

**MINNETONKA PLANNING COMMISSION
MINUTES**

MARCH 21, 2002

1. CALL TO ORDER

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

2. ROLL CALL

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

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

3. APPROVAL OF AGENDA: The agenda was approved as submitted.

4. APPROVAL OF MINUTES: March 7, 2002

Yearwood moved, second by Gallop, to approve the March 7, 2002, meeting minutes as amended and as follows:

Page 5, paragraph 3:

Abry asked if the absence of a railing or other safety precaution would be required at the time the permit is pulled for the patio doors by the building code or if it needed to be addressed now.

Page 5, paragraph 8:

Thomas stated that the maximum allowable height is 35 feet to the mid-point of the roof and that the proposed project would be 32 feet in height.

Page 9, paragraph 7:

~~Gallop asked the property owner to provide his comments.~~ Chair Sodergren preferred that the applicant work with staff to see if the concerns of the Commission could be addressed.

Page 8, paragraph 4:

Abry favored a ~~two-level structure~~ proposal that did not increase the intensity of use on the site.

Page 15, paragraph 2:

He stated that the tower operation would be more secure, knowing it would provide water to its users without having to rely on power and machine reliability.

Page 16, paragraph 2:

Abry noted that the Commission was reviewing the conditional use permit and site and building plan only. Abry stated that the cost would be moot if the proposed site was unable to maintain an underground containment tank . . . She ~~preferred to go with the~~ did not have a strong preference regarding style of the tower, but suggested that the hydro pillar style to allow for a more slender profile and it would eliminate the possibility of additional buildings being constructed on the site.

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

5. REPORT FROM STAFF

Olson invited the Commissioners to attend a City Council study session on April 1, 2002, to review the results of a housing needs study done by the Economic Development Authority. He will let Commissioners know if it will be televised.

Olson announced that the meeting was Abry's last of her current term. He expressed appreciation on behalf of staff and the City for Abry's service and contributions while on the Planning Commission. Chair Sodergren thanked Abry for her service to the community and for providing thoughtful and well-researched comments.

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.

In regard to Item 7E, a site and building plan review for an addition at 4600 Shady Oak Road for Cross of Glory Baptist Church (02004.02a), Abry questioned what the total hard-surface of the site would be with the completion of the proposal. Kent Paulson, architect for the applicant, had calculated the hard surface and green space totals, but did not have them with him. He determined that the totals were within the City's criteria.

Abry asked if the applicant would be comfortable with a condition that required the hard surface area to be verified. He was confident that the application complied and agreed to the condition.

Teague stated that the site was zoned R-1, a residential district, so there was no hard-surface requirement. Teague clarified that only areas located within 150 feet of a protected water body have a hard surface requirement.

Abry moved, second by Egge, to approve the items listed on the Consent Agenda as recommended in the respective staff reports, and amended by the March 21, 2002 Change Memo, as follows:

A. Resolution approving a lot division to divide one lot into two lots at 5017 Highland Road for Lori Hamilton Brown and Mark G. Brown (02001.02a)

Recommend that the City Council adopt the resolution on pages A1–A3 of the staff report, which approves the proposed two-lot subdivision. This resolution is based on the following findings:

1. Complete the following before release of this resolution approving the lot division:
 - a. The following documents for the City Attorney's approval:
 - (1) 20-foot wide drainage and utility easement adjacent public right-of-way on Highland Road, so as to incorporate buried telephone line;
 - (2) Seven-foot-wide drainage and utility easements along all other lot lines;
 - (3) A utility easement over existing or proposed public utilities, as determined by the City Engineer;

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

- b. Title evidence that is acceptable to the City Attorney. Title evidence must be current within thirty days before release of the lot split resolution.
 - c. 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.
 - d. Pay the park dedication fee of \$550.
 - e. Existing, detached garage must be demolished.
2. The following must be submitted to the City before the City issues a building permit:

- a. Final grading, drainage and erosion control plans must be submitted for staff approval.
 - b. A letter from the surveyor stating that boundary and lot stakes have been installed as required by ordinance.
 - c. The installation and maintenance of a temporary rock driveway, erosion control, tree protection, subject to review by the City's Environmental Resources Coordinator.
 - d. During construction, the streets must be kept free of debris and sediment.
 - e. A driveway permit for Lot 1.
 - f. A hookup fee for sanitary sewer and water.
 - g. A copy of the recorded resolution and a copy of any easements of restrictive covenants required to be recorded must be submitted to the City.
3. 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.

