

**MINNETONKA PLANNING COMMISSION
MINUTES**

OCTOBER 16, 2003

1. CALL TO ORDER

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

2. ROLL CALL

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

Staff members present: Planning Director Geoff Olson, Principal Planner Cary Teague, Planner Susan Thomas, and Environmental Coordinator Jo Colleran.

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

4. APPROVAL OF MINUTES: October 2, 2003

Egge moved, second by Maes, to approve the October 2, 2003, meeting minutes as submitted.

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

5. REPORT FROM STAFF

Olson briefed the Commission on land use applications considered by the City Council at its meeting of October 13, 2003:

- Adopted Resolution No. 2003-102 approving a conditional use permit for an accessory apartment at 2929 Merlen Drive for Kari Fasth.
- Overturned the Planning Commission's denial of variances for a second-story addition to the home at 2819 McKenzie Point Road for Jack and Betsy Randall. The City Council required the steps to run parallel to the residence and baffling be installed around the air conditioner. The application met the city attorney's three-pronged test to approve a variance: practical difficulties prohibit a reasonable use of the site; circumstances unique to the property; and the proposal is in character with the neighborhood. The small, narrow lots in the neighborhood require residences to expand vertically. The City Council determined it would not be reasonable to have to remove the house and rebuild it to meet the side yard setback requirement.

- Overturned the Planning Commission's denial of a floodplain setback variance for a detached garage at 11417 Minnetonka Boulevard. The City Council did not consider whether the proposed garage was attached or detached a major factor. The application would require a minor intrusion into the floodplain setback requirement, which the City Council is considering reducing. Removal of the storage sheds and fence are conditions of approval. The City Council concluded that the application met the three-point test.

Olson reviewed the modification to Item 8B, preliminary plat, with lot width variances, for a two-lot subdivision at 4401 Wilson Street for Angelina and Paul D'Amico (99052.03), listed on the October 16, 2003 Change Memo.

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.

Knight moved, second by Maes, to approve the item listed on the Consent Agenda as recommended in the respective staff report as follows:

- A. Resolution making a finding that the Minnetonka Boulevard/101 housing development plan and redevelopment plan are consistent with the comprehensive plan for the city.**

Egge and Hart abstained from voting due to a conflict of interest.

Adopt the enclosed resolution, which makes the finding that the plans and project are consistent with the City's comprehensive plan.

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

8. PUBLIC HEARINGS

- A. Preliminary plat for a two-lot subdivision at 5517 Vine Hill Road for Harold and Debi Luddy (03062.03)**

Chair Wagner 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.

Chair Wagner questioned if the easements described on page six of the staff report should be vacated and rededicated. Thomas stated that the City would recommend that the easements be vacated, but it would not be a requirement of approval.

Harold Luddy, 5517 Vine Hill Road, applicant, lived in the residence fifteen years. He and his wife bought the property because they loved the area. To construct a house behind the existing house would cause the removal of a large grove of trees and a 300-foot driveway. They filled part of the back yard to create a child's play area. There is only one location to construct a house and not disturb the property. The wetlands, its buffer, and the trees would remain. The drawing for the proposed house footprint is larger than they actually plan to build. No trees would be cut down. They will work closely with Colleran to address drainage issues and protect the wetland.

Maes asked if the view of the wetland from the existing house would be obstructed by the proposed house. Mr. Luddy stated that it probably would be from the main level. The third level of the existing house would be able to look over the proposed residence. The new house would be ten to fourteen feet lower than the existing house. The only residents that would view the proposed house would be occupants of the existing house.

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

Britain moved, second by Egge, to recommend that the City Council give preliminary approval to the Harold J. Luddy Plat, dated September 2, 2003.

- 1) Approval is based on the following findings:
 - a. The plat meets the required standards and ordinances.
 - b. The property is physically suitable for the design and siting of the proposed development. The proposed development will preserve significant natural features by minimizing disturbances to existing topographical forms.
 - c. The development will not result in soil erosion, flooding, severe scarring, reduced water quality, inadequate drainage control, or other problems.
 - d. The proposed development provides adequate measures to protect public safety.

