

**MINNETONKA PLANNING COMMISSION  
MINUTES**

**FEBRUARY 20, 2003**

**1. CALL TO ORDER**

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

**2. ROLL CALL**

Commissioners Hart, Maes, Britain, Egge, Gallop and Wagner were present. Knight was absent.

Staff members present: Planning Director Geoff Olson, Principal Planner Cary Teague, Planner Susan Thomas, and Planning Intern Ed Davis.

**3. APPROVAL OF AGENDA:**

*Hart moved, second by Britain, to approve the agenda with the following revisions:*

- *Item 8.A, a site and building plan review, with a rear yard setback variance from 50 feet to ~~26~~ 47 feet and a side yard setback variance from 27 feet to 25 feet, to build a two-story addition to the existing building (formerly Holiday Station) at 15400 State Highway 7 for Curt Fretham (91005.03a)*
- *Pull Item 4, Approval of Minutes, from the agenda to allow staff time to review requested changes to the February 6, 2003 minutes.*

*Hart, Maes, Britain, Egge, Gallop, and Wagner voted yes. Knight was absent. Motion carried.*

**4. APPROVAL OF MINUTES:** February 6, 2003

Pulled from the agenda.

**5. REPORT FROM STAFF**

Olson informed the Commission about the recognition ceremony the City Council held in honor of former Chair Sodergren and former Commissioner Clinton for their years of service.

Olson informed the Commissioners that state legislation has been introduced that would drop the requirement for mandatory comprehensive planning by metro area cities. The bill would make participation voluntary, as is currently the case for non-metro cities. Staff will monitor the legislation through the Association of Metropolitan Municipalities.

Olson provided background information regarding The Sanctuary project that proposes to construct 30 town homes, with six affordable units, on County Road 101 and Groveland School Road, just north of the Sterling Center. The City has been receiving a great deal of public reaction. The ordinance relating to the application is tentatively scheduled to be introduced by the City Council on Monday, February 24, 2003. The Planning Commission is tentatively scheduled to hold a public hearing regarding the project March 20, 2003. A meeting with the Economic Development Authority (EDA) is tentatively scheduled to be held March 18, 2003 at 6:00 p.m. Olson explained that the EDA would address the affordable housing issue.

In response to Chair Wagner's question, Olson stated that public hearing notices will be sent out to residents for the Planning Commission public hearing and the EDA's meeting.

Chair Wagner asked if Jack and Betsy Randall appealed the Planning Commission's denial of a resolution approving variances for a second-story addition to the home at 2819 McKenzie Point Road (02062.02a). Olson stated that the applicants submitted a request for an appeal to keep the option available, but are reviewing options before scheduling the appeal before the City Council.

**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.

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

***A. A three-lot preliminary plat, with lot area and lot width at the setback variances, at 3021 and 3113 Atwater Street for Joseph W. Jurusik (02071.02a)***

Recommend that the City Council give preliminary approval to the re-platting of a portion of Lyons 2<sup>nd</sup> Addition, dated January 21, 2003, with lot area variances and lot width at the front yard setback variances at 3021 and 3113 Atwater Street for Joseph W. Jurusik. Approval is based on the following findings:

1. Except for the variances, the proposal meets the required standards and ordinances for a preliminary plat.
2. The proposal meets the required standards for a variance, because:

- a. There is a unique hardship to the property caused by platting and development of the property and surrounding neighborhood prior to the effective date of the current ordinance.
- b. The variance would meet the intent of the ordinance because the property qualifies for the small lot standards in the zoning ordinance. All of the small lot standards, including minimum buildable area and setbacks, would be met or exceeded by the plat.
- c. The plat is consistent with the development of the surrounding neighborhood and represents a reasonable use of the property.

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. No easement is necessary along the north lot line of Parcel A due to the location of the existing home 3 feet from the lot line.
    - (2) The legal descriptions must be revised to indicate the name of the plat is Lyons 2<sup>nd</sup> Addition and not J.F. Lyons 2<sup>nd</sup> Addition.
  - b. Pay the City a park dedication fee of \$2,375.00.
2. The following items must be submitted to the City before the City releases the final plat:
  - a. An electronic CAD file of the final plat in microstation or DXF.
  - b. 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) 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 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 and tree preservation plan for the new lot, subject to staff approval. The plans must be in substantial compliance with 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 driveway, erosion control, tree protection and wetland protection fencing for each lot must be installed, subject to review and approval of the City's Environmental 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. 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.

