

**MINNETONKA PLANNING COMMISSION  
MINUTES**

**AUGUST 1, 2002**

**1. CALL TO ORDER**

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

**2. ROLL CALL**

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

Staff Members Present: Planning Director Geoff Olson, Principal Planner Cary Teague, Planner Susan Thomas, Environmental Coordinator Jo Colleran, and Intern Janice Waataja.

**3. APPROVAL OF AGENDA:** The agenda was approved as amended by the Change Memo dated August 1, 2002.

**4. APPROVAL OF MINUTES:** July 18, 2002

*Clinton moved, second by Gallop, to approve the July 18, 2002, meeting minutes as amended by the Change Memo dated August 1, 2002, and as follows:*

Page 6 fourth paragraph:

Mr. Gholl clarified that the property owners, Tracy and Kim, have different opinions on the buffer. Kim did not oppose the proposed buffer. Tracy opposed a buffer restriction that might restrict him from constructing an eight-foot addition that would not extend ~~passed~~ past the rear of the house. Mr. Gholl estimated that it would cost substantially more than \$500 to purchase and plant vegetation in a 16.5-foot by 90-foot area.

Page 7 fifth paragraph:

Chair Sodergren asked how large the proposed property was. Waataja believed the property was over 22,000 square feet. She calculated that a 16.5-foot buffer would use ~~16.75~~ ten percent of the lot.

Page 8 fifth through ninth paragraphs:

Gallop was concerned with requiring restrictions that do not have common ~~sense~~, sense; but in this case, he supported a ten-foot to ~~twelve-foot buffer~~. twelve-foot buffer, because a variance is requested.

*Yearwood moved, second by Egge, to adopt the resolution on pages A1–A3 of the staff report, which approves the proposed variance with a modification to require a minimum ten-foot buffer. ~~This resolution is based on the following findings:~~*

In response to ~~Knigh~~ Knight's comments, Wagner's request for a separate motion on the condition for a buffer, Yearwood withdrew her motion and Egge withdrew her second of the motion.

*Wagner moved, second by Clinton, to adopt the resolution on pages A1–A3 of the staff report, which approves the proposed variance, with a modification to eliminate all reference to a 16.5 foot-buffer requirement.*

*Clinton, and Wagner voted yes. Egge, Gallop, Knight, Yearwood, and Sodergren voted no. Motion failed.*

Page 10 seventh paragraph:

Yearwood asked if the average person would be able to determine where the allowed setback from a right-of-way would be located. Olson stated that a state law prohibits signs being located in County, State, and Municipal state-aid street right-of-ways. The City ordinance would reference ~~every~~ all other ~~street~~streets.

Page 10 ninth paragraph:

Knigh

Knigh asked if the City would notify realtors ~~of~~ if the sign ordinance changed. Olson stated that a mailing list of most of the local realtors has been used to keep them current with the process and obtain feedback. Olson stated that the City annually sends a letter to the realtors informing them of the City's ordinances pertinent to their business. Chair Sodergren asked Mr. Gerst what time period he felt would be reasonable. Mr. Gerst requested allowing off-premises signs Tuesdays, Thursdays, Saturdays and Sundays.

Page 12 third paragraph:

Jeff Bergon, employee of Coldwell Banker Burnett and Ron Clark Construction, agreed that signs make a big difference. He ~~handled~~ handles Clarion Hills off of Old Bren Road and people needed the signs to find the development. A lot of clients drive around looking for signs. Prime time is now Saturdays as well as Sundays. They have models open Thursday through Sunday.

Page 12 eighth paragraph:

Ken Johnson, Edina Realty manager, stated that when a Minnetonka resident sells his or

her home, being able to post a sign ~~will~~ would be the most important thing to the seller. He favored all signs being treated equally. He stated that since the realtors requested off-premises signs to be allowed Tuesdays, Thursdays, Saturdays and Sundays, the proposed ordinance would only provide for 25 percent of the realtors' request. Mr. Johnson stated the ~~parade of homes~~ Parade of Homes will be starting soon and last for three weeks.

Page 13 first paragraph:

Egge clarified with Mr. Johnson that the ~~parade of home~~ Parade of Home signs are installed continuously for three weeks. Olson stated that during the ~~parade of homes,~~ Parade of Homes, no realtor signs are picked-up.

Page 14 third paragraph:

Knight felt signs are needed because of the difficulty of finding properties in Minnetonka. He was concerned that if the City had the same standards for real estate and garage sale signs, a too liberal ~~of a~~ standard would be set for real estate signs. He felt allowing a real estate sign to remain overnight from Saturday to Sunday would be reasonable.

Page 14 fourth paragraph:

Knight asked what time restrictions other cities in the western metro placed on signs. Olson reviewed the different standards. He stated that the major difference was ~~that~~ other cities did not enforce their sign ordinance on the weekends. Waataja stated that her phone survey discovered that most cities do not restrict signs according to what day of the week it was, as the proposed ordinance would do.

