

**MINNETONKA PLANNING COMMISSION  
MINUTES**

**NOVEMBER 6, 2003**

**1. CALL TO ORDER**

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

**2. ROLL CALL**

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

Staff members present: Planning Director Geoff Olson, Principal Planner Cary Teague, Planner Susan Thomas, Environmental Intern Chris Robbins, and Public Works Director Brian Wagstrom.

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

**4. APPROVAL OF MINUTES:** October 16, 2003

*Egge moved, second by Hart, to approve the October 16, 2003, meeting minutes as amended and as follows:*

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Britain felt the ~~president~~ precedent was set . . .

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

**5. REPORT FROM STAFF**

Olson briefed the Commission on land use applications considered by the City Council at its meeting of October 27, 2003.

- Adopted Ordinance No. 2003-25 declaring certain zoning ordinance violations to be public nuisances.
- Adopted a resolution approving the preliminary plat to subdivide two lots into three lots at 11600 and 11610 Timberline Road for James Tice Jr.
- Adopted a resolution approving a preliminary plat for a seven-lot subdivision, with lot width variance and wetland alteration permit, at 2501 Plymouth Road for Lecy Construction, Inc.

- Introduced a rezoning ordinance for a proposed 64-unit senior housing facility to be located across from Minnetonka High School on Highway 7. Architectural design of the buildings in the area was discussed. Neighborhood opposition recently surfaced. Olson announced that a neighborhood meeting is scheduled for November 12, 2003, at 7:00 p.m. at the Minnetonka High School media center.

Chair Wagner mentioned that the Planning Commission will conduct a study session after its November 20, 2003 meeting.

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

**7. PUBLIC HEARINGS: CONSENT AGENDA**

The following item was removed from the Consent Agenda for discussion and separate action and reassigned as Public Hearing Item B: Item D., ordinance amending the master development plan and approving final site and building plans for a water treatment facility at 3391 Williston Road for the City of Minnetonka (86047.03a).

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

**A. Resolution approving an aggregate side yard setback variance from 30 feet to 26 feet for an addition to the home at 3603 Elmwood Place for Dean Semmer (95046.03a)**

Recommend that the City Council adopt the resolution on pages A1–A3 of the staff report, which approves an aggregate side yard setback variance from 30 feet to 26 feet for an addition to the home at 3603 Elmwood Place for Dean Semmer, representing the property owner, Gennine Navickas. This resolution is 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 home does not meet the required aggregate setback; therefore, any addition to the home would require a variance.
  - b. The existing lot has a substandard lot width and lot area.
- 2) The variance would be consistent with the spirit and intent of this ordinance for the following reasons:
  - a. The proposed garage addition would maintain the existing setback.

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) The building materials and color of the proposed addition must compliment the existing home.
- 3) Tree protection and erosion control fencing must be installed for staff review and approval. Fencing must be maintained throughout the course of construction.
- 4) 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.

**B. Resolution approving an aggregate side yard setback variance from 30 feet to 24 feet to add a first floor foyer and second floor bedroom at 18301 Priory Lane for Steven and Melissa Fisher (03065.03a)**

Recommend that the Planning Commission adopt the resolution on pages A1 – A3 of the staff report, which approves the proposed variance. This resolution is based on the following findings:

- 1) Strict enforcement would cause undue hardship because of the following circumstances that are unique to this property:
  - a. There is a unique hardship to the property caused by the unusual shape and steep grade of the lot.
- 2) The variance would meet the intent of the ordinance since:
  - a. The proposal maintains adequate separation between residences and does not interfere with the rights of neighbors.
  - b. The proposal would not detract from the character of the neighborhood and would be more likely to enhance it.
  - c. The proposal represents the minimum variance necessary to achieve the objectives of the applicants.

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) 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.

**C. Conditional use permit for more than 1,000 square feet of detached structures at 3676 Lakeview Place for Dan Hamman (03066.03a)**

Recommend that the City Council adopt the resolution on pages A1–A4 of the staff report, which approves a conditional use permit for more than 1,000 square feet of detached structures at 3676 Lakeview Place for Dan Hamman. Approval is based on the finding that the proposal meets the required conditional use permit standards and is subject to the following conditions:

- 1) Tree protection/erosion control fencing must be installed and maintained throughout the course of construction.
- 2) No additional curb cuts are allowed.
- 3) The structure may not be used for commercial activity.
- 4) Building materials must compliment the existing structures on the property.
- 5) Additional screening must be planted along the east property line. The applicant must work with the Environmental Resources Coordinator to determine a species and location that will not negatively impact the existing hedge.
- 6) The City Council may reasonably add or revise conditions to address any future, unforeseen problems.
- 7) 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.
- 8) Record this resolution with the county before the city issues a building permit.
- 9) The applicant must agree to the above conditions in writing.