*Hart, Maes, Britain, Egge, Gallop, and Wagner voted yes. Knight was absent. Motion carried and the item on the Consent Agenda was approved as submitted.*

## **8. PUBLIC HEARINGS**

- A. Site and building plan review, with a rear yard setback variance from 50 feet to 26 feet and a side yard setback variance from 27 feet to 25 feet, to build a two-story addition to the existing building (formerly Holiday Station) at 15400 State Highway 7 for Curt Fretham (91005.03a)**

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

Teague reported. He recommended adoption of the resolution approving a site and building plan, with a rear yard setback variance from 50 feet to 47 feet, but deny the side yard setback variance based on the findings and subject to the conditions listed in the staff report.

Egge supported requiring the addition of pine trees. She asked what would require future property owners to replace the trees if they died. Teague explained that it would be a condition of approval and an ordinance requirement. Landscaping is required to be replaced. Teague encouraged residents informing staff of such a situation.

Gallop asked if a ceiling, lower than nine feet in height, would be a problem. Teague stated that the building inspector advised that ceiling heights are usually nine feet in height, but they vary either way.

Curt Fretham, 2845 Plymouth Road, applicant, stated that the plan had been redrawn several different ways and he disagreed with staff's conclusion regarding the side-yard setback. He requested Commissioners allow the side setback variance. Lowering the ceiling would cause a problem for future sprinklers or installing heating ducts. Mr. Fretham stated that none of the neighbors, including the McDonalds next door, objected to the proposal.

Hart noted that the ceiling height could be maintained by moving the wall back two feet. Mr. Fretham stated that he was opposed to reducing the building width because it would make it hard to divide the space into two tenant spaces in the future. He would be limited to a one-tenant space.

The public hearing was opened

Joe Danzinger, 3116 Groveland School Road, asked what the consequences would be if the trees died and were not replaced. Teague stated that the property owner would be in violation of the conditional use permit and the City's ordinances. If the landscaping was not brought into compliance with the requirements of the conditional use permit, the conditional use permit could be revoked. If it violated the City's ordinance, the property owner could be cited, taken to the City court and given a fine. The City relies on citizens to notify staff of such a situation.

No additional testimony was submitted and the hearing was closed.

Chair Wagner reviewed the issues.

Maes asked Mr. Fretham what the rentable space would be with and without the two feet. Mr. Fretham estimated the difference to be approximately 100 square feet. Maes was

concerned with the loss of rentable space. Teague calculated 1,904 square feet would remain after the two-foot reduction, from the proposed 2016 square feet.

Mr. Fretham stated that the inside walls would take-up usable space. Hart questioned why a foot would be subtracted from the entire perimeter. She stated that the calculation of all four walls already took that into consideration. The west wall was the only wall being moved. Mr. Fretham agreed with Hart. He stated that, if the unit was divided in two, each unit would be less than 900 square feet. He stated that it would be more difficult to lease.

Gallop agreed with staff that there is a hardship for the rear setback. He believed that the motivation for the side yard setback variance was based on economics, which is not a justification for a variance. He stated that two feet was not that large of a variance, but, on the other hand, economic gain does not meet the hardship standard. He did not support the side yard setback.

Britain felt there needed to be more rationale for a variance than economic reasons. He was not convinced that loss of two feet would make the space less leaseable. He did not support the side yard setback.

Chair Sodergren concurred with Gallop and Britain.

Egge confirmed with Teague that the item was a final decision, subject to appeal to the City Council. She thanked the applicant. She felt the project would be attractive.

***Egge moved, second by Gallop, to act on the following items concerning the site and building plan review, with a rear yard setback variance from 50 feet to 26 feet and a side yard setback variance from 27 feet to 25 feet, to build a two-story addition to the existing building (formerly Holiday Station) at 15400 State Highway 7 for Curt Fretham (91005.03a), as follows:***

- A. Adopt the resolution approving a site and building plan, with a rear yard setback variance from 50 feet to 47 feet, to build a two-story addition to the existing building (formerly Holiday Station) at 15400 State Highway 7 for Curt Fretham. Approval is based on the following findings:*
1. With the exception of the variance request, 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 is a unique hardship to the property caused by jog in the lot line.

- b. The variance would meet the intent of the ordinance as there is adequate space between the addition and the residential property to the north.
- c. The variance is for a point intrusion into the setback; the majority of the addition meets the setback requirement.

