

**MINNETONKA PLANNING COMMISSION  
MINUTES**

**JUNE 6, 2002**

**1. CALL TO ORDER**

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

**2. ROLL CALL**

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

Staff Members Present: Principal Planner Cary Teague, Project Planner Susan Thomas, Environmental Coordinator Jo Collieran, Planning Intern Janice Waataja, and Planning Consultant Curt Gutoske.

**3. APPROVAL OF AGENDA:** The agenda was approved as submitted with the addition of the June 6, 2002, Change Memo.

**4. APPROVAL OF MINUTES:** May 16, 2002

*Egge moved, second by Clinton, to approve the May 16, 2002, meeting minutes as submitted.*

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

**5. REPORT FROM STAFF**

Teague briefed the Commission on land use applications considered by the City Council at its meeting of May 20, 2002:

- Adopted Ordinance No. 2002-14 and Ordinance No. 2002-15, amending City Code Sections 300.33 and 615 regarding sexually oriented businesses.
- Gave preliminary approval to the Fretham 2nd Addition plat, dated March 25, 2002, with a lot area variance from 22,000 square feet to 20,032 square feet for the southerly lot.

- Adopted Ordinance No. 2002-17, eliminating 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.

**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.

*Gallop moved, second by Egge, to approve the items listed on the Consent Agenda as recommended in the respective staff reports as follows and modified by the June 6, 2002 Change Memo:*

**A. Two-lot subdivision, with lot width and lot area variances, at 5409 Woodland Road for RAM Construction (02024.02a)**

Recommend that the City Council adopt the resolution on pages A1–A4 of the staff report, which approves the proposed lot division, with lot area and lot width variances. This resolution is based on the following findings:

1. The proposal meets the required standards for a variance, because:
  - a. Strict enforcement would cause undue hardship, as the applicant are proposing to use their property in a reasonable manner.
  - b. The variances would be consistent with the spirit and intent of this ordinance, as the proposed lot division represents an extension of neighborhood characteristics.

Approval is subject to the following conditions:

1. The following items must be submitted to the City before the City releases this resolution:
  - a. The following documents for the City Attorney's approval:
    - (1) A 15-foot drainage and utility easement along the north property line of both Parcels A and B.
    - (2) A drainage and utility easement over the northeastern part of Parcel B. The

easement must cover all that part of Parcel B lying within a triangle lying northeasterly of a line drawn from a point on the north property line of Parcel B, distant 50.00 feet west of the northeast corner of Parcel B to a point on the east line of Parcel B distant 50.00 feet south of the northeast corner of Parcel B.

- (3) A drainage and utility easement on both Parcels A and B below the 947.0 elevation.
  - (4) Except as noted above, a 10-foot-wide drainage and utility easement next to any public street right-of-way and a seven-foot-wide drainage and utility easement along all other lot lines.
- b. A park dedication fee of \$550.00.
  - 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.
2. The following must be completed before the City issues a building permit:
- a. The installation and maintenance of a temporary rock driveway, erosion control, tree protection and wetland protection fencing must be installed subject to review and approval of the City's Environmental Resources Coordinator.
  - b. Verify, provide, or petition the City to provide an outlet, from created low area to storm sewer system.
  - c. 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.
  - d. A hook-up fee for sanitary sewer and water.
  - e. A letter from the surveyor stating that boundary and lot stakes have been installed as required by ordinance.
  - f. The applicant must meet the City's Environmental Resources Coordinator on the site to identify grading limits as they pertain to drainage requirements, erosion control, and tree preservation.

