

**MINNETONKA PLANNING COMMISSION
MINUTES**

SEPTEMBER 5, 2002

1. CALL TO ORDER

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

2. ROLL CALL

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

4. APPROVAL OF MINUTES: August 15, 2002

Egge moved, second by Clinton, to approve the August 15, 2002, meeting minutes as submitted.

Wagner, Yearwood, Clinton, Egge, and Sodergren voted yes. Knight and Gallop 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 August 26, 2002:

- Adopted a resolution approving a conditional use permit for outdoor seating and the site and building plans for an outdoor eating area for the Coffee Creek restaurant located at 11313 Highway 7. The City Council also approved an on-sale wine and on-sale 3.2 percent malt beverage liquor licenses to Jobil Coffee, Inc. for use at the Coffee Creek restaurant.

Olson announced that the City Council appointed Sandal Hart to serve on the Planning Commission beginning October 3, 2002. She will fill the vacancy created by Yearwood's resignation.

6. REPORT FROM PLANNING COMMISSION MEMBERS: None

7. PUBLIC HEARINGS: CONSENT AGENDA

No item was removed from the Consent Agenda for discussion or separate action.

Wagner moved, second by Yearwood, to approve the item listed on the Consent Agenda as recommended in the staff report as follows:

A. Resolution approving a conditional use permit for installation of wireless telecommunication antennas and equipment at 5125 County Road No. 101 for AT&T Wireless Services (02044.02a)

Recommend that the City Council adopt the resolution on pages A1–A3 of the staff report. This resolution approves a conditional use permit for installation of wireless telecommunication antennas and equipment at 5125 County Road 101 for AT&T Wireless Services. Approval is based on the finding that the proposal meets the required conditional use permit standards and is subject to the following conditions:

1. Record this resolution with the county before the City issues a building permit.
2. The site must be developed and maintained in substantial conformance with the plans dated August 1, 2002.
3. Exterior surface of the antennas and equipment must be painted a non-contrast color consistent with the surrounding area such as blue, gray, brown, or silver.
4. The City Council may reasonably add or revise conditions to address any future unforeseen problems.
5. 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.
6. The applicant must agree to the above conditions in writing.

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

8. PUBLIC HEARINGS

A. Resolution approving a conditional use permit, with variances, for a coffee shop in the Westridge Market shopping center at 11210 Fairfield Road for Caribou Coffee Company (02046.02a)

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

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

Yearwood asked what was meant by the center being “under-parked.” Thomas explained that parking consultants observed that only half of the center’s parking stalls were used during peak times.

Clinton questioned if another restaurant could expand in the future. Thomas explained that a new application would be required to revise the conditional use permit. The necessary amount of parking would be recalculated.

Wagner requested staff to respond to a letter that referenced an exclusivity clause by Zaroff’s and questioned if open-seating was applied for by a business in the Westridge Market. Thomas stated that Zaroff’s had not applied for outdoor seating. Staff received a message regarding its lease agreement and passed that on to CSM, the property owners and managers. The issue stems from the lease agreement and needs to be worked-out between Zaroff’s and the property managers.

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

Chair Sodergren agreed that the coffee shop peak time would be earlier than many of the stores would be open.

Yearwood asked what the proposed hours of operation would be. Ms. Julie Wolleat, 615 North 3rd Street, Minneapolis, representing Caribou Coffee Company, applicant, stated that the operating hours would be approximately 5:30 a.m. to 10:00 p.m., seven days a week, but would probably close at 9:00 p.m. on Sunday.

Egge asked if the applicant had any plans to provide liquor and if the addition of liquor would be allowed by the conditional use permit. Olson clarified that any change in the character of its use, including the addition of serving liquor or changing the type of restaurant to create an evening peak time, would require the review of a revised conditional use permit application.

Ms. Wolleat stated that Caribou Coffee Company had no plans to provide liquor.

Chair Sodergren reviewed the primary issues.