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

Abry moved, second by Egge, to approve the items listed on the Consent Agenda as recommended in the respective staff reports, and amended by the March 21, 2002 Change Memo, as follows:

B. Resolution approving a front yard setback variance from 25 feet to 17 feet for an attached two-car garage at 15624 Sunset Road for Jeff and Cheryl Holds (02006.02a)

Adopt the resolution on pages A1–A3 of the staff report, which approves the proposed variance. This resolution is based on the following findings:

1. Strict enforcement would cause undue hardship because of the following circumstance that is unique to the property:
 - a. Hardship is caused substandard lot width and topography in the rear yard.
2. The variance would be consistent with the spirit and intent of this ordinance for the following reasons:
 - a. A two-stall garage could not be built on the property without variance.
 - b. The proposed addition maintains current setback.
 - c. The width of adjacent boulevard and a substantial grade change provide for the appearance of a greater setback than actually exists.

Approval is subject to the following conditions:

1. Construction must comply with submitted plans.
2. 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.

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

Abry moved, second by Egge, to approve the items listed on the Consent Agenda as recommended in the respective staff reports, and amended by the March 21, 2002 Change Memo, as follows:

C. Resolution approving a three-year conditional use permit to allow transient sales at 17523 Minnetonka Boulevard for Lakewinds Natural Foods (93011.02a)

Recommend that the City Council adopt the resolution with attachment on pages A1–A5 of the staff report. This resolution approves a three-year conditional use permit for transient sales at 17523 Minnetonka Boulevard for Lakewinds Natural Foods. Approval is subject to the general and specific conditions of the ordinance plus the following conditions:

1. Record the resolution with the county within 30 days of City Council approval.
2. This three-year conditional use permit is only good during the last two weeks in April through the second weekend in June of each year.
3. The City Council may reasonably add or revise conditions to address any future unforeseen problems.
4. The location of the nursery must be in the area indicated on Attachment A.
5. The hours of operation will be from 9:00 a.m. to 9:00 p.m., Monday through Saturday and 9:00 a.m. to 8:00 p.m. Sunday.
6. This conditional use permit will expire on June 14, 2005.
7. The applicant must agree to the above conditions in writing.

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

Abry moved, second by Egge, to approve the items listed on the Consent Agenda as recommended in the respective staff reports, and amended by the March 21, 2002 Change Memo, as follows:

D. Resolution approving a variance to allow office space in the I-1, Industrial zoning district to exceed the 50 percent of the gross floor area of the principal structure requirement by 15 percent at 15100 and 15000 Minnetonka Industrial Road for Honeywell Advanced Circuits, Inc. (91024.02a)

Adopt the resolution on pages A1–A3 of the staff report. This resolution approves a variance to allow the subject property to exceed 50 percent of the gross floor area of the principal structure. 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 applicant would not be allowed to expand a use that is considered an allowed use within the I-1, Industrial Zoning District.
2. The variance would be consistent with the spirit and intent of this ordinance for the following reasons:
 - a. The use is an expansion of a permitted use within the I-1, Industrial Zoning District.
 - b. The site contains adequate parking to support the remodeling from warehouse to office.
 - c. The remodeling from warehouse to office space would generate less traffic to and from the site.

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.
3. 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.

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

and the items on the Consent Agenda were approved as submitted.

