their homes (obscuring trash pick up and mail delivery), sitting on lawns during lunch breaks and leaving trash behind. There is constant noise and foot traffic lingering outside of our homes.

4) **Traffic:** zoning laws are in place for a reason, one being to limit high traffic that goes with a commercial operation that employs a large staff. The facility employs a dozen or more people that are constantly coming and going at all hours of the day and night. The facility is staffed 24 hours a day. In addition to staff parking and traffic, multiple trips are made by in home medical treatment (advertised on site radiology and pharmaceutical service), as well as visits from an on demand private chef and stylists for the in home beauty salon. Radiation exposure is a concern.

Frequent family visits add to the traffic count and parking situation. Staff and deliveries often drive at dangerous speeds. This additional traffic load is visibly creating unplanned wear on our streets. The neighborhood was resurfaced with a chip seal coating less than a year ago that was intended to last ten years. The increased traffic from the commercial operation has visibly destroyed the coating in many areas.

5) **HOA/ Covenant Violations:** Our neighborhood was not designed or intended to accomodate commercial operations, such as this assisted living facility, due to a lack of sidewalks, dangerous surroundings, and unavailable parking. The neighborhood's only intended, allowable legal use are single family residences, which our HOA covenants were written to protect.

We vehemently oppose the use of a single family home to be used as a for-profit, commercial, multi-tenant facility, as none are allowed in our neighborhood per the covenants. This is clearly stated in our binding HOA covenants (tied to the deed of this and all properties in Whispering Oaks Estates). In addition, this property proceeded with installation of a chain link fence after being given the covenant guidance prohibiting the use of the fencing material.

In reality, this is a lavish, resort-style setting, which is quoted at \$16,000.00 per month per resident (as cited by their advertised listing on www.aplaceformom.com). The owners of this property have intentionally deceived the residents of this neighborhood by withholding their true intentions and blatantly contradicting the history and conception of the property

over multiple interactions. We worry the residents were equally deceived of the property's operational status. They are profiting at the expense of our home values and the enjoyment and peace of our neighborhood.

Thank you for reviewing our concerns for the impact this is presenting on our neighborhood.

-Maria & Jordan Malay

JUNE 29, 2023

Shakopee City Council – Board of Adjustment and Appeals

Dear Council Members and Neighbors,

This letter is written to provide comments related to the conditional use permit (CUP) application by **American Heritage Assisted Living located at 2205 Wildwood Drive in Shakopee, MN**. We ask for your consideration of our comments related to the personal impact to us and our property from the requested use of the property and respectfully ask that you deny the application.

Based on the criteria for granting a CUP, we do not believe that CUP can be granted because the request cannot pass the conditions specifically outlined in #1 and #4 referenced below.

151.011 Conditional Use Permits

1. *Criteria for granting conditional use permits. In granting a conditional use permit, the Board of Adjustment and Appeals shall consider the effect of the proposed use upon the health, safety, and general welfare of the occupants of surrounding lands and the city as a whole. The Board of Adjustment and Appeals shall not grant a conditional use permit without making the following findings:*

1. *The use will not be injurious to the use and enjoyment of other property in the immediate vicinity for the purposes already permitted, nor substantially diminish and impair property values within the immediate vicinity;*
2. *The establishment of the conditional use will not impede the normal and orderly development and improvement of surrounding vacant property for uses allowed in the area;*
3. *Adequate utilities, access roads, drainage, and other necessary facilities have been or will be provided;*
4. *The use is consistent with the purposes of the zone in which the applicant intends to locate the proposed use; and*
5. *The use is not in conflict with the comprehensive plan.*

This criterion can only be described based on personal experience witnessed by us and surrounding neighbors. Below are the personal experiences and the impact we have experienced since learning about the business next door and our ongoing concern about the care of the clients and staff:

➤ **Failure to meet criteria #1:**

- Daily increased vehicle traffic affecting the atmosphere of the neighborhood
- There has been increased police, paramedic, delivery vehicles, visitors, staff and other traffic not typical for a residential cul-de-sac.
- Obsessive walking of a client that led to a health concern. A complaint was made to Health Services.
- Walking with client in a wheelchair – There are no sidewalks in our neighborhood and our neighbors witnessed improper handling of the wheelchair when going down a hill.
- Experienced an event where a woman came for an interview at the facility (per her account). She was dressed in scrubs and was denied entry to the facility. While waiting for a ride she sat on the curb across the cul-de-sac in a neighbor's yard, ate her lunch, and left some garbage. In addition, as a concerned citizen, we were worried about the woman and her circumstances and how she was treated by the facility. We approached the facility and the person answering the door denied knowing who the woman was or why she came to their door.
- Our home is located at 2221 Wildwood Dr. which is directly next door to the subject property. We bought our home in August 2022 after looking for many years and believed that we had found our dream home in a quiet and private cul-de-sac. Take away the "quiet cul-de-sac" lot and the value of our home has declined, without question.