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 January 9, 2003.
  - Landscaping plan dated January 9, 2003.
  - Building elevations dated January 9, 2003.
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 and tree protection subject to review by the City's Environment Resources Coordinator.
  - b. Submit final site, grading, drainage, utility and erosion control plans for staff approval.
  - c. If required, submit copies of the watershed district permit. The City may require revisions to the approved plans to meet the district's requirements.
  - d. 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 letter of credit or cash escrow for 150% of the estimated cost of all required landscaping.
  - b. An illumination plan for staff approval.
  - c. All required hook-up fees.
4. The plans must be revised to meet the required side yard setback.
5. The property owner is responsible from keeping dirt out of the street during construction.
6. Four, six-foot pine trees must be planted along the north lot line.

7. The property owner is responsible for replacing any required landscaping that dies.
  8. 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.
  9. Approval does not include the signs shown on the drawings. Separate permits are required from staff.
  10. Construction must begin by December 31, 2004, unless the Planning Commission grants a time extension.
- B. Deny the side yard setback variance from 27 feet to 25 feet, to build a two-story addition to the existing building (formerly Holiday Station) at 15400 State Highway 7 for Curt Fretham. Denial is based on the following findings:*
1. The applicant has not demonstrated a hardship.
  2. There are alternatives to build a similar size addition that meets the side yard setback requirement.

***Hart, Maes, Britain, Egge, Gallop and Wagner voted yes. Knight was absent. Motion carried.***

Chair Wagner reiterated that the Planning Commission's motion was a final decision, but that the applicant may submit a written notice to the Planning Director within ten days to appeal the decision to the City Council.

***B. Resolution approving variances from the copy and graphic area from 30 square feet to 40 square feet, and from the maximum monument size from 75 square feet to 119 square feet for a double-faced monument sign at 10500 Hillside Lane West Adath Jeshurun Congregation (93018.03a)***

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

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

Gallop asked if the Planning Commission could comment on the content of information contained on the proposed sign. Davis directed the Commissioners to focus on the size of the sign.

Gallop asked what portion of the proposed sign would be lit internally and the distance the light would travel from the sign. Davis understood the letters of the sign would be internally illuminated and suggested the applicant provide further details. Davis pointed-out that the existing sign is two feet from the property line, but the proposed sign would be ten feet from the property line. The light illumination would need to meet ordinance requirements, a limit of a half-a-foot candle at the property line.

Gallop asked if special event signs would still be allowed if the proposal was approved. Davis explained that the applicant could apply for a temporary sign permit from the City Council.

Myrna Orensten, sign designer, confirmed that the sign setback would be ten feet, but that it would be on the west side of the street. The method she used to calculate the size of the copy and graphic area determined it would meet ordinance requirements. She stated that only the letters would be lit. The material used would not glow as brightly as traditional plexi-glass. It would be dimmed in an effort to be more subtle and respectful for the neighborhood.

Britain asked what the benefit of moving the sign to the west would be. Ms. Orensten stated it would allow for better visibility on both sides of the proposed sign.

Davis provided illustrations that showed how the west side would provide better visibility.

Gallop asked if hours of illumination had been determined for the sign. Ms. Orensten answered in the negative. She explained that a light sensor would regulate when to turn the lights off and on.

Gallop asked if the copy area could be reduced. Ms. Orensten stated that the copy area is within the ordinance requirements.

Hart asked how the square footage of copy on a sign is determined. Teague explained that the copy area is calculated by enclosing the copy with a box around all the letters, not around individual letters. The copy area of the proposed sign is forty square feet and would require a variance.

Egge asked how late events occur at the synagogue.

David Segal, 2220 Cape Cod Place, applicant, stated that the latest time lighting would be necessary would be 11:00 p.m.

Egge noted that staff did not require hours on lighting because of the significant distance and screening between the synagogue and the surrounding homes. She complemented Ms. Orensten's effort to make the sign readable, but not bright lights.

Chair Wagner confirmed with Ms. Orensten that the lower, two-foot, brick portion of the site would be used as landscaping. Teague explained that the brick would be treated as an architectural feature.

The public hearing was opened.