Abry moved, second by Egge, to approve the items listed on the Consent Agenda as recommended in the respective staff reports, and amended by the March 21, 2002 Change Memo, as follows:

E. Approve a site and building plan review for an addition at 4600 Shady Oak Road for Cross of Glory Baptist Church (02004.02a)

Approve the site and building plans for Cross of Glory Baptist Church at 4600 Shady Oak Road, subject to the following conditions:

1. The site must be developed and maintained in substantial conformance with the following plans, unless modified by the conditions below:
 - Site plan dated February 4, 2002.
 - Grading plan dated February 4, 2002.
 - Building elevations dated February 4, 2002.
2. 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, including calculations, utility and erosion control plans for staff approval.
 - c. Submit a letter of credit or cash escrow for 150 percent of the estimated cost to comply with grading permit requirements and restore the site. A condition of approval requires that as built grading and drainage calculations will be required before the release of the letter of credit or cash escrow.
 - d. If required, submit copies of the watershed district permit. The City may require revisions to the approved plans to meet the district's requirements.
 - e. Submit a construction management plan for staff approval.
3. The following must be submitted to the City before the City issues a building permit:

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- a. A revised landscape plan for replacement trees. These should be year-round and a minimum of 8 feet-in-height.
 - b. A letter of credit or cash escrow for 150% of the estimated cost of all required landscaping.
 - c. All required hook-up fees.
 - d. Provide soil borings for the stormwater area; the number of borings to be determined by the Engineering department.
 - e. The property owner is responsible for replacing any landscaping that dies.
 - f. Develop and institute a plan that shows the use of bollards or a gate to preclude traffic from using the north parking lot/cul-de-sac connection to enter and exit church property. (See "Attachment A".)
4. 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.
 5. Construction must begin by December 31, 2003, unless the Planning Commission grants a time extension.

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

8. PUBLIC HEARINGS

A. A side yard setback variance from 10 feet to 1 foot to add a third stall to an existing two-car garage at 3603 Rainbow Drive for Erik F. Helling. (02002.01a)

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

Thomas reported. She recommended denial 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.

Yearwood supported staff's recommendation to deny the variance after finding that the property does have reasonable use, there are viable alternatives to the current proposal, and the hardship threshold had not been met.

Gallop stated that, on the surface, it was apparent that a three-car garage did not meet the hardship standard; but, after reviewing the location of the residence on the property and its steep slope and swamp areas, he felt it was a unique situation. The integrity of the neighborhood would not be affected. His feelings were mixed.

Clinton concurred with Gallop. He felt the intent of the ordinance was to prevent adverse impact to neighbors and lots being built-out to their property lines. He felt that the position of the house created a hardship and noted the large buffers. He stated that a precedent would not be set because the lot has unique physical characteristics.

Abry concurred with Yearwood. She felt the proposal made no attempt to mitigate the impact on the setback. She described other options, including a tandem garage, which would provide a third stall and have less of a visual impact. She recalled similar proposals that were denied, even when there was the appearance of plenty of space. She supported staff's recommendation.

Egge agreed with staff's recommendation. There were other viable options and the proposal was for a third-car stall. She recalled many similar applications that were denied.

Egge moved, second by Yearwood, to deny the variance request based on the following findings:

1. The property does not contain any unique physical circumstance to justify a

hardship for the variance.

- 2. The applicant currently has reasonable use of the subject property as defined by Planning Commission policy.*
- 3. Strict enforcement of the ordinance would not cause undue hardship.*

*Abry, Egge, Knight, Yearwood, and Sodergren voted yes. Clinton and Gallop voted no.
Motion carried.*

B. A one-foot front yard and a seventeen-foot side yard street setback variance for Clifford Lambert at 9722 Minnetonka Boulevard. (02010.02a)

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

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

Clifford Lambert, 9722 Minnetonka Boulevard, applicant, was present to answer questions.

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

Egge supported staff's recommendation. The setbacks would be the same as the existing residence and garage. The proposal would improve the sight lines for motorists.

Abry recognized that the proposal would eliminate a nonconforming situation on the east side. She commended the applicant for working with the City and the developer to create the proposal. She supported staff's recommendation.

Abry moved, second by Knight, to adopt the resolution on pages A1–A4 of the staff report, which approves a front yard setback variance from 20 feet to 18 feet and a rear yard setback variance from 12 feet to 3 feet for a garage addition at 9722 Minnetonka Boulevard. This resolution is based on the following findings:

1. Strict enforcement would cause undue hardship because of the following circumstances that are unique to the property:
 - a. The property was developed before the Code.
 - a. The lot is substandard in size and depth.
 - c. The variances are requested as the result of a public road easement acquisition.
2. The variance would meet the intent of the ordinance since:
 - a. The addition maintains the same front and rear building setback as the existing garage.
 - b. The garage addition is a reasonable use for the property.

