

**MINNETONKA PLANNING COMMISSION
MINUTES**

FEBRUARY 7, 2002

1. CALL TO ORDER

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

2. ROLL CALL

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

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

3. APPROVAL OF AGENDA: The agenda was approved as submitted. Olson reviewed the changes made by the February 7, 2002 Change Memo.

Olson stated that applicants requested that the hearings for the following items be postponed to the March 7, 2002, meeting: Item 8A, request for an 18-square-foot sign size variance at 4626 Linnea Lane for Accell Academy (94036.01a); Item 8B, resolution approving setback variances to construct a new house at 18 Westwood Circle for Lutz Construction (01058.01a), until the March 7, 2002, meeting.

4. APPROVAL OF MINUTES: January 17, 2002

Abry moved, second by Yearwood, to approve the January 17, 2002, meeting minutes as amended by the following:

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Abry asked if the landscaping requirements described in the original 1994 application had been met in accordance with the site plan.

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

5. REPORT FROM STAFF

Olson briefed the Commission on land use applications considered by the City Council at its meeting of January 28, 2002:

- Adopted a resolution approving a conditional use permit for a medical use in a B2 zone at 11004 Cedar Lake Road for Paul E. Ziman.
- Adopted a resolution approving a conditional use permit for an accessory structure that exceeds 12 feet in height at 3904 Williston Road for Kirk Velett.
- Adopted a resolution vacating part of a drainage and utility easement and a resolution approving a lot division at 14725 Minnetonka Drive.
- Adopted a resolution approving a shoreland setback variance from 35 feet to 25 feet, a floodplain setback variance from 35 feet to 1 foot, and a resolution approving a conditional use permit for an accessory apartment at 5658 Seven Oaks Court for Robert Ogren.

Olson reminded Commissioners that a training session will be held February 21, 2002, at 6:00 p.m. instead of a Planning Commission meeting.

Olson announced that Hennepin County is hosting an information gathering session on Thursday, February 21, 2002, from 5:30 p.m. to 7:30 p.m. regarding upgrading County Road 101 all the way to State Highway 7. The public is invited to provide testimony regarding the types of improvements desired.

Olson briefed the Commission on residents' concerns expressed at the neighborhood meeting regarding locating a proposed water tower in Tower Hill Park. Olson stated that those present were focused on expressing that they opposed any type of water tower on the proposed site. The residents favored locating the proposed water tower on Baker Road and State Highway 7. The Planning Commission will review the proposal at its March 7, 2002, meeting.

Chair Sodergren asked staff to explain why the grading in the area of Tower Hill Park is being done. City Engineer Lee Gustufson explained that the grading is being done in preparation of rerouting the frontage road. He explained that construction has been delayed because bids for the work were too high.

Olson stated that notification of meetings relating to the proposed water tower will be extended to include residents who own property within 400 feet of the proposed site and the affordable housing element will be removed from the proposal at the current time.

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.

Abry moved, second by Gallop, to approve the items listed on the Consent Agenda as recommended in the respective staff reports as follows:

A. Resolution approving a conditional use permit for a restaurant at 12915 Ridgedale Drive for Subway (89035.01a)

Recommend that the City Council adopt the resolution on pages A1–A4 of the staff report. This resolution approves a conditional use permit for a restaurant at 12915 Ridgedale Drive. 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. Obtain a sign permit prior to sign installation.
5. The applicant must agree to the above conditions in writing.

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

B. Resolution approving an aggregate side yard setback variance for a second stall garage at 17014 Patricia Lane for Craig and Sheila Rossebo (01072.01a)

Adopt the resolution on pages A1-A3 of the staff report. This resolution approves an aggregate side yard setback from 30 feet to 29 feet for a single-stall garage at 17014 Patricia Lane based on the following findings:

1. Strict enforcement would cause unique hardship because of the following circumstances that are unique to this property:
 - a. The property is a lot of record and allowed to have reasonable development; and
 - b. Lot size and lot width are undersized when compared to ordinance standards.

2. The variance would be consistent with the spirit and intent of this ordinance for the following reasons:
 - a. A two-stall garage is reasonable use of the property; and
 - b. The addition would not alter the character of the neighborhood.