Clinton moved, second by Wagner, to recommend that the City Council adopt the resolution on pages A1–A4 of the staff report, which approves a conditional use permit with variances for a restaurant at 11201 Wayzata Boulevard. This resolution is based on the following findings:

1. Apart from setback and parking standards, the proposal meets the required conditional use permit standards
2. Strict enforcement of the ordinance would cause undue hardship because of circumstances unique to this property.
 - a. The applicants are proposing to use their property in a reasonable manner, which though prohibited by code, meets the intent of the Westridge Market master development plan.
3. The variances would be consistent with the spirit and intent of the Westridge master development plan and City ordinance for the following reasons:
 - a. The proposal would not impose any negative impacts on the surrounding residential properties. A coffee shop is considered a neighborhood-retail, service-commercial use. Such uses are generally considered acceptable transition uses between residential and more-retail oriented uses.
 - b. The proposed Caribou Coffee shop would have three outdoor tables and peak use during the morning hours. The required setbacks are more pertinent when applied to restaurants serving full meals, alcohol, and evening and weekend peak use.
 - c. The proposal would not impose any negative impacts on existing parking conditions. A parking demand study conducted for the shopping area indicates that existing parking at the site can accommodate the proposed coffee shop.

Approval is subject to the following conditions:

1. This resolution does not approve any signs. Separate sign permit applications must be submitted for staff review. All proposed signs must meet conditions outlined in the Westridge Market sign

covenants.

2. The proposed rear entrance must have a sign indicating it is a customer entrance.
3. Record this resolution with the county before the City issues a building permit.
4. The City Council may reasonably add or revise conditions to address any future unforeseen problems.
5. 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.
6. The applicant must agree to the above conditions in writing.

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

B. Resolution approving a lot division of 4530 Highland Road for Promised Land Development, LLC, represented by Scott Sirovy. (02047.02a)

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.

Yearwood questioned if the site would have adequate buildable area with the driveway and conservation easements. Teague answered in the affirmative.

Wagner asked if the lower park dedication fee was charged because the application had been submitted prior to the City Council's adoption of the increase. Teague answered in the affirmative.

Egge asked where the third potential lot would be platted. Teague explained that the lot located on the west of the proposed site was not owned by the applicant, but that the property owner was agreeable to locating the easement on their property. Future development of the third lot would be handled as a separate application.

The public hearing was opened.

Scott Sirovy, 4530 Highland Road, applicant, clarified that the south conservation easement may be

shifted to accommodate the house pad. The house may need to be pushed back further to respond to drainage pattern calculations recently received.

Chair Sodergren acknowledged that grading and driveway easements may influence placement of the residence. She asked if there had been drainage problems on the site. Mr. Sirovy answered in the negative. He stated that the only time water appears is in the spring.

Jeff Witta, owner of the two lots west of the proposed site, stated that he has no plans to subdivide. He currently has access to Highway 7, but with assistance from the Minnesota Department of Transportation (MnDOT), he plans to close the Highway 7 access and use the private drive. MnDOT advised him that it would build half of a berm along Highway 7 and he would be responsible for building the other half. MnDOT would give him trees to plant. He does not want to close the Highway 7 access until construction is completed on additions to his residence and garage so that the heavy equipment will be able to use the Highway 7 access.

Olson stated that the berming would require a grading permit.

Chair Sodergren confirmed with Mr. Witta that he supports the proposal.

No additional testimony was submitted and the hearing was closed.

Chair Sodergren confirmed with Teague that the applicant would work with the City Attorney to establish the boundaries of the conservation easements.

Chair Sodergren asked if the drainage pond maintenance would potentially become an issue and whether additional language was needed. Teague stated that the drainage pond would be private and the responsibility of the property owner. He stated that a condition could be added requiring that the owner maintain the pond.

Chair Sodergren asked if the drainage pond would impact the trees. Colleran felt that the vegetation was appropriate and the drainage pond would not be detrimental to the vegetation.

Mr. Sirovy noted that a portion of the lower area extends into the Highway 7 right-of-way. He objected to calling this low area a pond. It is usually dry. Teague agreed that the area did not meet the definition of a drainage pond. Teague agreed it was a low area that was seasonally wet. It could be referred to as a drainage basin.