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

## 5. REPORT FROM STAFF

Olson briefed the Commission on the land use application considered by the City Council at its meeting of July 22, 2002:

- Approved an ordinance adopting a PID master development plan and final site and building plans for Phase 1 of the preliminary plat concerning a proposed three-phased senior rental development called Fairfield Rolling Estates at 801 Sunset Drive and 12701 Fairfield Road for Myron Kunin. The City Council added a condition that required the developer to provide affordable housing in the Third Phase if the six-

story tower option was used. The City Council will review the final site and building plans for Phase 2.

Olson briefed the Planning Commission on what occurred at the neighborhood meeting regarding the Meadowood Golf Course property. Joe Yanta, of the Army Corps of Engineers, explained to the approximately 75 to 80 neighbors in attendance that the Corps is requiring the water to be restored to what it was prior to the illegal filling and draining. He stated that 10 acres will be designated as jurisdictional wetlands. Colleran was a member of a technical panel that established the wetland jurisdictional boundaries. Olson stated that the property was guided for open-space. The neighbors supported maintaining the open-space designation.

Chair Sodergren asked if the City Council required affordable housing in Phase 1 of the Fairfield Rolling Estates. Olson clarified that only Phase 3 is required to include affordable housing if the tower plan is used. The affordable housing could be provided in the existing Ridgepoint Towers, in the proposed six-story tower, or in another development.

**6. REPORT FROM PLANNING COMMISSION MEMBERS:** None

**7. PUBLIC HEARINGS: CONSENT AGENDA**

Chair Sodergren confirmed that Item 7A, a resolution approving a rear yard setback variance from 35 feet to 18 feet for an addition to the home at 209 Sunnyvale Lane for Mike and Callie Magnuson (02036.02a), was a final decision by the Planning Commission.

Item 7A, a resolution approving a rear yard setback variance from 35 feet to 18 feet for an addition to the home at 209 Sunnyvale Lane for Mike and Callie Magnuson (02036.02a), was removed from the Consent Agenda for discussion per Gallop's request.

**A. Resolution approving a rear yard setback variance from 35 feet to 18 feet for an addition to the home at 209 Sunnyvale Lane for Mike and Callie Magnuson (02036.02a)**

Thomas presented the staff report.

Gallop asked if the garage located in the front yard was considered a nonconforming use. Thomas confirmed that the shed is in nonconformance.

The applicant was present, but had no comment.

Gallop was concerned with a single-family lot maintaining six garages. He favored the removal of the garage located near the street.

Thomas stated that staff had discussed the age and condition of the shed with the applicant. She invited the applicant to comment.

Mike Magnuson, 209 Sunnyvale Lane, applicant, stated that the proposal was needed to provide access to the residence for their daughter who was dependent on a wheelchair for mobility.

Gallop asked if removing the existing garage, located by the street, would cause a problem. Mr. Magnuson stated that if it would stop him from getting the variance, he would have no choice, but he needed it to store lawn equipment. Most properties in the neighborhood have similar garages located in the front of their properties. He felt the garage was unique to the property, built in the 1930s, and he would hate to see it torn down. He stated that the proposed tuck-under, two-car garage would not be visible from the street.

Chair Sodergren asked if the garage, located in the front of the property, held historical significance. Mr. Magnuson stated that he had been told it has historical significance. Chair Sodergren stated that it might warrant a determination by the historical society. Chair Sodergren asked Olson if he remembered a garage on Williston that was kept because it was deemed to have historical significance.

Mr. Magnuson stated that he would not be able to afford a delay with the project.

Olson concurred that items of historical significance are valued and cited precedents where variances and conditional use permits were granted to preserve other structures with historical value.

Egge agreed that the garage fit with the character of the neighborhood. She stated that it had a unique, 1930s to 1940s, architecture. She did not have a problem with the garage, but she acknowledged a comment from a neighbor regarding debris in the yard. She viewed materials piled in the back yard, next to the house. She asked the applicant if those materials could be removed. Mr. Magnuson stated that the items would be housed once the proposal was completed. Egge understood Gallop's position, but felt the garage fit with the neighborhood.

Yearwood focused on the fact that the visual impact of the site would not be changed. She felt the garage, located in the front yard, fit with the residence. She supported the project.

Knight supported the proposal.

Chair Sodergren confirmed with Thomas that the City does not have a limitation on the number of garages a single-family lot could house. Gallop still preferred to have the garage removed, unless it has historical value.

In response to Chair Sodergren's question, Olson stated that the State of Minnesota has a high standard to meet in order to be considered a protected structure. The City's historical commission provides opinions on the historical value of structures; however, it cannot grant legal protection of such structures.

Chair Sodergren concurred with Egge and Yearwood. She did not want to force the applicant to seek a designation that might restrict the property in other ways.

Clinton did not see the proposal as an overly intense use of the site. The proposed additions were not large in size and, for the reasons outlined by Egge and Yearwood, he supported the application.

A factor largely weighted into Yearwood's consideration was that the footprint of the structures on the site would not change.