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. Revise all plans to agree with this resolution before the city issues a building permit.
3. This variance will expire December 31, 2003, unless the city has issued a building permit for the project covered by this variance.

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

8. PUBLIC HEARINGS

A. Request for an 18-square-foot sign size variance at 4626 Linnea Lane for Accell Academy (94036.01a) (Tabled January 17, 2002)

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

Teague reported. He stated that the applicant requested that action be postponed until the March 7, 2002, Planning Commission meeting.

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

B. Resolution approving setback variances to construct a new house at 18 Westwood Circle for Lutz Construction (01058.01a):

- 1) **Floodplain setback variance from 35 feet to 25 feet**
- 2) **Wetland setback variance from 35 feet to 10 feet**
- 3) **Front yard setback variance from 30 feet to 15 feet**

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

Thomas reported. She stated that the applicant requested action be postponed until the March 7, 2002, Planning Commission meeting.

The public hearing was opened.

Jim Branch, Westwood Circle, stated that a couple houses had been torn down in the past few years, but were not rebuilt because they were located in the wetland. He questioned why the application would be allowed to be rebuilt. Mr. Branch asked if a variance was issued for the existing garage. Mr. Branch pointed-out on the map where the residences were located that were unable to be rebuilt.

Yearwood clarified with Mr. Branch that the garage had always been a three-car garage.

Abry asked if the garage was built before the current setback ordinance was established. Thomas explained that the City issued a building permit in 1991 for the garage. No variance was applied for or granted at that time.

No additional testimony was submitted and the hearing was closed.

Abry moved, second by Knight, to postpone Items 8A, request for an 18-square-foot sign size variance at 4626 Linnea Lane for Accell Academy (94036.01a), and 8B, request for setback variances to construct a new house at 18 Westwood Circle for Lutz Construction (01058.01a), until March 7, 2002.

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

C. Resolution approving a conditional use permit, site plan review with variances, and floodplain alteration permit for the Grays Bay Marina at 2831 County Road 101 for the City of Minnetonka (96078.01b)

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

Yearwood left the meeting after announcing she would refrain from participation in the discussion and voting due to a conflict of interest.

Gutoske reported. He recommended approval of the application based on the findings and subject to the conditions listed in the staff report. Gutoske introduced City Engineer Lee Gustafson and the consultants who were available to answer questions.

Gallop questioned if the requested setback variance for the attendant building, from 50 feet to 28 feet, was necessary. Gutoske explained that if a 50-foot setback would be maintained, the parking lot would have to be moved into the drive aisle south of the attendant building.

The proposed plan best meets the needs of the marina, including physical and visual access of the site for the attendant. Gutoske reviewed that boathouses are exempt from a shoreline setback requirement and are similar to the attendant building.

Chair Sodergren clarified that the city does not have an ordinance regarding marinas. Gutoske concurred and mentioned that the previous Grays Bay Store had a ten-foot setback.

Abry asked if there would be an attendant on duty twenty-four hours a day. Gutoske stated that the attendant would not be on duty over night. Gutoske confirmed that access to the pumps would be restricted to when an attendant was present. Gutoske explained that the lodge and access to launch a boat from a slip would be available twenty-four hours a day.

Abry asked how other marinas on Lake Minnetonka were regulated. Gutoske stated that all public lodges are open twenty-four hours. He was unsure if public lodges are lighted throughout the night.

Abry asked when an illumination plan would be available for the project. Gustafson stated that an illumination plan would be completed within two to three weeks. Abry asked if it would be completed prior to the City Council acting on the application. He stated that if the Planning Commission was concerned, the illumination plan could be included in the City Council packet.

Abry was concerned with overflow parking continuing into the neighborhood. She asked how it would be regulated. Gustafson responded that the task force and staff discussed the options and concluded that they favored waiting until the marina was in operation to identify problem areas rather than speculating on what might happen. Posting parking restrictions would be used to regulate problem times and areas similar to how high school parking lots are regulated.

Abry suggested including a condition to acknowledge that the City would address parking problems by posting parking restrictions if a problem occurred. Gutoske stated that the conditions of approval do not include a trigger to require the City's response to an over-flow parking problem. Gustafson stated that staff favored treating the proposal as a typical situation where a parking problem may occur. Staff did not want to be forced to react to one complaint. As a matter of standard procedure, before immediate action is taken on a complaint, the city conducts a survey requesting input from everyone in the area.