*E. Approval of a twelve-month extension of the site and building plan approval for a three-story addition to the Children's Healthcare-West at 6050 Clearwater Drive for Lynn Goodenough (89015.03a)*

Approve a 12-month time extension to end on December 31, 2004.

*Egge, Gallop, Hart, Knight, Maes, Britain, and Wagner voted yes. Motion carried and items A, B, C, and E on the Consent Agenda were approved as submitted.*

## **8. PUBLIC HEARINGS**

**A. Imperial Acres preliminary plat, with variances, for a two-lot subdivision at 3323 Shores Boulevard, for Imperial Development Investors Group (03063.03a)**

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.

Gallop asked for the history of the narrow lot located north of the site. Teague stated that the lots in the area were originally platted 50 feet wide.

Gallop asked what the proposal included regarding curb cuts on Shores Boulevard. Teague explained that the City would issue a curb-cut permit. The existing curb cut could be utilized by the proposed new residence, but the applicant would have the option of closing the existing curb cut and creating a new one.

Chair Wagner confirmed with Teague that the property would remain zoned as an R-1 district.

Brian Harden, 18115 35<sup>th</sup> Avenue North, Plymouth, one of the owners of the applicant, Imperial Investors Group, was present to answer questions. He stated that the existing driveway cut would be abandoned. The new residence would be located farther south. The new cut would be farther north.

Gallop asked the approximate size of the proposed home. Mr. Harden estimated the footprint to be from 1,000 square feet to 1,100 square feet, two or three-car attached garage, and two stories. It would best fit the neighborhood.

Knight asked Mr. Harden to address a neighborhood comment regarding constructing a privacy fence. Mr. Harden stated one was not planned, but it would be a possibility. The plan was to improve the neighborhood, not change it.

The public hearing was opened.

Nancy Jewitt, 3322 Shores Boulevard, asked:

- would there be tree removal and, if so, would they be replaced;
- how would driveway location affect cars traveling north on Shores Boulevard from Minnetonka Boulevard;
- how much hard surface area would the driveways create;
- would there be renters in the proposed house? She commented on problems with the previous renters.

Teague stated that the exact location for the garage had not been determined. He explained the city ordinance regarding tree removal. The City has a minimum driveway setback standard from the corner that would have to be met. Teague explained that the amount of impervious surface has not been calculated because the building plans have not been submitted at this point in the application process. A property zoned R-1 does not have a maximum impervious surface restriction. He speculated that the driveways would be relatively short, since the lots are not real deep and access would be gained at Shores Boulevard.

Mr. Harden stated that the proposed site would most likely have no tree removal. The lot is pretty flat and grassy. The applicant's intention is to sell both properties. The property owners tried to maintain good tenants while improving the property. The completed residences would not be typical investment properties purchased for rentals.

No additional testimony was submitted and the hearing was closed.

Knight asked staff to comment on possible traffic flow and safety concerns. Teague stated that the City's driveway setback requirements would prevent line-of-sight and proximity to intersection safety issues.

In response to Knight's question, Teague clarified that trees could be removed if they were located within 20 feet of the building footprint.

Knight asked if the City regulated rental properties. Teague explained that the ordinances regulated creating an accessory apartment and duplexes, but a homeowner may rent his or her property as long as all occupants share the same facilities.

Chair Wagner reviewed the primary issues.

Britain complemented staff on the plan. It fits with the neighborhood, has overall neighborhood support, and is a good plan. He supported it.

Egge concurred with Britain. She was pleased to hear that the house size would fit the neighborhood. She suggested keeping the smaller house, located on a smaller lot, affordable; possibly by keeping the garage size to two stalls.

Knight was concerned with the proposal causing a domino affect. He noted that the lot size variance was a significant variance, almost 40 percent less than the lot size requirement. He would have felt more comfortable if the site met small lot standards. In the final analysis, he supported the proposal.