Approval is subject to the following conditions:

- 1) Complete the following before final plat approval:

- a. The proposed lot division must be in plat form, clearly indicating the plat's proposed name with lot and block designations.
 - b. Show the following on the final plat:
 - (1) Dedication of 33-foot right-of-way adjacent to proposed Lots 1 and 2.
 - (2) 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
 - (3) Utility easements over existing or proposed public utilities, as determined by the city engineer
 - c. If the developer is petitioning the City to construct the public improvements, the City Council must order the improvements.
 - d. Pay the park dedication fee of \$2,375.
- 2) The following items must be submitted to the City before the City releases the final plat:
- a. An engineering/utility inspection fee.
 - b. An electronic CAD file of the final plat in microstation or DXF.
 - c. The following documents for the City Attorney's approval:
 - (1) Title evidence that is acceptable to the City Attorney. Title evidence must be current within thirty days before release of the final plat.
 - (2) Conservation easement of required wetland buffer and a drawing of the easement for the approval of the City Attorney. The easement and drawing must be recorded with the final plat.
 - d. A letter from the surveyor stating that boundary and lot stakes have been installed as required by ordinance.
- 3) The following must be submitted to the City before the City issues a building permit:
- a. Minimum lowest floor elevation for any new home is 902.4.

- b. Any new home must be located in the area designated on the preliminary plat, unless otherwise approved by staff.
 - c. The conservation easement must be staked and signed in the field.
 - d. A temporary rock driveway, erosion control, and tree protection fencing must be installed, subject to staff review and approval.
 - e. A letter of credit or cash escrow in the amount of \$3,000 for erosion control and slope stabilization.
 - f. Payment of any required utility hook up fees.
 - g. A copy of the recorded plat and any easements or covenants required to be recorded.
- 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 the 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 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.

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

B. Preliminary plat, with lot width variances, for a two-lot subdivision at 4401 Wilson Street for Angelina and Paul D'Amico (99052.03)

Chair Wagner 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.

Paul D'Amico, 4401 Wilson Street, applicant, spoke on behalf of his wife, Angelina D'Amico, and himself. He thanked staff for their support and assistance.

Hart asked if the applicants intended to live in one of the proposed houses. They answered in the affirmative. They have not decided which one yet.

The public hearing was opened.

Jeffrey Benson, 4411 Wilson Street, objected to:

- The extent of the destruction of trees on the east end of the lot.
- Traffic along the south lot line.
- Loss of trees along the south lot line.
- He installed a hot tub in the back of their property based on the privacy received by the trees surrounding the property lines.
- He requested the trees be maintained.

No additional testimony was submitted and the hearing was closed.

Chair Wagner requested Teague review the process used to reach staff's recommendation regarding location of the driveway. Teague explained how staff's recommendation would save the greatest number of trees. Staff's recommendation would require the trees along the north and south lot lines be preserved. Teague clarified that there would be trees removed from inside the buildable area. When the lot was developed in 1987, the setbacks for lots behind lots were fifteen feet. The setbacks are now twenty-five feet.

Maes asked if the Planning Commission would review the application again if the homeowners decided to share the driveway. Teague stated that the Commission would not review the item again, but that all of the property owners would need to reach an agreement.

Hart felt that the lot met variance standards since it is only 100 feet wide. Moving the driveway to the south made the proposition practical with the layout of the trees.

Chair Wagner concurred with Hart. He thanked staff for adding the option of allowing the property owners to use the shared driveway. The comments made by the neighbors also helped form staff's recommendation.

Knight opposed the concept of lots without frontage. He stated that there are several flag lots in the neighborhood, but felt that the proposal would change the character of the neighborhood by opening-up the possibility of up to five additional flag lots. In the final analysis, he deferred to the City Council and would vote to approve the application.

Britain felt the precedent was set and that the proposal was consistent with the neighborhood's character.

Maes noted the changing character of Wilson Street. It is hard to notice the number of flag-lots in the area because it is so dense. The style of the homes varied the character of the neighborhood as well. She supported the proposal.

