

**MINNETONKA PLANNING COMMISSION
MINUTES**

JANUARY 3, 2002

1. CALL TO ORDER

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

2. ROLL CALL

Commissioners Egge, Knight, Yearwood, Abry, Clinton, and Sodergren were present. Gallop was absent.

Planning Staff Members Present: Planning Director Geoff Olson, Principal Planner Cary Teague, Project Planner Tom Goodrum, Environmental Coordinator Jo Colleran, Associate Planner Virginia Finlayson, and Planning Intern Susan Thomas.

3. APPROVAL OF AGENDA: The agenda was approved as submitted. Olson directed the Commission's attention to information provided in the January 3, 2002, Change Memo.

4. APPROVAL OF MINUTES: December 20, 2001

Abry moved, second by Egge, to approve the December 20, 2001, meeting minutes with the following changes listed in the January 3, 2002, Change Memo with the words "and raised" crossed-out.

Page 9:

"Abry stated that if a house was to be included, it should ~~not~~ be located between the tower and the neighborhood so that it is included as part of the neighborhood and not isolated between the tower and the business / commercial area. She favored using the area that would be graded for the frontage road realignment as much as possible to eliminate further grading of the site."

Page10, last paragraph:

"Abry asked if there is a pole that could be extended ~~lowered and raised~~ as needed."

Egge, Knight, Abry, Clinton, and Sodergren voted yes. Gallop was absent. Yearwood abstained. Motion carried.

5. REPORT FROM STAFF

Olson wished everyone a happy new year and announced that Representative Jim Ramstad and Mayor Karen Anderson will be speaking January 10, 2002 from 1:45 p.m. to 2:45 p.m. at the Minnetonka Community Center relating to the new affordable house included in Alison's Green located on Minnetonka Boulevard and Sussex. Tours of the house will also be provided.

January 14, 2002 will be a water resources program kick-off meeting held in the Council Chambers at 6:30 p.m. Colleran provided a preview of her water resources program kick-off presentation.

Olson expressed his appreciation of Goodrum's hard work for the city, especially on the development of wetland and floodplain ordinances and the antennae ordinance; his patience with helping the public; and being a pleasant individual to work with. He wished him well with his new position as a Senior Planner for the Metropolitan Council. Chair Sodergren expressed her appreciation for Goodrum's patience, sense of humor, and sensitivity with answering Commissioners' questions.

6. REPORT FROM PLANNING COMMISSION MEMBERS: None

7. PUBLIC HEARINGS: CONSENT AGENDA

No items were removed from the Consent Agenda for discussion or separate action.

Clinton moved, second by Yearwood , to approve the items listed on the Consent Agenda as recommended in the respective staff reports, as follows and modified by the Change Memo dated January 3, 2002:

A. Resolution approving a conditional use permit for a medical use in a B-2 zone at 11004 Cedar Lake Road for Paul E. Ziman (86062.01a)

Recommend that the City Council adopt the resolution on pages A1-A3 of the staff report which approves the proposed conditional use permit. Approval is based on the findings that the proposal meets the required conditional use permit standards and is subject to the following conditions:

1. Record this resolution with the county before the City issues a building permit.
2. The City Council may reasonably add or revise conditions to address any future unforeseen problems.

3. Any change to the approved use that results in a significant increase in traffic or a significant change in character would require a revised conditional use permit.
4. The applicant must agree to the above conditions in writing.

B. Items concerning a lot division at 14725 Minnetonka Drive for Oscar DeNarvaez (01061.01a)

1. Resolution approving a lot division; and

2. Resolution vacating part of a drainage and utility easement

A. *Recommend that the City Council adopt the resolution approving the lot division. (See pages A1–A6 of the staff report.) Approval is subject to the following conditions:*

1. Complete the following before release of this resolution approving the lot division:
 - a. If applicable, evidence of watershed district approval.
 - b. The following documents for the City Attorney’s approval:
 - (1) At least a ten-foot-wide drainage and utility easement next to the existing right-of-way, and at least seven-foot-wide drainage and utility easements along all other lot lines;
 - (2) A utility easement over existing or proposed public utilities, as determined by the city engineer;
 - (3) Drainage and utility easements over wetlands, floodplains and storm water ponds, as determined by the city engineer;
 - (4) Provide private easements over Parcel A for sewer and water services to Parcel B; and
 - (5) A 34-foot private driveway easement between the street right-of-way and the south lot line of Parcel B that is acceptable to the City Attorney. The easement must state the maintenance responsibilities of each owner.

These documents must be recorded with the lot division, and a drawing of any easements must be attached to the easement deed.

- c. Title evidence that is acceptable to the City Attorney. Title evidence must be

current within thirty days before release of the lot split resolution.