3. During construction, the streets must be kept free of debris and sediment, and the tree protection fencing, and erosion control fencing must be maintained.
4. Trees must be planted to compensate for significant trees removed. 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.
5. 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. Resolution approving a lot division with a lot width at the setback and right-of-way variance, at 14620 Woodhill Circle for April M. Guerin (93004.02a)**

Recommend that the City Council adopt the resolution on pages A1–A4 of the staff report. This resolution approves a lot division at 14620 Woodhill Circle, with a lot width at the setback variance from 110 feet to 0 feet, and a lot width at the right-of-way variance from 80 feet to 0 feet. Approval is based on the following findings:

1. The proposal meets the required standards and ordinances for a lot division, with the exception of the lot width variances;
2. The proposal meets the eight required standards for a lot width at the right-of-way variance in Section 300.10, Subdivision 5(h)(2)(b).

Approval is subject to the following conditions:

1. The following items must be submitted to the City before the City releases this resolution:
  - a. The following documents for the City Attorney's approval:
    - (1) Ten-foot-wide drainage and utility easements next to any public street right-of-way and seven-foot-wide drainage and utility easements along all other lot lines.
    - (2) A 30-foot drainage and utility easement over the extension of the sewer and water lines running east/west through the property.
    - (3) A private driveway easement between the street right-of-way and the proposed new lot that is acceptable to the City Attorney. The easement must state the

maintenance responsibilities of each owner. The minimum driveway width must be as required by the Fire Marshal.

These documents must be recorded with the lot split resolution, 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.
2. The following must be completed before the City issues a building permit:
  - a. A grading and tree preservation plan must be submitted subject to staff approval. The plans must be substantially in compliance to the agreed building areas as required with final approval. The sewer and water services must be shown to minimize impact to the significant trees. This plan will be subject to the Planning Director's approval.
  - b. The installation and maintenance of a temporary rock driveway, erosion control, tree protection and wetland protection fencing must be installed subject to review and approval of the City's Environmental Resources Coordinator.
  - c. 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.
  - d. A park dedication fee of \$500.00 must be paid to the City.
  - e. A hook-up fee for sanitary sewer and water.
  - f. A letter from the surveyor stating that boundary and lot stakes have been installed as required by ordinance.
3. The drive must be paved from at least the street to the new house before the City makes a final inspection of the house. The City may approve a time extension if weather prevents paving of the drive.
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 in the northeast corner of the new lot should be preserved. Trees must be planted to compensate for any 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 new home must be sprinkled.
7. 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.

**C. Approve a site and building plan review, and building height variance from 35 feet to 46 feet for an 111,518-square-foot addition to the existing Osmonics manufacturing facility at 5951 Clearwater Drive for Neil Johnson (89072)**

Approve the site and building plans for Osmonics, with a building height variance from 35 feet to 46 feet. Approval is based on the following findings:

1. The proposal would meet the required standards and ordinances for a site and building plan approval.
2. The proposal would meet the required standards for a variance, because:
  - a. There proposed building height is consistent with the existing structure.
  - b. The building has overly large setbacks which visually diminishes the height.
  - c. The existing berm to the southeast of the addition reduces the building height.

Approval of the site and building plans is 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 May 9, 2002
  - Grading plan dated May 9, 2002
  - Landscaping plan dated May 9, 2002
  - Utility plan dated May 9, 2002
  - Building elevations dated May 9, 2002
2. The following work must be completed before the City issues a grading permit or before starting any site work:
  - a. The installation and maintenance of erosion control, tree protection and wetland

- protection fencing, subject to review by the City's Environmental Resources Coordinator.
- b. Submit final site, grading, drainage, utility and erosion control plans for staff approval.
  - c. Submit a letter of credit or cash escrow for 150% of the estimated cost to comply with grading permit requirements and restore the site.
  - d. Submit copies of the watershed district permit.
  - 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:
    - a. A final landscape and irrigation plan for staff approval
    - b. A letter of credit or cash escrow for 150% of the estimated cost of all required landscaping
    - c. An illumination plan for staff approval
    - d. All required hook-up fees
  4. The applicant must pay for all of the costs associated with the construction of the right-turn lane in northbound Clearwater Drive, leading up to the new driveway entrance.
  5. The plans for construction of the turn lane must be submitted to the City Engineer within 30 days from the date of approval of the site plan.
  6. The right-turn lane must be completed prior to issuance of a certificate of occupancy for the addition.
  7. Any change to the approved use that results in a significant increase in traffic or a significant change in character would require that the proof-of-parking area be improved.
  8. The applicant work with the City's Environmental Resources Coordinator to save trees along the slope area and adjacent to the existing pond.
  9. Additional deciduous and coniferous trees must be planted west of the berm and north of the poplar trees. The applicant must work with the City's Environmental Resources Coordinator to determine the spacing and the number of trees to be planted.