➤ Failure to meet Criteria #4:

- The subject property is zoned "Residential" and not "Commercial". We thought we were living next to a beautiful residential home. Which due to the current zoning and the property covenants was a reasonable assumption. Because the *business* did not follow the proper and legally binding process of the City zoning or the HOA, we were not provided the accurate information about the property next door which would have played a significant role in the purchase decision of our home, explicitly the price. Acquiring a home in a residential neighborhood with covenants was important to us and played an important part in our purchase decision.
- Why do people buy homes with associations and covenants? To protect the value of their homes and the neighborhood. We moved from another development in Savage because the covenants had expired and were not renewed. We feared over time the value of the neighborhood and our home would decline in value.
- It is indisputable that living next to a business with 8-12 staff, 5 or more clients, visitors, increased deliveries/services, and increased police and ambulatory/first responder presence substantially diminishes and impairs property values and quiet enjoyment vs. living next to a residential home.
- Need for the HOA to self-govern due to evidence of blatant disregard for recorded HOA covenants. Note that the Whispering Oaks Estates HOA covenants were filed and recorded on 12/8/2003 in Scott County (Document # A637495) and are "binding upon all persons owning or acquiring any right, title, or interest in such real property, and their heirs, personal representatives, successors and assigns". Below are known violations to date:
 - Section 7.3 of our covenants specifically states that the property will be used for "Residential Use Only" and will be "used by Owners and occupants, and their guests, exclusively for private, single family residential purposes, and not for transient, hotel, commercial, business, or other non-residential purposes". Further, section 7.3 states that "Any lease of a Lot or Dwelling (except for occupancy by a guest with the consent of the Owner) for a period less than six (6) months, or any occupancy which includes services customarily furnished to hotel guests, shall be presumed to be for transient purposes". ***The current use of the property clearly violates this section of the covenants.***
 - Section 7.11 Compliance with Law: "No use shall be made of any portion of the Property which would violate any then-existing municipal codes or ordinances, or state or federal laws, nor shall any act or use be permitted which could cause waste to the Property or to any Lot, cause a material increase in insurance rates on any portion of Property, or otherwise cause or create any nuisance or any unusual liability, health or safety risk, or expense, for another Owner or occupant". ***The property is zoned residential and not commercial. It is assumed that insurance rates for this property are much higher given the potential for liability, health and safety related to running an assisted living facility.***
 - Covenants specifically prohibits chain link fences in Section 8.3.5. ***The subject owner installed a chain link fence in the Fall of 2022.***

In summary, the city cannot approve a CUP that goes against a legally binding covenant and zoning without impacting the values and enjoyment of all the homes. Due to concerns noted related to the safety of the senior residents at the facility, the impact to our personal enjoyment of our property, and the immediate decline to property values if the facility is approved, we request your denial of the CUP.

Thank you for time and serious consideration of this request.

Warm regards,



TOM & JEAN HEDBERG

2221 WILDWOOD DR.

SHAKOPEE, MN 55379

CELL: 612-791-2646 OR 612-791-3232

EMAIL: HEDA0052@GMAIL.COM

Mark Noble

From: jordan.malay@icloud.com
Sent: Thursday, June 29, 2023 12:25 PM
To: Michael Kerski; Mark Noble; jthomson@kennedy-graven.com
Cc: John Clough
Subject: Assisted Living Facility Meeting Feedback

Importance: High

Hello Michael, Mark, and Jim,

My name is Jordan Malay. I have taken over as the president of Whispering Oaks Estates from John Clough. I wanted to thank you for your urgent action with the for-profit, commercial assisted living facility operating in our neighborhood.

I would like to give you an update on the meeting that Jim and Nancy Schreiner with American Heritage Assisted Living hosted last night.

We have major concerns about how the meeting was conducted.

1. Parking was nearly impossible due to the Rhythm on the Rails event and the location and timing of the meeting. We are concerned this was intentional.
2. There was a person seated at a table at the room entry appearing to be with the city. She insisted that people write their names and provide their signature on a form. She stated to folks as they arrived that it's "So the city knows who attended". Later in the meeting, Jim later identified her as their legal counsel. This ambiguous representation is not acceptable.
3. Jim provided an overview of their commercial operation and history. His statements contained many inconsistencies when compared to the video on their website. He represented that the city supported his venture due to permit approvals, inspections, and approval of a fire lockbox. He blamed the state of Minnesota for not coordinating with the city on the property use. They claimed that the CUP was never brought to their attention throughout constant communication with the city. He claimed that "nothing exceptional or conditional was required".
4. Last night, the CUP sign in the front yard has been tipped backwards, limiting its visibility.

Despite the barriers, we had a high turnout from the neighborhood last night.

Our neighborhood has retained counsel with Hellmuth & Johnson PLLC. At their direction, I made the following statement on behalf of our neighborhood at the end of the meeting:

"My name is Jordan Malay, I am the president of Whispering Oaks Estates Homeowners Association, where we all reside. I cannot state this strongly enough: We are adamantly opposed to the use of a residential home as a for-profit, commercial, assisted-living facility. It is against the property's binding covenants which all of us—including you—agreed to follow when we bought our homes. Our neighborhood is united in pursuing all available legal remedies. We hope that we can reach a resolution that will make legal action unnecessary, but if we have to go down that road, we are prepared to do that."