- d. Restrictive covenants to be recorded against the individual lots with the lot-split resolution. The covenants must include the conditions below that have not been met as of the release of the resolution. These covenants must first be submitted for the approval of the City Attorney.
 - e. Pay the park dedication fee of \$550.
2. The following must be submitted to the City before the City issues a building permit:
 - a. The new home must be built with a sprinkler system.
 - b. Final grading, drainage and erosion control plans must be submitted for staff approval.
 - c. The minimum floor elevation for any new structure must be 940.0.
 - d. All trees to be preserved must be fenced and erosion control measures must be installed for staff approval.
 - e. A copy of the recorded resolution and a copy of any easements or restrictive covenants required to be recorded must be submitted to the City.
 - f. A hookup fee for sanitary sewer and water.
 - g. A letter from the surveyor stating that boundary and lot stakes have been installed as required by ordinance.
 3. The resolution vacating the drainage and utility easements must be recorded with the lot division resolution.
 4. This resolution must be recorded by the county within one year, unless the City Council approves a time extension. If the council does not approve the extension, the lot division approval will be void.
- B. Recommend that the Council approve the resolution on pages A7–A9 of the staff report that vacates part of the drainage and utility easement.*
- C. Resolution approving a front yard setback variance from 35 feet to 30 feet for additions to a home at 5725 Cedar Lane for Timothy Studenski (01066.01a)**

Adopt the resolution on pages A1–A3 of the staff report that approves a front yard setback variance from 35 feet to 30 feet for additions to the home at 5725 Cedar Lane. This resolution is based on the following findings:

1. Strict enforcement would cause undue hardship because of the following circumstances that are unique to this property.
 - a. The home was built before City Code.
 - b. The existing home has a non-conforming front yard setback.
2. The variance would be consistent with the spirit and intent of this ordinance for the following reasons:
 - a. The property is a lot of record and is allowed to have reasonable development.
 - b. The proposed additions would be no closer to the front property line than the existing home.
 - c. The front yard setback is consistent with other homes in the neighborhood.
 - d. The additions would provide better internal circulation and allow the living area to be more functional is size.

Approval is subject to the following conditions:

1. Submit proof of having recorded this resolution with the county before the City issues a building permit.
2. This variance will end on December 31, 2003, unless the City has issued a building permit for the project covered by this variance or approved a time extension.
3. A grading plan must be submitted and approved in conjunction with a building permit application.

D. Resolution approving two front yard setback variances for house additions at 5716 Scenic Heights Drive for Dana O’Konski (01068.01a)

Adopt the resolution on pages A1–A3 of the staff report that approves the two front yard setback variances. This resolution is based on the following findings:

1. Strict enforcement would cause undue hardship because of the following circumstances that are unique to this property:

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- a. The existing home does not meet the current setback requirement; therefore, additions to the front or sides of the home could not be done without a variance.

- b. The property is on a neighborhood collector street, which currently requires a 50-foot front yard setback. The Comprehensive Plan recommends that front yard setbacks on neighborhood collector streets be reduced to 35 feet.
2. The variance would be consistent with the spirit and intent of this ordinance for the following reasons:
 - a. The living space addition maintains the existing front yard setback.
 - b. The front yard setback is larger than for the homes on the east side of Scenic Heights Drive.

Approval is subject to the following conditions:

1. Submit proof of having recorded this resolution with the county before the City issues a building permit.
2. This variance will end on December 31, 2003, unless the City has issued a building permit for the project covered by this variance or has approved a time extension.

Egge, Knight, Yearwood, Abry, Clinton, and Sodergren voted yes. Gallop was absent. Motion carried and the items on the Consent Agenda were approved as submitted.

8. PUBLIC HEARINGS

A. Ordinance that increases the park dedication fees (86060.01a)

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

Olson reported. He recommended approval of the code amendment as recommended in the staff report and the change memo dated January 3, 2002.

Egge asked if estimated projected costs for the three proposed new parks had been calculated. Perry Vetter, of the City's Park and Recreation Department, explained that Nelson Park and Sunrise Ridge Park are both joint ventures with other entities, which complicates estimating cost projections. Nelson Park is a joint venture with a church that would be providing the property for the park. He stated that the City would fund the site preparation, in-kind services, and general amenities. Sunrise Ridge Park is a joint venture with Hennepin County. Hennepin County plans to

develop a park-and-ride on a portion of the property and the City hopes to develop the remainder for a park. Purchase of the land fluctuated from \$62,000 to \$150,000.

Egge acknowledged that there was a short-fall in the capital improvement budget as well as the line-item comparison for generating funds at the current rate. Vetter agreed.

Chair Sodergren asked Olson to explain how the City may waive park dedication fees for a developer in lieu of providing affordable housing. Olson stated that negotiation would take place on a case-by-case basis. He stated that several options may be considered, including tax increment financing, an actual house provided to the City, or a certain amount of funds to be used for affordable housing.