**D. A resolution approving setback variances to construct a second-story addition above an existing garage at 1824 Essex Road for Richard and Britt Gage (02025.02a)**

Adopt the resolution on pages A1-A3 of the staff report. This resolution approves a front yard setback variance from 25 to 22 feet and side yard setbacks from 25 feet to 18 feet and 25 feet to 15 feet at 1824 Essex Road, 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 existing structure has non-conforming setbacks.
  - b. The proposed addition and deck are only point intrusions due to the angle of the home on the property.
  - c. The home was built prior to the current setback requirement of 25 feet on all sides.
  - d. Homes in this area without street frontage were built under a 15-foot setback requirement.
2. The variance would be consistent with the spirit and intent of this ordinance for the following reasons:
  - a. The proposal would have minimal visual impacts for the surrounding neighborhood; and
  - b. The separation between the two perceived side yards would be 36 feet.

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. Install a construction limits fence before construction to protect the slope areas. The fence is to remain until construction is fully complete.

3. The existing coniferous trees must remain on the property to maintain a visual screen between the home to the north.
4. 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.

*Clinton, Egge, Gallop, Knight, and Sodergren voted yes. Wagner and Yearwood were absent. Motion carried and the items on the Consent Agenda were approved as submitted with modifications by the June 6, 2002 Change Memo.*

## 8. PUBLIC HEARINGS

### A. Items concerning a proposed three-phased senior rental apartment building at 801 Sunset Drive and 12701 Fairfield Road West for Myron Kunin (02020.02a)

- 1) Ordinance adopting a pid master development plan and approving final site and building plans
- 2) Preliminary Plat

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

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

Chair Sodergren asked if the proposal would accommodate trails under both options. Gutoske stated that it would be a tight fit, but there would still be room for a trail under both options.

Chair Sodergren questioned if there would be a sufficient number of parking stalls. She had witnessed vehicles parked on the property in the past. Gutoske explained that part of the proposed area is currently used as a surface lot. The current surface lot would be removed. The proposal includes underground parking for residents as well as surface parking that would be adjacent to the buildings. The proposal would meet parking ordinance requirements.

Gutoske discussed with Chair Sodergren that, if a parking need was identified, the City could require specific action be taken, above ordinance requirements, to correct the problem.

Gallop asked if the owner of the property had sole discretion of whether to develop apartments or townhomes for Phase Three. Gutoske explained that the current proposal

would leave the option open for the owner to determine what type of housing was most needed. Staff found that both scenarios would fit the City's requirements.

Egge was curious if the applicant used findings from an Economic Development Authority report regarding Minnetonka's housing needs. Staff referred the question to the applicant.

Gallop asked if the owner would have the option of changing the proposed units from rental to owner-occupied. Gutoske stated that would be an option if certain issues regarding platting ownership for each unit and meeting the building code to provide water and sewer service to each unit would be met. He stated that the zoning requirements would be the same for rental or owner-occupied, as long as the use was identical.

Gallop was concerned that a senior could be forced to move. Gutoske learned from the developer that usually, when an independent senior was ready, he or she would move from the proposed units to the assisted living Ridge Pointe Towers.