Abry wanted to insure that the neighborhood could address any problems without a lot of initiative. She suggested moving the ingress further east by ten feet to fifteen feet so that the median could extend east and eliminate the possibility of accessing Grays Bay Boulevard. Gustafson stated that the road design does incorporate directing traffic to flow toward County Road 101. He stated that the main percentage of traffic will be vehicles with trailers

attached, and they would be unable to make the maneuver without running over several curb islands. He acknowledged that a small vehicle or motorcycle may be able to drive around the curbs, but that most of the traffic will flow toward County Road 101.

Gustafson clarified for Abry that the curb would be insurmountable type curbing.

Chair Sodergren asked if there was an irrigation plan included with the proposal. Colleran explained the types of vegetation planned for each area included in the proposal. She clarified that the eastern edge would be mostly trees and shrubbery to allow a visual screen of the marina, and would require individual watering of plant material. She stated that there is no sprinkler system included in the proposal, and it would be the responsibility of the attendant to water the vegetation until it was established. Colleran added that creativity and analysis was used to create the landscape plan. She agreed with the consultant's recommendation.

Chair Sodergren stated that the proposal would provide a good demonstration project for environmental landscaping and drainage control. Colleran concurred.

Abry asked what the colors referred to on the landscape plan. Colleran described the different areas.

The public hearing was opened.

James Rippetoe, 17200 Grays Bay Boulevard, adjacent resident east of the proposed site, stated:

- The proposal would impact him.
- He favored the traffic traveling in the same direction through the center aisle.
- He favored moving the fuel dock closer to shore to make it easier to clean up a fuel spill.
- He suggested moving the two additional Department of Natural Resources spaces to the west side.
- He favored including a hot water wash-down to prevent exotic species from getting into the lake.
- He was concerned with lake pollution from boat launches.
- He was concerned about the buffer not reducing the noise and pedestrian traffic. He suggested an acoustical wall be used if a problem developed.
- He favored providing a storm shelter.
- He was concerned with boats backing out of slips on the east side, in front of his shore.
- He was concerned with the liability responsibility of the site.

Chair Sodergren confirmed with Mr. Rippetoe that the slip area would have the least amount of traffic. He felt the vegetation buffer would not be sufficient to deter people from entering private property and docks.

Knight asked if Mr. Rippetoe was satisfied with the intersection design. Mr. Rippetoe felt it would be hard to stop people from turning left who live to the east. He favored moving the entrance drive to the east side of the site. He was concerned that trucks would not be able to make the turn going northbound and turning right. He favored the center and east parking lanes both having their traffic flow to the north.

Abry asked Mr. Rippetoe if he favored the center and east lanes traveling north and the west lane to traveling south. He confirmed and explained that he was concerned with the safety of pedestrian and wheelchair traffic.

Gutoske stated that the Lake Minnetonka Conservation District must approve dock locations. The Lake Minnetonka Conservation District considers neighboring properties and water areas. Gutoske acknowledged that landscaping would not be as effective to buffer sound as a fence or wall and left that issue open for discussion. Gutoske was not familiar with the use of a hot-water wash down, but encouraged further research on this matter.

Gutoske agreed with Chair Sodergren that there would not be room for a storm shelter and that the impervious surface requirement had already been exceeded for the site. He assumed the attendant building would be available for ten to fifteen people to use for shelter during a storm.

Gustafson explained that the west parking lot would need south-bound access to allow people leaving the docks to exit. He explained the reasons the task force determined the proposal included the best possible circulation pattern. He acknowledged that a couple more acres would be needed to eliminate the hazards Mr. Rippetoe mentioned.

Chair Sodergren questioned if stacking was planned to occur at the entrance. Gustafson answered in the affirmative. He explained that the vehicles would be required to travel to the east to force the vehicles to leave the entrance, head north toward the lake, and follow the traffic circulation pattern. Gustafson explained how vehicles would be able to circulate through the parking lot.

Chair Sodergren questioned if the stacking space would be reduced if the access would be moved to the east. Gustafson answered in the affirmative and added that trees would need to be removed if the access was moved.