Yearwood asked if land may be donated to meet the park dedication requirement or if cash would be the only option. Olson stated that donating land would remain an option, but because new developments usually do not have expendable buildable area, developers usually met the requirement by providing cash.

Abry asked if the property desired to be acquired for parkland had been identified. Vetter explained that parcels adjacent to the creek preserve are favorable for open space, and property connected to the major parks are favorable new acquisitions for parks. The need for open space would be balanced with the need for establishing a small neighborhood park on a case-by-case basis. Vetter stated that the park dedication fund is primarily used for funding new parks.

Abry asked if there was a limited number of parcels the City identified as being desirable for parkland. Vetter stated that the Comprehensive Guide Plan outlined deficient and underserved areas.

Abry asked if the Comprehensive Guide Plan specifically designated the areas for parks and those for open space. She asked how the funds would be divided. Vetter stated the funds would be used and the land chosen by what was available at the time. He explained that if the available property was on a creek preserve, it would be designated as open space; if it was near Glen Lake Park, it would be used to expand the park. Availability of land and sufficient funds are the primary factors.

In response to Abry's question, Olson explained that new development generates the need for and benefits from parks and open space.

Clinton confirmed with Vetter that the Capital Improvement Program chart's future projection of estimated park dedication fees should now reflect \$100,000.

Chair Sodergren clarified that the proposed expenditures are a “wish list.” Vetter confirmed that portions of the projects would not be completed due to acquisition rights delays or lack of funds. In those cases, the project would be continued the next year for completion.

Chair Sodergren asked if there would be a zero park dedication fund balance for 2002. Olson explained the City’s general fund accounting system.

Chair Sodergren asked how much park dedication fees were collected in 2001. Vetter stated that the fees collected totaled \$83,900 in 1999; \$47,100 in 2000, and \$5,200 through August 1, 2001.

Chair Sodergren asked if the Park Board sought external funding on a consistent basis. Vetter stated that staff seeks external funding, partnerships with school districts, and encourages donations through the *Parks for Tomorrow* program. The City has received the largest amount of external funding from the Department of Natural Resources recreation grants.

Chair Sodergren favored not raising the park dedication fee again within five years. She suggested a sun-set provision be utilized to determine the City’s needs. She favored a plan to enable the Planning Commissioners to answer residents’ questions regarding if a park was being planned for a certain area.

Chair Sodergren suggested that the park dedication fee be “discounted” rather than “waived” in lieu of providing an affordable housing benefit.

Egge favored obtaining estimated cost projections relating to specific projects.

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

Yearwood felt that residential housing paid the majority of park dedication fees, but commercial and office/industrial uses use more land. She was concerned with the large percentage of increase for residential uses.

Knight said a general levy should be considered as a more equitable way to generate funds. He stated that the park dedication fee is a tax. He favored being below the average for taxes. He favored a more gradual increase in the fee. He wanted to make sure that the increase in the park dedication fee matched the City’s needs and priorities. He opposed the application as it was presented.

Abry did not have the information needed to determine what funds would be needed for the acquisition of parks for the next five years. She questioned the time-line for the purchase of

parkland and, if the purchasing was completed within five years, if the fee would be lowered. Abry favored having a cost estimate for the purchase of parkland.

Yearwood requested clarification of the Commission's role. Olson stated that the City Council had passed its Capital Improvement Plan and identified a long-range wish list, including the amount of funds available to purchase parkland. The specific, long-range planning for parks is determined by the Parks Board and the Council. The Planning Commission's role is to determine whether to raise the park dedication fees to assist with the funding. Olson said that park dedication fees and grants provide a relatively small portion of parks funds. He stated that the question to consider is whether the park dedication fees should be a larger percentage of how the parks are funded.

Olson clarified that the Commission's decision was a recommendation to the City Council.

Clinton asked how long the \$500 fee had been in place. Clinton suggested that the increase may have been long over-due. He stated that the \$500 has not kept pace with the cost of property. Olson stated that the fee was raised to \$500 in 1995; the land values over the last six years have sky-rocketed. Olson recognized that a sunset clause may be a consideration to force the fee to be looked at again within a certain time period.

Chair Sodergren favored estimates being provided regarding the number of new residences to be developed in the next few years. Chair Sodergren felt the gradual increase of the park dedication fee and the sunset clause may be considered.

Knight felt increasing the fee in accordance with the rate of inflation would be appropriate. Chair Sodergren questioned if the consumer price index or the land cost inflation of the City of Minnetonka should be used to determine inflation. Olson confirmed that the City's increase in land value is well above the average.

Abry suggested using changes in property value and construction cost indices as a basis for determining escalation for outyear costs.