The Commission discussed reopening the hearing at the request of an audience member. Knight stated that people had been allowed to speak previously after a public hearing had been closed. The Commission decided against reopening the hearing after noting that Chair Wagner had asked twice if anyone else wished to speak.

Egge moved, second by Hart, to recommend that the City Council approve the two-lot preliminary plat with the lot width at the required setback variances for both lots from 110 to 100 feet, the lot width at the right-of-way variance from 80 to 0 feet for Lot 2, and the modifications from the Change Memo dated October 16, 2003. This resolution is based on the following findings:

- 1) The proposal meets the required standards and ordinances for a preliminary plat.
- 2) The proposal meets the 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) Complete the following before final plat approval:
 - a. Show the following on the final plat:
 - (1) At least ten-foot-wide drainage and utility easements next to any existing or proposed public street rights-of-way and at least seven-foot-wide drainage and utility easements along all other lot lines.
 - (2) Utility easements over existing or proposed public utilities, as determined by the City Engineer.
 - (3) Drainage and utility easements storm water ponds, as determined by the city engineer.
 - (4) A drainage and utility easement must be established over the 976 contour, which is the 100-year stormwater elevation in this area.
 - b. Pay the City a park dedication fee of \$2,375.
 - c. If the developer is petitioning the City to construct the public water and sewer

improvements, the City Council must order the improvements.

- d. 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. The following documents for the City Attorney's approval:

- (1) Title evidence that is acceptable to the City Attorney. Title evidence must be current within thirty days before release of the final plat.
- (2) Conservation easements over an area 25 feet outward from the wetland on Lot 2, and a drawing of the easements for the approval of the City Attorney. The easements and drawing must be recorded with the final plat.
- (3) Provide a 34-foot private driveway easement between the street right-of-way and Lot 1 that is acceptable to the City Attorney. This easement shall be located along the south lot line of Lot 1, or over the lot to the south. The easement shall state the maintenance responsibilities of each owner. The minimum driveway width shall be as required by the fire marshal.
- (4) A private utility easement across Lot 1 to provide services to Lot 2.

b. All buildings on Lot 1 must be removed, or a cash deposit must be made to the City ensuring the removal of the buildings within a period agreed upon by staff.

c. All outstanding bills owed to the city must be paid.

3) The following must be completed before the City issues a grading permit or any site work is started:

- a. Final utility, grading, drainage and erosion control plans must be submitted for staff approval.
- b. A letter of credit or cash escrow for 150% of the estimated cost to comply with grading permit requirements and restore the site must be submitted to the City.
- c. All trees to be preserved must be fenced and erosion control measures must be installed for staff approval.

- d. A construction management plan must be submitted for staff approval.
- 4) The following must be submitted to the City before the City issues a building permit:
- a. A grading and tree preservation plan for each 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. The existing significant trees along the north, south and west lot lines shall be preserved.
 - b. All trees to be preserved must be fenced and erosion control measures must be installed for staff approval.
 - c. 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.
 - d. A copy of the recorded plat and any easements or covenants required to be recorded.
 - e. A hookup 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. If the grading for proposed streets has not been completed, the planning director may approve a time extension to this requirement.
 - g. A new home on Lot 2 must be provided with a fire protection sprinklering system, subject to the fire marshal's approval.
 - h. Minimum basement elevation must be at least 986.1.
- 5) Before the City makes a final inspection of the house on Lot 2, the drive must be paved from the street to the house. A driveway setback of at least seven feet must be maintained from the side lot lines. Existing trees along the lot line must be protected during construction and preserved. The City may approve a time extension if weather prevents paving of the drive.
- 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 shall be void.
- 7) During construction, the streets must be kept free of debris and sediment, and the tree protection fencing, and erosion control fencing must be maintained.

- 8) 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.
- 9) 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.

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

Knight wished everyone a happy Halloween and directed everyone to stay out of trouble.

9. ADJOURNMENT

Britain moved, second by Knight, to adjourn the meeting at 7:22 p.m. Motion carried unanimously.

By: _____
Lois T. Mason
Planning Secretary