Hart recognized the mixed bag of lot sizes in the neighborhood. The proposal basically swaps the sizes of the two existing lots. It was a reasonable proposal.

Gallop concurred with Hart. The proposal was really a moving of the lot line, rather than a subdivision of one lot.

***Britain moved, second by Egge, to recommend that the City Council give preliminary approval to the Imperial Acres plat, dated July 30, 2003, with the following variances:***

- 1) A lot area variance from 22,000 to 17,206 square feet for Lot 1, and from 22,000 to 13,744 square feet for Lot 2;
- 2) A lot width at the front yard setback variance from 110 to 90 feet for Lot 1; and
- 3) A lot depth variance from 125 feet to 90 feet for Lot 2.

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 before the effective date of the current ordinance.

- b. 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.
- 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 demonstrate no negative impact on adjacent property and maintain existing drainage patterns.
  - 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) The existing garage must be moved onto Lot 1 and meet all required setbacks.
- 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.

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

**B. Approve the final site and building plans for a water treatment plat at 3911 Williston Road.**

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 asked if the plan reflected the City Council's suggestion that the building be shifted to the south and east. Thomas explained that that option was reviewed, however, it would result in tree loss. The current plan was the same as reviewed by the Council.

Brian Wagstrom, City of Minnetonka Public Works Director, applicant, provided a presentation explaining the need for the proposal. The plant would process the current plant's capacity of water in addition to the volume of the two new wells. He explained the water processing process and the location of the tanks. Currently, the City pays fees to pour water into the sewer system. The proposal would allow 90 percent of that water to be returned into the system. The improvement would save the City money and be better for the environment.

Wagstrom stated that the generator would be relatively quiet. It would be used only when power was off and for maintenance, approximately one to two hours a month. The proposal would cause no tree loss and motivated positioning the plant in the northeast corner.

Gallop asked if the building would be primarily brick. Wagstrom answered in the affirmative. It would be three different colors.

Hart asked about the location. Wagstrom stated that locating the plant further east was considered, but the ground water elevation was not feasible for the underground tanks. It was positioned as close to the current treatment plant as possible and gained some elevation for the underground tanks. Tanks would be one to two feet above ground water.

Chair Wagner asked what comments the City Council made at its September meeting regarding the proposal. Olson stated that Councilmembers did not discuss specifics of the plan. Moving the location to the east or the south was addressed.

The public hearing was opened.

Jud Batey, 14875 Timberhill Road, was not opposed to the water treatment plant, he recognized the need, but he was concerned with the master plan adjustment for the site. He stated:

- The area is a wooded recreational area. He wanted to maintain the aesthetics of the area.
- The temporary recycling area was an eyesore.
- He objected to hauling garbage through a park.
- The back half of the ice arena trash storage has not been screened. Mechanical screening was removed and not replaced. The City is not following its own ordinances.
- He was concerned with screening the generator and mechanical equipment of the proposed building.
- He wanted assurance that the recycling would not return to a City park.
- The design of the project was pretty good.

Wagstrom stated that there are no plans to bring the recycling back.

Olson will follow up on the ice arena meeting screening requirements.

The public hearing was closed.

Knight stated that the City Council will review the item and have its concerns addressed. He was glad that the recycling is located at the Public Works site. He hoped that the ice arena screening issue would be addressed and a resolution provided to the resident who brought the issue to the attention of the Commission. He felt the proposal was thorough. He supported it.

Maes complimented the City on the aesthetics of its buildings. The draft of the building was impressive.

Chair Wagner applauded the City for reusing the water at the benefit of the City's budget.

*Gallop moved, second by Maes, to approve the final site and building plans for a water treatment plat at 3911 Williston Road. 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:
  - Site plan dated September 12, 2003
  - Grading plan dated September 12, 2003
  - Landscape plan dated September 12, 2003
- 2) Submit storm sewer plans acceptable to the City Engineer and Environmental Resources Coordinator.
- 3) Install additional valves on the area water main if required.
- 4) Prior to any site work, install tree protection/erosion control fencing at the woodland edge south and east of the proposed building. The fencing must be maintained throughout the course of excavation and construction.

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

Chair Wagner stated that the City Council is tentatively scheduled to review the item at its November 24, 2003 meeting.

## 9. ADJOURNMENT

*Knight moved, second by Britain, to adjourn the meeting at 7:26 p.m. Motion carried unanimously.*

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