Egge moved, second by Knight, to table action on the proposed ordinance to increase park dedication fees to allow staff time to gather information regarding: the timeline the City plans on purchasing parkland; what type of parks and their costs are being planned; encouraging land donations and the use of external funds; a master plan for parks; the consumer price index, land cost, and construction inflation rates for the past six years; changing the wording to something similar to "discount" rather than "waived" for affordable housing considerations; and including a sunset provision.

*Egge, Knight, Yearwood, Abry, Clinton, and Sodergren voted yes. Gallop was absent.
Motion carried.*

B. Items concerning construction of a new home at 5658 Seven Oaks Court for Robert Ogren (01052.01a):

- 1. Shoreland setback variance from 35 feet to 25 feet.**
- 2. Floodplain setback variance from 35 feet to 1 foot.**
- 3. Conditional use permit for an accessory apartment.**

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

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

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

Chair Sodergren commented that the variances would improve the site and create a conservation easement along the lake shore. Colleran described the vegetation along the lake and the native buffer that would be established.

Yearwood asked if specific vegetation could be required to be maintained in the buffer. Goodrum stated that it would be hard to require additions to the buffer at this time, since it can not be viewed, but a condition may require the buffer be inspected by staff in the spring to determine what vegetation currently exists and if improvements would be needed.

Egge moved, second by Yearwood, to recommend council approve the following items concerning construction of a new home at 5658 Seven Oaks Court with an additional condition requiring staff determine if additional vegetation is needed in the buffer:

A. Adopt the resolution on pages A1–A4 of the staff report. This resolution approves the following variances at 5658 Seven Oaks Court:

- Shoreland setback from 35 feet to 25 feet from a line drawn from the closest shoreward corners of the adjacent structures.
- Floodplain variance from 35 to 1 foot.

Approval is based on the following findings:

1. Strict enforcement would cause undue hardship because of the following circumstances that are unique to this property:
 - a. The small size of the lot (15,000 square feet) limits the building area; and
 - b. The lot was created before the current setback ordinances from the lake and floodplain.
2. The variance would be consistent with the spirit and intent of this ordinance for the following reasons:
 - a. The house would be set back further from the lake and floodplain than the existing house; and.
 - b. A conservation easement would be established along the lake edge.

Approval is subject to the following conditions:

1. Submit the following before the City issues a building permit:
 - a) Proof of having recorded this resolution and the conditional use permit resolution with the county.
 - b) Proof of recording a 20-foot-wide conservation easement from the ordinary high water elevation (904.1) with the county.
 - c) A demolition permit for the existing home.
 - d) A grading/drainage plan that includes water resource protection plus detailed fencing that ensures that construction would not occur within the floodplain and that stockpiling would occur away from the lake.
 - e) A revised site plan showing the new boundary of the wetland edge at the northwest corner being 35 feet from the corner of the house.
 - f) A buffer area vegetation plan is agreed upon City staff.

2. This variance will end on December 31, 2002, unless the City has issued a building permit for the project covered by this variance or approved a time extension.
- B. *Recommend that the City Council adopt the resolution on pages A5–A9 of the staff report, which approves the proposed conditional use permit for an accessory apartment. Approval is based on the finding that the proposal meets the required conditional use permit standards and is subject to the following conditions:*
 1. Record this resolution with the county before the City issues a building permit.
 2. The City Council may reasonably add or revise conditions to address any future unforeseen problems.
 3. Any change to the approved use that results in a significant increase in traffic or a significant change in character would require a revised conditional use permit.
 4. The applicant must agree to the above conditions in writing.

Abry supported the floodplain setback variance and the conditional use permit, but did not support the shoreland setback variance from 35 feet to 25 feet. She felt a two-stall garage was a sufficient use and that the location of the garage could be reconfigured.

Egge, Yearwood, Clinton, and Sodergren voted yes. Knight and Abry voted no. Gallop was absent. Motion failed for the shoreland setback variance and the floodplain setback variance; the conditional use permit for an accessory apartment carried.

Chair Sodergren stated that the item was tentatively scheduled to be reviewed by the City Council on January 28, 2002. Chair Sodergren suggested Mr. Ogren work with staff. Abry clarified that the applicant needed to appeal the shoreland and floodplain setback variances for them to be reviewed by the City Council with the conditional use permit. Olson confirmed that the applicant needed to submit a letter appealing the denial of the variances to the Planning Department within ten days.

Egge clarified that Abry supported the floodplain setback variance and questioned if a separate motion should be done. It was determined that a separate motion would not make much difference, since the shoreland setback variance motion would still fail.

9. ADJOURNMENT

Knight moved, second by Yearwood, to adjourn the meeting at 8:05 p.m. Motion carried unanimously.

By: _____
Bernadette H. Leaf
Planning Administrative Assistant