***Yearwood moved, second by Egge, to adopt the resolution on pages A1–A3 of the staff report, which approves a rear yard setback variance at 209 Sunnyvale 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 the property:
  - a. Hardship is caused by the home's existing non-conforming setback.
  - b. Hardship is further caused by the location of existing, mature trees on the property.
2. The variance would be consistent with the spirit and intent of the ordinance for the following reasons:
  - a. The proposed additions would maintain the existing rear yard setback, not encroaching further into required setback than has already occurred on the property.
  - b. As located, the proposed additions would minimize tree loss.
  - c. The proposed additions would be adequately separated from adjacent homes.

Approval is subject to the following conditions:

1. Tree protection fencing must be installed for staff approval prior to issuance of a building permit. The fencing must be maintained throughout the course of construction.

2. 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.

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

Chair Sodergren reiterated that Item 7A, a resolution approving a rear yard setback variance from 35 feet to 18 feet for an addition to the home at 209 Sunnyvale Lane for Mike and Callie Magnuson (02036.02a), was a final decision by the Planning Commission and explained the appeal process.

## 8. PUBLIC HEARINGS

### **A. Resolution approving a conditional use permit, and a site and building plan review for an outdoor eating area at 11400 State Highway 7 for Coffee Creek (90044.02a)**

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

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

Gallop asked if alcohol would be allowed in the outdoor eating area. Waataja stated that the applicant was requesting a liquor license to serve alcohol indoors only. The City would require signage stating that no alcohol is allowed outside.

In response to Yearwood's question, Waataja explained access and the traffic pattern to the proposed area.

Ms. Shari Musoke, owner and operator of Coffee Creek, applicant, stated that:

- their business has suffered since the outside seating was closed;
- a Caribou Coffee is opening across the street and it will have outside seating;
- when she bought the business, it had the outside seating; and
- she loves the location.

In response to Chair Sodergren's question, Ms. Musoke stated that she agreed with staff's recommendation. The roping system was the only item left undone.

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

Yearwood felt the roping would be an improvement. She supported staff's recommendation. Egge concurred. Egge observed that most patrons enter through the building doors. She understood the need to stay competitive.

***Egge moved, second by Gallop, to adopt the resolution on pages A1–A4 of the staff report, which approves the proposed conditional use permit and site and building plans. This resolution is based on the following findings:***

- 1) The proposal meets the standards outlines in the City Code, section 300.21.2, regarding the standards for conditional use permits for business-zoned districts.
- 2) The proposal meets the standards outlined in the City Code, section 300.21.4(r), regarding the standards for accessory sidewalk cafes and outdoor eating areas.

Approval is subject to the following conditions:

- 1) Record this resolution with the county within one year from the date of City Council approval.
- 2) The existing bike rack on the east side of the building be moved further north on the sidewalk, away from the outdoor seating area.
- 3) The outdoor cafe area must be equipped with refuse containers and periodically patrolled for litter pick-up.
- 4) Must not have speakers or audio equipment in the outdoor cafe area.
- 5) The City Council may reasonably add or revise conditions to address any future unforeseen problems.
- 6) Liquor may not be served in the outdoor cafe area, and signage must be posted informing customers of this.
- 7) A pedestrian walkway, of a minimum of 3.5 feet, must be maintained at all times through the orientation of the tables and the placement of ropes.
- 8) The applicant must agree to the above conditions in writing.

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

Chair Sodergren stated that 8A, resolution approving a conditional use permit, and a site and building plan review for an outdoor eating area at 11400 State Highway 7 for Coffee Creek (90044.02a), was a final decision by the Planning Commission and explained the appeal process.

**B. Ordinance making minor changes to the current grading and filling standards (02039.02a)**

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

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

Olson complemented Colleran's work in combining the City's ordinances with the watershed district's requirements to eliminate the need for applicants to obtain approval from both agencies. Chair Sodergren agreed it was a logical change.

Knight asked if the 5,000 square feet of material referred to the surface of the land. Colleran answered in the affirmative.

Yearwood asked if the watershed district would review the City's grading permit application review process. Colleran stated that the memorandum of understanding would eliminate the watershed district from reviewing grading permits, but the City could use the watershed district as a reference. The watershed district would maintain permitting authority over a few other issues relating to grading.

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

Clinton commented that the implementation of the watershed district's standards would provide consistency and be a positive change.

In response to Chair Sodergren's question, Colleran stated that other areas are being looked at to streamline their application processes, including the wetland rule and water resources management regulations. Chair Sodergren supported providing "one-stop-shopping" for applicants.

***Egge moved, second by Clinton, to approve the ordinance amending City Code Section 300.28, Subd. 15 and Subd 17 regarding grading and filling, and refer it to the City Council.***

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

Olson had previously handed out flyers on the upcoming Minnesota State Planning Conference. Chair Sodergren asked if someone from the City would be speaking at the conference. Olson invited commissioners interested in attending to contact staff to be registered. He stated that Councilmember Callison, executive director of the West Hennepin Affordable Housing Land Trust, is scheduled to speak on the land trust concept. Olson noted that this was another example of Minnetonka being on the “cutting edge” of innovative ideas. Chair Sodergren hoped staff would attend the event as well.

## 9. ADJOURNMENT

*Yearwood moved, second by Gallop, to adjourn the meeting at 7:25 p.m. Motion carried unanimously.*

By: \_\_\_\_\_  
Lois T. Mason  
Planning Secretary