Thanks again,

Michael Kerski

From: Miles Lahr <mileslahr@me.com>
Sent: Thursday, June 29, 2023 9:34 AM
To: Planning
Subject: Whispering Oaks Estates

Categories: Green category

Good morning,

My wife, Suzanne, and I have been residents of Whispering Oaks Estates for 9 years. We chose this area because it had what we were looking for in a home and quiet neighborhood in Shakopee. Recently an assisted living facility owned and operated by Nancy Mae and Jim Schreiner began operating at 2205 Wildwood Drive. This for profit commercial enterprise violates Section 7.3 of our covenants which restricts the use to single family residential purposes. Additionally it may violate Section 7.4 pertaining to the physical alteration or improvement on said lot as well as observable physical business activity by visitors and employees. Nancy Mae agreed to these restrictions when purchasing this property but she decided to pursue this commercial enterprise anyway without full disclosure to the neighbors. As a realtor, she should know better. She did not speak at last night's neighborhood meeting, only her husband.

Whispering Oaks Estates is not a "drive through" neighborhood but rather consists of 3 cul de sacs. The only entrance and exit is Wildwood Drive which means that any traffic entering must leave the same way. We do not have side walks so residents and children walk and play in the street. We do not appreciate the added vehicle traffic which could result in someone getting injured or killed.

We go on record as emphatically opposed to any approval of a CUP for this enterprise.

Sincerely,

Miles Lahr
mileslahr@me.com
9032 Wildwood Circle
Shakopee, MN 55379
(C) 808-635-2883

Mark Noble

From: Chris Smith <c6830s@gmail.com>
Sent: Wednesday, June 28, 2023 8:04 PM
To: Mark Noble
Cc: Planning; Chris Smith; Kelly Smith
Subject: 2208/Smith: American Heritage Assisted Living CUP Public Hearing

Hello Mark-

The following is a summarized list of our concerns and the negative impacts resulting from the assisted living facility presently operating at 2205 Wildwood Drive, next door to our home located at 2208 Wildwood Drive. With these considerations in mind, along with additional concerns submitted by both my neighbors and homeowners' association, we kindly ask that you please deny the conditional use permit being requested and under your review. Thank you.

Chris & Kelly Smith
2208 Wildwood Drive
Shakopee, MN 55379

- The assisted living facility, masquerading as a home, is out of place and inappropriate for its location. It operates in a residential neighborhood comprised exclusively of single-family homes.
- The assisted living facility's specific location is of maximum detriment to the neighborhood given that it is operating in the cul de sac furthest from any entry or exit point. Normal traffic levels, both vehicle and foot, are increased for everyone in the neighborhood and, disproportionately so for those nearest the facility.
- The assisted living facility has a real and significant negative impact on those homeowners and families living in the same cul de sac. Activity and traffic levels far exceed that of a typical single-family home and includes but is not limited to tenants, prospective tenants, guests of tenants, employees (and their drivers), maintenance contractors, suppliers, healthcare service providers, and delivery service providers. The increased traffic is a safety concern for not merely those neighbors living in the cul de sac and their respective guests but individuals visiting, commuting to, and residing in the assisted living facility as well. At various times throughout the day, it is common for there to often be 6 or 7 vehicles parked in their driveway.
- The assisted living facility's visitors have, in some cases, no direct personal or formal working relationship with the facility (e.g. guests, prospective tenants and employees, drivers of the employees). These individuals cannot be vetted, continuously change over time, and can observe the adjacent homes and families, potentially with ill intentions. It is difficult for homeowners near the facility to distinguish between activities otherwise recognizable as being either normal or suspicious.
- The assisted living facility's previously mentioned myriad of visitors, whether vetted or not, are able to watch our home and backyard from several vantage points and windows around the property. Our backyard pool area, frequently used by our family including our high school and college aged daughters and their friends, has lost the privacy and associated safety that we have and should expect for our home's specific lot and layout within this residential neighborhood.
- The assisted living facility will substantially harm our family's home value and marketability. For the reasons mentioned previously, all a result of the home wrongly operating as an assisted living facility, our property loses much of its appeal, privacy, and associated value that a prospective buyer expects. Under state law, we would be required to disclose to prospective buyers that the home is an assisted living facility.
- The assisted living facility's negative impact on our home's value is extremely harmful to our family financially. Our home is our single greatest asset and investment. We purchased the lot in 2007 at a premium and built the home in 2008, the first home on the cul de sac. We made these investments because of the privacy provided by its specific location within our residential neighborhood. We further invested in the

property and home in 2016 with a substantial remodel project consisting of a new backyard pool, landscaping, and addition. These investments were made under the expectation and precondition that our development would remain entirely residential, comprised only of single-family homes in accordance with the city's documented zoning for the neighborhood, our HOA covenants, and all similar adjacent residential neighborhoods.