Gustafson explained that staff selected the fuel dock location to keep fueling boats away from boats being launched and allow for security gates on the docks.

Gustafson stated that the task force and staff had significant discussions regarding the storm shelter. One of the primary reasons for the attendant building's center hallway was to provide shelter. The current plan also includes overhangs on the building to protect people during a typical rainstorm.

Gustafson agreed that research could be done to determine if a hot-water wash out would be beneficial for protecting the lake. Gustafson pointed out the proposed location for cold water wash downs.

Gallop asked if arrows would be painted on the pavement or signage provided to direct the traffic flow. Gustafson responded that adding arrows in the traffic lanes and parking lot would be easy to do. He described staff's awareness of the concern residents have regarding over signing and striping the site.

Abry asked where a person would park if he or she launched a boat and then realized the parking lot was full. Gustafson stated that they would have to park on a local street. He thought this was unlikely, except in rare cases. He stated problems would be addressed if they did develop.

Abry asked why no boat launching would be allowed on the causeway. Gustafson stated that part of the agreement with the neighbors and other agencies included that the launching from the causeway would be eliminated when the marina was open for public use. He confirmed with Abry that car parking on the causeway would be allowed for ice fishing.

In response to Abry's question about the availability of the shelter when the attendant is not on duty, Gustafson stated that the attendant building and center area of the attendant building would be locked if an attendant would not be on duty.

Mr. Rippetoe asked the Commission to consider making parking spaces on the causeway available in the winter for cars pulling snowmobile trailers. He stated that there is a hazard of cars going through the ice.

Mr. Rippetoe mentioned that the attendant could close the gate when the parking lot was full. He suggested the City add docks at the Grays Bay Dam. He received a great deal of interest from canoeists and kyakers who wanted more parking at the Grays Bay dam.

No additional testimony was submitted and the hearing was closed.

Chair Sodergren agreed with the need for more signs and parking lot striping. Gustafson was not opposed to more striping or signs to indicate the traffic pattern.

Chair Sodergren asked about timing of other parts of the project. Gustafson stated that the headwater site improvements are scheduled for completion in the spring of 2003. The City hopes to complete 95 percent of the marina proposal before the end of 2002. The causeway improvement project is dependent on Hennepin County doing road improvements, but it is planned to be done in 2004.

Chair Sodergren questioned why parking was restricted in the winter on the causeway; suggested the possibility of community activities being held there in the winter; and questioned if the site would be fenced in the winter. Gustafson stated that the site would be gated off in the winter. The task force debated the issue a great deal and concluded that the marina was not a good location to unload a snowmobile due to the moving water that created thin ice and a hazardous situation.

Chair Sodergren asked if the boat launch area could be fenced-off, but the parking lot remain open for parking. Gustafson stated that the task force felt strongly about closing the entire site at the Grays Bay Boulevard access.

Chair Sodergren was concerned that the public need may outweigh the neighborhood concern for use of the site in the winter.

Gallop felt it would not make sense to have the parking lot open with thin ice and the resulting safety issue.

Knight concurred with Chair Sodergren regarding having the site open in the winter. Chair Sodergren stated she also supported safety.

Abry did not agree with keeping the proposed marina open for winter use. She felt the only reason people would use the lot would be to go to the lake. She felt the boat launch docks should be gated as well as the other two to avoid safety issues. She favored the site having a respite in the winter.

Abry was disturbed by the lack of an illumination plan and felt it should be reviewed by the City Council.

Abry questioned how drainage of the site would be handled. Gustafson pointed out the drainage pattern. He illustrated that the water from the parking lot would be filtered through the rain garden.

Abry asked how the run-off would travel over the curb surrounding the parking lot. Gustafson explained that two different types of curbing would be used. Near the rain garden area, a flat edger curbing would be used. He explained that a couple catch basins would be used, but the parking lot would be designed to drain all the water into the infiltration areas.

Abry asked if the entrance drive could be moved ten feet to fifteen feet to the east to allow for extension of the median. Gustafson explained that the entrance was placed to line-up with Bay Street and create a standard, four-legged intersection.