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. No vehicular access is permitted on the south or east sides of the garage.
3. Any outstanding nuisance ordinance violations must be corrected before the City approves a building permit.
4. This variance will end on December 31, 2003, unless the city has issued a building permit for the project covered by this variance.

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

Erik Helling, 3603 Rainbow Drive, applicant of Item 8A, arrived and stated that his adjoining neighbors had no problem with his proposal. He stated that the zoning requirements needed to be updated to reflect that a three-car garage was a standard now. He stated it would help keep older neighborhoods in-line with the market value and be more competitive.

Chair Sodergren explained the appeal process. She summarized the Commission's findings including that there were other options available to achieve similar results. He acknowledged that the proposal did not meet the hardship standard, but felt it would be a great convenience and add value to the neighborhood and tax base.

**C. Preliminary plat for Striker Addition at 2112 Meeting Street for Myron H. Striker.
(02003.02a)**

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

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

Abry confirmed with Teague that water run-off was allowed on a Managed-One Wetland.

Clinton verified with Teague that the proposal would leave a 35-foot setback from the edge of the wetland to the building setback.

Jody Koeppers, project manager for the applicant, with Keith Waters and Associates, 6216 Baker Road in Eden Prairie, stated that the planning report was accurate. The applicant had no problem with the recommendation. They agreed with preservation of the trees and the driveway recommendation. He stated that the intent was to build high-quality homes. The applicant, Myron Striker, intended to build his residence on Lot 2.

Chair Sodergren noted the neighborhood's concern with construction traffic. Mr. Koeppers stated that his company was familiar with limited access sites. Job superintendents would be instructed to address neighbors' concerns.

Chair Sodergren asked if the City had invited neighbors to become involved in construction management plans in the past. Teague and Olson did not recall residents being involved in construction management plans, but meeting with residents to review and comment on landscape plans had occurred on other projects.

Mr. Koeppers stated that part of their standard practice was for the job superintendent to hand-out his or her cards to the neighbors and address any concerns they had. He stated the company tries to be proactive and keep neighbors informed of what would be going on.

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

Edge asked if Lot 1 could be further subdivided in the future. Teague stated that might be a possibility; however, because of the wetland, there would have to be a lot located behind lot, which

would require a variance. Egge felt the area was densely populated.

Yearwood moved, second by Clinton, to recommend that the City Council approve the preliminary plat for the Striker Addition dated January 24, 2002, and in accordance with the March 21, 2002 Change Memo. Approval is based on the finding that the plat meets the required standards and ordinances. Approval is subject to the following conditions:

1. Complete the following before final plat approval:
 - a. Show the following on the final plat:
 - (1) At least ten-foot-wide drainage and utility easements next to any existing or proposed public street rights-of-way and at least seven-foot-wide drainage and utility easements along all other lot lines.
 - (2) Utility easements over existing or proposed public utilities, as determined by the city engineer.
 - (3) The south edge of the wetland must be delineated.
 - (4) Drainage and utility easements over wetlands, floodplains and storm water ponds, as determined by the city engineer.
 - b. Pay the City a park dedication fee of \$1,100.
 - c. If required, submit evidence of the watershed district approval. The City may require revisions to the preliminary plat to meet the district's requirements.
2. The following items must be submitted to the City before the City releases the final plat:
 - a. An engineering/utility inspection fee.
 - b. A subgrade inspection fee, as required by ordinance.
 - c. An electronic CAD file of the final plat in microstation or DXF.
 - d. The semi-trailer must be removed from the site.

- e. The following documents for the City Attorney's approval:
- (1) Title evidence that is acceptable to the City Attorney. Title evidence must be current within thirty days before release of the final plat.
 - (2) Conservation easements over the area 25 feet outward from the edge of the wetland and a drawing of the easements for the approval of the City Attorney. The easements and drawing must be recorded with the final plat.
 - (3) Provide restrictive covenants to be recorded against the individual lots with the plat. The covenants must include the conditions below that have not been met as of the release of the plat. These covenants must first be submitted for the city attorney's approval.