Gary Riven, 10400 Hillside Lane, has lived in Minnetonka for fourteen years. He stated:

- The synagogue is contemporary looking and blends in well with the surroundings.
- On a normal Saturday, he has to wait to get out of his driveway because of the traffic generated by the synagogue.
- The entrance on Hillside Lane is appealing to the eye.
- The proposed sign looks like a billboard that should be located on the Interstate 394 corridor.
- He favors the current sign.
- A billboard is not needed.
- He would prefer making another sign, similar to the existing sign, and locate one on both sides of the driveway.
- Most of the people reading the activities are traveling to the community center, the high school, or the elementary school.
- The synagogue can send mailings to let people know about the speakers.
- “Why does the synagogue need to advertise to unwanted-type of individuals that would just a-soon kill every person in the building than look at them.”
- Instead of slowing-down to look a sign, a driver will speed-up to get there.

Chair Wagner explained that the current proposal would not include a changeable billboard.

Gallop asked if Mr. Riven was referring to a terrorist act. Mr. Riven answered in the affirmative.

No additional testimony was submitted and the hearing was closed.

Chair Wagner requested clarification of the size of the copy area. Davis stated that the copy area is 40 square feet and needs a variance.

Chair Wagner reviewed the issues.

Gallop thought the sign size was appropriate and an improvement over the previous proposal. His concern with the lighting had been addressed. He felt the copy could be reduced to fit within ordinance requirements. He favored illumination of the sign being turned off at 10:30 p.m.

Egge supported staff's recommendation. She noted the large size of the campus, its multiple facilities, and its need for identification. She admitted to driving past the site and not noticing the sign on previous occasions. She appreciated the neighbors' comments, but she did not see it as a billboard. The lighting issue was addressed. She was not concerned with the copy size.

Chair Wagner noted that the applicant had addressed the concerns the Planning Commission expressed toward the previous proposal. He asked staff if an ordinance exists that requires the illumination to be turned-off at a certain time. Davis stated that there is no restriction on the length of time the illumination of a sign may occur.

Britain asked for a comparison of the height of the proposed and existing signs. Davis stated that the proposed sign would not be taller than the existing sign; it would meet the ordinance's eight-foot height restriction. The two signs are similar in mass.

Britain understood the uniqueness of the site. He understood staff's rationale to recommend approval. He supported a limit on how late the sign may be lit, whether it was from 10:30 p.m. to midnight.

Chair Wagner asked how the City would regulate allowing dual signs until the new sign was completed. Teague suggested a condition of approval be added to require the existing sign be removed within a certain number of days of the new sign's installation.

Hart supported staff's recommendation. She felt the lighting would be fairly subtle and that the light sensor would be appropriate without a time restriction.

Egge asked for the rationale behind setting a specific time limit. Britain was concerned with the sign being located in a residential area. Egge asked what factors should be used to determine when illumination should be prohibited. Britain felt a reasonable time would be midnight.

Gallop stated that he could accept midnight, but would prefer 11:00 p.m. or 11:30 p.m. because that is when most people are in bed and the sign would be located in a residential neighborhood.

Mr. Segal pointed-out that no complaints have been received regarding the street light located on the corner and the current lighted sign. Only the letters would be illuminated on the proposed sign. There would be no ground lighting.

Gallop asked if having a time limit would create a concern. Mr. Segal stated that that could be worked-out He reiterated that there is a street light on the corner.

Hart stated that the proposed sign's illumination would be extremely subtle. A street light located outside a window is much brighter than the proposed sign would be. She wondered if the time limit was really an issue for the Commission.

Maes felt the proposed sign would be beautiful. She supported the proposal. She has seen opaque lighting and found it very subtle. Having an identifiable sign would create less traffic from motorists passing the site and having to turn around.

***Hart moved, second by Egge, to adopt the resolution on pages A1–A4 of the staff report with a condition that the current sign must be removed at the time of the installation of the new sign. This resolution approves a copy and graphic area variance from 30 to 40 square feet and a monument sign area variance from 75 to 119 square feet, 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 large size of the property, which is over 25 acres.
  - b. The building is setback 1000 feet from Hillside Lane West.
2. The variance would be consistent with the spirit and intent of this ordinance for the following reasons:
  - a. The proposed sign is in scale with this site due to the building setback, size of the building and size of the lot.

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. Sign must be setback 10 feet from the property line.
3. The applicant must apply for a sign permit.
4. The existing sign must be removed when the new sign is installed.
5. This variance will end on December 31, 2004, unless the City has issued a building permit for the project covered by this variance or approved a time extension.

***Hart, Maes, Britain, Egge, Gallop and Wagner voted yes. Knight was absent. Motion carried.***

**9. ADJOURNMENT**

*Hart moved, second by Gallop, to adjourn the meeting at 7:55 p.m. Motion carried unanimously.*

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