Responding to question from Clinton, Gutoske also explained that approval of Phase One would allow public improvements for Phase Two. Clinton was concerned with the density being higher than originally proposed. Gutoske confirmed that the 1985 proposal allowed 66 units and the current proposal allows for 82 units. Gutoske stated that the site would have more surface coverage and less tree preservation than the 1985 proposal. He stated that the 1985 plan emphasized leaving a great deal of space, more than City ordinances require. The current plan is within City requirements. He stated that the proposed site does not have the existing natural qualities that warrant strict adherence to the 1985 plan.

Garth Rockcastle, architect for the applicant, stated that staff provided an excellent presentation and that he was present to answer questions.

Chair Sodergren asked what prompted the changes from the 1985 plan. Mr. Rockcastle stated that a market study indicated a strong need for independent senior units, but no precedent exists to forecast the proposal's success. Allowing flexibility for future phases would decrease the possibility of leaving a partially undeveloped site and allow the applicant to develop what the market need demonstrated.

Chair Sodergren stated that a luxury apartment building was being constructed on the opposite side of Interstate 394 from the proposed site and that two luxury apartment buildings had been approved to be developed along State Highway 169 and Minnetonka Boulevard. She asked if the tower would be luxury rental. Mr. Rockcastle stated they would be luxury apartments. The units would be similar in size and rent to the townhouses and would provide a transition from the single-family houses to the luxury apartments.

Clinton was unsure if the second option would provide the desired transition. Mr. Rockcastle and Clinton discussed the placement and height of the proposed units. Mr. Rockcastle said that the Tower would have a courtyard to provide each unit in the tower with an internal view.

In response to Chair Sodergren's question, Mr. Rockcastle stated that employees are currently asked to park on the surface lot. The proposed plan's parking would accommodate the residents and employees. He stated there would be more land available to provide additional parking on the sides of the buildings if it was determined that it was needed. He indicated on the proposed plan where additional parking lots could be located. Chair Sodergren asked Gutoske if there are specific requirements for senior housing units. Gutoske answered in the affirmative and explained that one parking space was required per unit.

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

Chair Sodergren asked for Colleran's comments regarding the proposal. Colleran stated that staff would clarify an issue regarding grading and tree preservation on the south end of the pond. She stated that increasing landscaping would assist in off-setting potential additional tree mitigation that may be required. Colleran confirmed that the proposed site is relatively flat, so it would require minimum additional grading other than to create the rain gardens and storm water drainage patterns.

Egge asked Gutoske if the City could address parking concerns on Marion Lane at this time. Gutoske believed that many of the cars parked routinely on Marion Lane are related to the car dealership. He believed parking was not restricted on the street. Gutoske stated that if a history of complaints exists or blocking of traffic occurred, the City could implement parking regulations for the area. Gutoske suggested soliciting input from the police and engineering departments to see if parking is occurring illegally and to determine the street's capacity to accommodate parking.

Chair Sodergren identified that affordable housing was still an issue to be discussed by the City Council. She reviewed the proposal's issues including parking on Marion Lane and adequate parking for the Ridgepointe facility. Gutoske stated that the proposal would allow for space and additional hard-surface coverage to accommodate some additional parking and still meet the City's ordinance requirements.

***Gallop moved, second by Egge, to recommend that the City Council approve the following items concerning a proposed three-phased senior rental apartment building at 801 Sunset Drive and 12701 Fairfield Road West for Myron Kunin (02020.02a) with the modifications made in the June 6, 2002 Change Memo:***

A. *Recommend that the City Council adopt the ordinance on pages A1–A5, which approves the proposed PID master development plan, with final site and building plans for phase one at 801 Sunset Drive. This ordinance is based on the following findings:*

1. The proposal would meet the required standards for a site and building plan approval.

Approval is 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:

Option 1—82 units

- Site plan, dated April 5, 2002
- Tree mitigation plan, dated April 5, 2002
- Grading plan, dated April 5, 2002
- Erosion control plan, dated April 5, 2002
- Landscaping plan, dated April 5, 2002
- Phase 1 building elevations, dated April 5, 2002

Option 2—36 units

- Site plan, dated April 5, 2002
- Tree mitigation plan, dated April 5, 2002
- Grading plan, dated April 5, 2002
- Erosion control plan, dated April 5, 2002
- Landscaping plan, dated April 5, 2002
- Phase 1 building elevations, dated April 5, 2002

The above plans are hereby adopted as the master development plan and as site and building plans for phase 1—the eight units on Sunset Drive.