In response to Chair Sodergren's question, Mr. Sirovy illustrated where the drainage basin was

located, half on his property and half on his neighbor's property.

Mr. Sirovy questioned if an easement would be needed. Teague consulted with the City Engineer and determined that an easement would not be needed for the drainage basin area.

Yearwood moved, second by Egge, to recommend that the City Council adopt the resolution on pages A1–A5 of the staff report with the deletion of condition 1. b. 2. and with the addition of language that the owner maintain the drainage basin. This resolution approves a lot division at 4530 Highland Road. Approval is based on the finding that the plat meets the required standards and ordinances.

Approval is subject to the following conditions:

1. The following items must be submitted to the City before the City releases this resolution:

a. If applicable, evidence of watershed district approval.

b. 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) Conservation easements protecting the tree line along Highway 7 and south lot line. A drawing and description of the easements for the approval of the City Attorney must be submitted. The easements and drawing must be recorded with the resolution approving the lot division.
- (3) A 34-foot wide private driveway easement running through the subject property and the adjacent two properties to provide future access to the western lots that is acceptable to the City Attorney. The easement location should be shifted to the south, so as not to interfere with the drainage area in the northwest corner of the lot. 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.

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.

2. The following must be completed before the City issues a building permit:
 - a. A grading and tree preservation plan must be submitted to the City for each lot, subject to staff approval. Trees along the north and south lot lines should be preserved. 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 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. Minimum floor elevation for homes on both lots must be at least 1024.9.
 - g. Payment of the park dedication fee of \$550.00.
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 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. The property owner is responsible for maintenance of the water drainage basin.

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.

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

C. Resolution denying a variance to the copy and graphic area of a monument style sign from 30 to 40 feet, and a variance to the maximum monument area from 75 to 168 square feet for Adath Jeshurun Congregation at 10500 Hillside Lane West (93018.02a)

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

Waataja reported. She recommended denial of the application based on the findings listed in the staff report.

Wagner asked if approval from the City would be required if the applicant wished to change the name on the east sign. Waataja explained that a sign permit would need to be received, but a variance for the size of the sign would not be an issue since it already had a variance for its current size.

Myrna Orensten, 6182 Olson Memorial Highway, Golden Valley, of the Imaginality Sign Company, and Bernard Goldblatt, representative of the Adath Jeshurun Congregation, applicant, addressed the Planning Commission.

Ms. Orensten provided a model of the sign to demonstrate its aesthetic value. She reviewed the sign ordinances. She felt the proposal met the ordinance's intent. She stated:

- The proposed sign needed to have at least the same size lettering and blocks as the existing sign for aesthetic appeal.
- Space around the lettering to add a message area was desired.
- Because of the size of the campus, it is difficult for people to read what activities are occurring.

Bernard Goldblatt stated:

- The main building is used as a community center.
- The Hopkins School District uses the building fifteen days a year for training and testing

250 to 300 teachers.

- Anywhere from thirty to several hundred students at a time have complete final tests at the facility.
- The school district has catered parties there.
- Numerous other community events are held at the facility including the Hennepin County Library Foundation's pen-pal speaker series and the West Metro Education twenty-day training program.
- Approximately 77,000 people, not including congregates, use the facility each year.
- Traveling from the east, a driver is unable to see the sign.
- The applicant took responsibility for the current "bad" sign that "doesn't work". It was poorly designed. Only one side has lettering and shadows cover that lettering.
- The site is over twenty-five acres in size. The setback is 1,000 feet.
- The area is zoned residential, but the site is surrounded by the Lindbergh Community Center, Hopkins High School, North Junior High, and Tanglen Elementary School.
- The sign is not visible by neighbors when there are leaves on the trees.
- A substantial sign is very important for the community who use the building.
- The facility has a school with 150 to 200 students plus teachers and staff.
- Making the sign too small would create a hardship.

Ms. Orensten reviewed residents' comments in support of the application. She stated that the existing sign is not high enough to be read above snow. The facility is a unique use and the property has unique circumstances.

Mr. Goldblatt stated that magnetic signs are being considered that would be placed over the proposed sign for special events. Ms. Orensten stated that the magnetic special event signs would match the proposed sign.

