

**Chad and Jolene Cutshall
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January 25, 2023

Saint Paul City Council
15 Kellogg Blvd., West
Saint Paul, MN 55102

Re: Opposition to the proposed Treehouse senior housing development currently planned by Trellis developers at 0 Madison Street (ZF# 22-104-395, ZF# 22-116-859, and ZF# 22-104-315, North of 2319 W. 7th St.).

Dear Council Members:

The proposed development at 0 Madison Street (ZF# 22-104-395, ZF# 22-116-859, and ZF# 22-104-315, North of 2319 W. 7th St.) does NOT meet the requirements of City Ordinance 65.151 of the Saint Paul Zoning Code, and therefore the approval sought for the proposed site plan and variances must be denied.

Trellis has repeatedly stated on record that it intends to contract for services for its aged residents with the adjoining care facility at Highland Chateau. This contractual relationship would qualify the development as an Adult Care Home under the Code of City Ordinances, section 65.151. Section 65.151 provides standards and conditions for adult care home facilities. Under this Ordinance, an adult care home is defined as “a facility where aged, infirm, or terminally ill person reside in order to receive nursing care, custodial care, memory care, Medicare-certified hospice services, or individualized home care aide services either by the management **or by providers under contract with the management.**” Since Trellis intends to contract with Highland Chateau to provide services for its aged tenants it therefore intends to operate this facility as an Adult Care Home and the additional zoning restrictions set forth under section 65.151 apply to this development.

The proposed Trellis development does not meet the requirements of Section 65.151 and therefore a variance request for this development is prohibited by law. Specifically, Section 61.601(e) requires that a variance “will not permit any use that is not allowed in the zoning district where the affected land is located.” Since the development as proposed does not meet the necessary standards of 65.151, its use as proposed is not permitted by city ordinance and a variance cannot be granted pursuant to Section 61.601(e).

As stated in the Zoning Commission Staff Report “The project site, located behind the Highland Chateau Health and Rehabilitation Center, at 2319 West 7th Street was chosen due to its proximity to an existing care facility that provides services that will be available to the senior residents of the new building.” Contracting with Highland Chateau for care services qualifies this development as an Adult Care Home under Section 65.151. Section 65.151 provides standards and conditions for adult care home facilities. The proposed Trellis development does not meet the requirements of Section 65.151 and therefore a variance for this intended use cannot be granted pursuant to Section 61.601(e).

The proposed development fails to meet the requirements of an Adult Care Home as required under Section 65.151.

First, 65.151(a) requires that an Adult Care Home located in a residential zoning district have a minimum lot area of 5,000 square feet plus one thousand square feet for each guest room in excess of six guest rooms. The lot size of the proposed development is 26,340 square feet. The proposed structure has a total of 36 units. Under the ordinance the lot size must be 5000 square feet plus 1,000 for each guest room in excess of 6 guest rooms. This would require a lot size of 36,000 square feet. The proposed lot size does not meet the minimum standard to operate an adult care home as proposed. The application for variance must be denied.

Second, 65.151(b) requires that “a facility located within a predominantly residential or mixed-use area shall have direct access to a collector or higher classification street.” The proposed access to this property is a shared driveway that clearly does not meet the qualification of a “collector or higher classification street” as required by ordinance for a facility providing adult care home services. The ordinance clearly requires DIRECT access to a main arterial street when adult care services are provided. Presumably this is the minimal standard for safety and access to a facility providing home care to the elderly. The proposed development does not meet this required safety standard and therefore the application for variance must be denied.

Third, section 65.151(c) requires that “[i]n traditional neighborhood development districts, the site shall contain a minimum of fifty (50) square feet of outdoor community space per resident, consisting of seating areas, yards and/or gardens.” The proposed development does not provide for the required amount of community space per resident and therefore the application for variance must be denied as inconsistent with the restrictions of the zoning code.

Finally, 65.151(d) requires a conditional use permit for facilities serving seven or more facility residents. Trellis has not requested and has not obtained a conditional use permit for this facility of this size under 65.151 and therefore is in violation of City Ordinance for its intended use of the property. The proposed development is in violation of 65.151 and therefore a variance of the zoning code must be denied.

In response to its failure to meet the requirements of 65.151, Trellis will likely argue that its development is an independent living facility. However, this designation is at odds with its repeated statements at every stage of development where Trellis has specifically pointed out its intent to contract for aged care services with the adjoining Highland Chateau. Trellis clearly intends to operate this facility as an Adult Care Home under the definition of 65.151. This has been a major selling point of this development from its inception. Presumably, the contractual relationship to provide elderly care services is the consideration that the Highland Chateau has relied upon in granting Trellis the easements necessary to provide road access to this development. However, the development as advanced by Trellis does not meet the statutory requirements of an Adult Care Home under the zoning law. As a result, either the variance must be denied or the development as proposed will be statutorily prohibited for contracting with the adjacent Highland Chateau for elderly care in contradiction to the repeated statements of Trellis.

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