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, tree mitigation, utility and erosion control plans for staff approval. The following changes must be incorporated into the plans:
    - The guest parking spaces must be changed to 90 degree parking.
    - The rain gardens must not be in the street right-of-way.
    - Storm water in the northwest corner of the site must be directed into the storm

- sewer system in the street.
  - Soils information must be submitted for staff review.
  - The trail must not be built below the 983.5-foot elevation.
- c. Submit a letter of credit or cash escrow for 150% of the estimated cost to comply with grading permit requirements and restore the site.
  - d. If required, submit copies of the watershed district permit. The City may require revisions to the approved plans to meet the districts requirements.
  - e. Submit a construction management plan for staff approval.
  - f. Submit a revised wetland delineation. A wetland certificate of no loss or exemption form must be completed and mailed to the appropriate parties.
3. 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. The revised plan must: 1) extend the shrub plantings in front of the guest parking spaces to screen the parking from the street, 2) include compensatory replacement landscaping for any tree removal above and beyond that shown in the approved tree mitigation plan, and 3) details of the plantings in the rain gardens.
    - b. A letter of credit or cash escrow for 150% of the estimated cost of all required landscaping.
    - c. An illumination plan for staff approval.
    - d. All required hook-up fees.
    - e. Record this ordinance with the County.
  4. Before the City approves the final site and building plans for phase 2, an affordable housing component must be discussed in the development and/or the existing Ridge Pointe towers, subject to the City's approval.
  5. The property owner is responsible for replacing any required landscaping that dies.
  6. 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.

7. Approval does not include the signs shown on the drawings. Separate permits are required from staff.
8. Construction must begin by December 31, 2003, unless the Planning Commission grants a time extension.

*B. Recommend that the City Council give preliminary approval to the Fairfield Rolling Estates plat, date stamped April 5, 2002. Approval is based on the findings 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) Drainage and utility easements over wetlands and storm water ponds, as determined by the city engineer. The easement over the storm water holding areas near Chatham Field Road must have a clause that permits a private trail within the easement, but holds the City harmless of any liability for the trail and its use.
  - b. The developer must petition the City to construct the public improvement of Fairfield Road as described in the Benshoof report, dated May 21, 2002, and the City Council must order the improvements. The developer will be responsible for the cost of the improvement.
  - c. If required, submit evidence of watershed district and Pollution Control approval. The City may require revisions to the preliminary plat to meet the requirements of these agencies.
2. The following items must be completed before the City releases the final plat:
  - a. Pay the City a subgrade inspection fee, as required by ordinance.
  - b. Pay the City for traffic signs and installation, as required by the City Engineer.
  - c. Submit title evidence that is acceptable to the City Attorney. Title evidence must be

current within thirty days before final City Council approval.

- d. Provide restrictive covenants to be recorded against the individual lots with the plat. The covenants shall 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.
3. Provide common access easements for the proposed development across the existing Ridge Pointe property to Marion Lane.
  4. The following must be submitted to the City before the City issues a building permit:
    - a. A copy of the recorded plat and any easements or covenants required to be recorded.
    - b. A park dedication fee of \$500 per unit.
    - c. A hookup fee for sanitary sewer and water.
    - d. 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.
    - e. The existing easements must be vacated.
  5. 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 shall be void.

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

Chair Sodergren stated that the item was tentatively scheduled to be heard by the City Council on June 24, 2002.

**9. ADJOURNMENT**

*Knight moved, second by Egge, to adjourn the meeting at 7:30 p.m. Motion carried unanimously.*

By: \_\_\_\_\_  
Bernadette H. Leaf  
Planning Administrative Assistant