Yearwood asked if the special event, magnetic sign covers would be considered temporary signs or part of the permanent sign. Waataja stated that the sign would be considered similar to a reader-board sign where changing of the wording is allowed.

Egge asked, for clarification purposes, if changing the Bayside Mortgage sign on Highway 7 meets sign ordinance requirements. Waataja explained that reader-board signs are allowed. The total copy and graphic area of the sign may be changed.

Chair Sodergren reflected that reader-board signs are common with churches and schools in Minnetonka.

Yearwood asked if the web site address would be part of the permanent sign or reader-board. Mr. Goldblatt stated that he would like to have it part of the permanent sign. He explained the benefits of the web site.

Yearwood asked staff if it would be considered advertising. Olson stated that a website address would not be considered advertising for a religious institution.

Wagner asked if a 121-square-foot-sign was considered. Ms. Orensten stated that the size of the originally designed sign was decreased significantly. She was unable to minimize the area to get to 121 square-feet.

Clinton asked if the sign would be lit. Ms. Orensten stated that the cabinet would be illuminated internally. There may be the opportunity for ground lighting on the message board. Ms. Orensten stated that during the day, the sign would be black. At night, the white letters would glow white.

Chair Sodergren asked for the dimensions of the proposed sign. Ms. Orensten stated that the outside area of the stone base is twenty-three feet; the total height is eight feet. The lower blocks of the existing sign would be kept without signage. The pillar would be removed.

Egge questioned if the City has separate sign regulations for education and religious facilities. Waataja explained that educational and religious facilities have the same standards as other uses located in a residential zoning district.

Egge asked if snow coverage was taken into consideration when the ordinance was adopted. Ms. Orensten stated that Minnetonka is unique from most other cities by including the base of a sign in its size restriction.

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

Chair Sodergren calculated that each end could be shortened a foot-and-a-half end and the top could be shortened two feet to equal 120-square-feet. She acknowledged that it would not allow for air space. Waataja reviewed that the applicant would need to apply for another variance to replace the current sign at 121 square-feet. The sign ordinance allows a maximum sign size of 75 square-feet.

Yearwood asked Chair Sodergren if she recalled the previous discussion by the Planning Commission relating to the application for the variance to allow the 121-square-foot-sign. Chair Sodergren recalled that the Commissioners felt it was odd that the sign was only visible when

traveling one direction.

Yearwood appreciated that the applicant needed a new sign, but was reluctant to support the proposed size. She would support a variance to allow the existing square footage. The proposed sign is aesthetically beautiful.

Wagner concurred with Yearwood. The proposal would be a 125-percent increase in area over the ordinance standard. He was concerned with setting a precedent.

Clinton had not been on Hillside Lane before. Once he located Hillside Lane, he did not have trouble finding the synagogue site by using the existing sign. He appreciated that the facility is used by hundreds of people in addition to the congregation, but felt it was easily locatable. He did not feel that a specific event needed to be highlighted on the sign. He did not support the variance.

Egge felt that the facility is an asset to the community and that the proposed sign is beautiful, but after seeing the scale of the sign compared to a person six-feet tall, it emphasized the large size of the proposed sign compared to the ordinance standard. She did not support the proposed variance, but felt a variance for a 120-square-foot-sign would be reasonable.

Yearwood commented that the City is conservative when it comes to signs. She recognized that that area is full of signs already from the other educational institutions.

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

1. Strict enforcement of the code would not cause undue hardship.
2. A smaller, double sided sign located on the west side of the driveway with larger copy and graphic area, would address any visibility issues.
3. The proposed sign is over twice what city code allows for the R-1, residential zoning district.

Wagner, Yearwood, Clinton, Egge, and Sodergren voted yes. Knight and Gallop were absent. Motion carried and the request was denied.

Chair Sodergren explained that the applicant has the right to appeal the Planning Commission's decision to the City Council. To do so, the applicant must submit written notice to Olson within ten days.

9. ADJOURNMENT

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

By: _____

Lois T. Mason
Planning Secretary