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

3. The following must be submitted to the City before the City issues a building permit:
- a. A grading, tree preservation and erosion control plan for each lot, subject to staff approval. The plans must be substantially in compliance to the agreed building areas as required with the final plat. The sewer and water services must be shown to minimize impact to the significant trees.
 - b. The installation and maintenance of a temporary rock driveways, erosion control, tree protection and wetland protection fencing for each lot must be installed, subject to review by the City's Environment Resources Coordinator
 - c. A copy of the recorded plat and any easements or covenants required to be recorded.
 - d. A hookup fee for sanitary sewer and water.
 - e. The building plans for each home must show a low floor elevation greater than the 964.6-foot elevation.
 - f. The driveway for Lot 1 must be shifted to west by 10-15 feet to be away from existing catch basins in Summer Oaks Drive.

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- g. Slopes must be established and vegetated along the pond on Lot 3 to prevent erosion. The species selected for the stabilization should be outlined on the final grading plans.
 - h. A letter from the surveyor stating that boundary and lot stakes have been installed as required by ordinance. If the grading for proposed streets has not been completed, the planning director may approve a time extension to this requirement.
4. During construction, the streets must be kept free of debris and sediment, and the tree protection fencing, and erosion control fencing must be maintained.
 5. Trees must be planted to compensate for significant trees removed from each site that would be outside of the building pad and driveway area. The trees must be primarily species native to the area. They must be at least 2-1/2 inches in diameter for deciduous trees and 6 feet tall for coniferous trees. The property owner or original developer must replace the required trees if they die within one year after installation.
 6. The City must approve the final plat within one year of preliminary approval or receive a written application for a time extension or the preliminary approval will be void.

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

D. An ordinance amendment that would eliminate the requirement that office uses not exceed 50 percent of the gross floor area of the principal structure in the I-1, Industrial zoning district (02008.02a)

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

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

Abry asked if nine out-of-the ten cities surveyed allowed an office-use in an industrial district. Teague answered in the affirmative.

Yearwood asked what the original intent of the industrial district ordinance was and what had changed to warrant the proposed amendments. Yearwood was concerned with the increased traffic and parking demand produced by an office use. She asked if the City would review applications proposing changing its use from industrial to office. Teague confirmed that the City would review an application to determine if it met parking requirements; however, the ordinance would not set standards to limit increased traffic.

Knight felt that the proposal would allow for flexibility and responsiveness. He supported the ordinance.

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

Abry was concerned that, over a period of years, all of the industrial uses would become office uses. She favored the Economic Development Authority reviewing the proposal. She felt the proposal was a significant change. The trips generated and increased parking demand would happen slowly, but would become significant. She stated that, even with the industrial areas being surrounded by arterial roads, the traffic flow from the now industrial areas would be tripled if they housed office uses.

Olson stated that the City Council, historically, was open to taking into consideration the market's need to determine if an office use was allowed in an industrial district.

Chair Sodergren confirmed with Teague that the ordinance would not restrict an office use located in an industrial district from changing into an industrial use.

Knight asked if economic issues should be considered when reviewing the proposal. He did not see a rush to take action on the item. He found it interesting that Minnetonka was the only City that did not allow office uses in industrial districts, but favored gathering as much information on the subject as possible.

Clinton identified that the precedent had been set to allow office uses in industrial districts, but appreciated further dialogue.

Chair Sodergren mentioned that the proposal would go to the City Council for further discussion.

Abry felt that there was a difference between the Planning Commission reviewing an application requesting a change in use from industrial to office and allowing all uses located in industrial districts to become office uses. Abry favored preserving the current restrictions regarding changing a use from industrial to office.

Abry moved, second by Yearwood, to recommend tabling action on the item until the Economic Development Authority.

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

9. ADJOURNMENT

Abry moved, second by Knight, to adjourn the meeting at 7:45 p.m. Motion carried unanimously.

Abry thanked the Commissioners, past and present, that she worked with and staff for all she has learned. She enjoyed her time as a Planning Commissioner immensely. Chair Sodergren stated that Abry's motions would be missed.

By: _____

Bernadette H. Leaf
Planning Administrative Assistant