Chair Sodergren asked if the drive could be changed later if a problem developed. Gustafson answered in the affirmative.

Knight acknowledged that the project was well designed. He was concerned with drivers making a left turn when exiting. He did not feel the median would be a significant enough deterrent. He questioned if the hardship standard to justify the variance for the attendant building was met. He was, overall, in favor of the proposal.

Gallop concurred with Knight's statements, but felt the reasons behind staffs' recommendations were convincing. Some small concerns remained regarding the attendant house location and traffic flow. He supported the project and felt it would be a nice addition to the city.

Abry thanked Mr. Rippetoe for his insightful comments. She agreed with Gallop that Gustafson's reasons were convincing.

Abry asked why insulation would be needed in the attendant building. Gustafson speculated it would be needed to control condensation.

Abry moved, second by Gallop, to recommend that the City Council adopt the resolution on pages A1–A6 of the staff report with additional conditions requiring that an illumination plan, with hours of operation, and a traffic flow sign and marking plan be presented to the City Council for review. Further consideration should be done on how to restrict egress traffic from turning left on Gray's Bay Boulevard. This resolution approves a conditional use permit, site plan review with variances, and a floodplain alteration permit at 2831 County Road 101 for the City of Minnetonka. Approval is based on the following findings:

1. The proposal meets the required conditional use permit standards.
2. The proposal would meet the required standards and ordinances for a site and building plan approval.
3. The proposal meets the required standards for a variance, because:
 - a. There is a hardship for the variances caused by the property's unique use and the need to consolidate facilities from the Gray's Bay dam site and the Gray's Bay causeway.

- b. The variances would meet the intent of the ordinance because:
- (1) the attendant building serves a similar purpose to a boathouse and must be in close proximity to the boat slips, gas dock, and boat pump out;
 - (2) the City is planning to eliminate the floodplain setback requirement;
 - (3) County Road 101 curves away from the parking lot in the area of the setback encroachment, making the variance similar to a point intrusion; and
 - (4) the use of infiltration basins and rain gardens will improve the quality of stormwater runoff from the site and exceed minimum code requirements.

Approval is subject to the following conditions:

1. Record this resolution with the county before the City issues a building permit.
2. The site must be developed and maintained in substantial conformance with the following plans, unless modified by the conditions below:
 - Site plan dated January 2, 2002
 - Grading plan dated January 2, 2002
 - Landscaping plan dated January 2, 2002
 - Tree Plan, dated January 2, 2002
 - Building elevations dated January 21, 2002
3. The following work must be completed before the City issues a grading permit or before starting any site work:
 - a. Fence all trees to be preserved and install erosion control measures.
 - b. Submit final site, grading, drainage, utility, erosion control, and tree preservation plans for staff approval. The floor elevation of the attendant building must be at 933.5 feet or above.
 - c. If required, submit copies of the MCWD permit and LMCD license. The City may require revisions to the approved plans to meet the districts' requirements.
4. The following must be submitted to the City before the City issues a building permit:
 - a. A final landscape and irrigation plan for staff approval. All disturbed areas must be re-vegetated/landscaped in accordance with the approved plan before June 15, 2003.

5. Remove all erosion control fencing by June 15, 2003.
6. The property owner is responsible for replacing any required landscaping that dies.
7. All rooftop and ground-mounted mechanical equipment, and exterior trash and recycling storage areas, must be enclosed with materials compatible with the principal structure, subject to staff approval. Low profile, self-contained mechanical units that blend in with the building architecture are exempt from the screening requirement.
8. Approval does not include the signs shown on the drawings. Separate permits are required from staff.
9. Construction must begin by December 31, 2003, unless the Planning Commission grants a time extension.
10. The City Council may reasonably add or revise conditions to address any future unforeseen problems.
11. 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.
12. An illumination plan, including hours of operation, be submitted for City Council review and staff approval.
13. A sign and striping plan indicating the traffic flow pattern be submitted for City Council review and staff approval.
14. Staff review the Gray's Bay Boulevard egress to further restrict left turns.

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

9. ADJOURNMENT

Abry moved, second by Gallop, to adjourn the meeting at 9:05 p.m. Motion carried unanimously.

By: _____
Bernadette H. Leaf
Planning Administrative Assistant