

**MINNETONKA PLANNING COMMISSION  
MINUTES**

**DECEMBER 18, 2003**

**1. CALL TO ORDER**

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

**2. ROLL CALL**

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

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

- 3. APPROVAL OF AGENDA:** The agenda was approved as submitted. Olson reviewed additional comments from residents and modifications to items listed in the December 18, 2003, Change Memo.

- 4. APPROVAL OF MINUTES:** November 20, 2003 study session and December 4, 2003

Action was postponed on the November 20, 2003 study session and December 4, 2003 regular meeting minutes until the next meeting to allow time for changes to be completed.

**5. REPORT FROM STAFF**

Olson briefed the Commission on land use applications considered by the City Council at its meeting of December 15, 2003:

- Adopted resolutions approving conditional use permits for an accessory apartment and an oversized garage at 9597 Sandra Lane for Rich Lee.
- Adopted a resolution approving the preliminary plat, with a rear yard setback variance, for a three-lot subdivision at 15815 Minnetonka Boulevard for Kris and Peter Maritz with the Planning Commission's recommendation. The Planning Commission recommended that the City Council complete the drainage improvement project for the area earlier than it was scheduled. The City Council reviewed the list of scheduled projects, determined that there were other projects of equal or more importance and left the project scheduled for 2006.
- Adopted the ordinance amending Section 710 of the City Code regarding building, electrical, plumbing, and mechanical permit fees, certain planning fees, other related fees, and authorization to publish a summary of the ordinance.
- Approved the neighborhood Matching Grant Program for Open Space Preservation.

Olson reported the City Council's appointment Terri Bonoff, 3325 East Eldorado Trail, to the Planning Commission to serve the balance of Tony Wagner's term plus an additional two-year term, effective January 1, 2004 and expiring on January 31, 2006.

Olson announced that there was a neighborhood meeting regarding the Binger property located on Crosby Road. The proposal is for a fourteen-lot subdivision. The neighborhood was concerned with increased traffic, opposed to the number of units, and opposed the trail. The item will be reviewed by the Planning Commission in the near future.

Olson announced that there would not be a Planning Commission meeting on January 1, 2003.

Olson asked Commissioners to think about who will serve as the temporary chair. Election of the temporary chair will occur at the January 15, 2003 meeting.

Olson expressed staff's appreciation for Chair Wagner's service and leadership on the Planning Commission. Chair Wagner stated it had been a pleasure working with the Commissioners and staff.

Knight asked how the matching grant would operate. Olson confirmed that the City would match funds provided by the neighborhood dollar for dollar. The City would own the property by a fee title acquisition or the property would be placed in a conservation easement. Knight questioned how the grant would be included in the application process. Olson will provide more details as they develop.

Egge confirmed with Olson that the referendum funds would be used in the grant program, so once the funds were depleted that would be the end of the grant program. There is a limit of \$50,000 per site and there can only be one application per site.

**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.

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

**A. Ordinance dropping bonds as an option for a landscaping security (03070.03a)**

Recommend that the City Council adopt the ordinance on pages A1–A2 of the staff report.

**B. Ordinance to correct conflicting requirements for exterior speakers in the planned I-394 zoning district (03079.03a)**

Recommend that the City Council adopt the ordinance on pages A1–A2 of the staff report.

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

**8. PUBLIC HEARINGS**

**A. Conditional use permit for a garage over 12 feet high and accessory buildings with more than 1,000 square feet at 3454 Orchard Lane for Kip Warner and Colleen Myers (03084.03a)**

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

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

Gallop asked why the cement pad had been poured already. Robbins stated that the applicant had been advised that they would be putting the pad in at their own risk.

Kip Warner, 3454 Orchard Lane, applicant, stated that the residence is small and needs storage space. A garage is something everyone needs in Minnesota.

Maes asked if there had ever been a garage on the property. Mr. Warner responded in the negative. The residence was built in 1948. Mr. Warner explained the history of the shed and the front addition that has a lower roof pitch. He needed to fix the roof to eliminate water leakage. The proposed roof pitch would be near the pitch of the new garage.

Gallop asked if the shed would remain. Mr. Warner stated that he would like to fix it up and use it as a workshop or garden shed.

Chair Wagner asked what prompted the need for the added garage height. Mr. Warner stated it would be necessary to access storage in the rafters of the proposed garage. It would allow him to safely store items that are now located in the house near the heater.

The public hearing was opened.

No testimony was submitted and the hearing was closed.

Gallop asked for the height of the house. Staff and Mr. Warner were unsure.

Chair Wagner reviewed the issues.

Britain felt the project was approvable with staff's conditions.

Edge noted that the neighbor's house is two stories tall and there is a berm in the front, so the fourteen foot high garage would not have an adverse impact on the neighborhood. She saw no problem approving the project.

Gallop supported the project. The setback is quite a distance from the road. It would be partially hidden by a berm. It is a good project.

***Maes moved, second by Edge, to recommend that the City Council adopt the resolution on pages A1–A4 of the staff report, which approves the proposed conditional use permit. This resolution is based on the finding that the proposal meets the required conditional use permit and other city code standards, and is consistent with the spirit and intent of the ordinance. The permit is subject to the following conditions:***

- 1) The building materials and color of the garage must match those of the house.
- 2) The structure may not be used for commercial purposes, such as off-premise business or home occupation storage and activities.
- 3) No part of the structure may be converted to a residential dwelling.
- 4) The applicants must plant foundation plantings around the garage and place window boxes under the garage windows.
- 5) The applicants must provide for proper drainage around the garage and not hinder the flow of water from the south.
- 6) This permit must be recorded with the county before the city issues a building permit.
- 7) The City Council may reasonably add or revise conditions to address any future unforeseen problems.
- 8) 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.
- 9) The applicant must agree to the above conditions in writing.

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

Chair Wagner announced that the City Council is tentatively scheduled to review the item at its January 5, 2003 meeting.

**B. Side-yard setback variance from 12 feet to 7 feet and a front yard setback variance from 39 to 36 feet for a two-car garage addition at 3633 Hazelmoor Place for Mark Hohertz (03086.03a).**

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

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

Knight asked if the current garage door would remain. Kelly answered in the affirmative.

Gallop asked if the property line was surveyed. Kelly stated that the applicant found the property line stakes.

Mark Hohertz, 3633 Hazelmoor Place, applicant, stated that he originally wanted to build a twenty-four by twenty-four garage, but because the inside wall of the residence is glass blocks, he wanted to keep the garage away from the house to allow light to enter. He noted that the new garage would be further away from the side lot line than the current garage because of the lot line angle. He explained how he located the stakes and determined the location of the lot lines. Because of the existing gable roof over the front window, the new gable over the garage would make it look like it should be there.

Britain asked if the design would allow the wall to be even with the garage behind it. Mr. Hohertz planned to keep a five-foot walkway between the house and garage.

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

Knight asked if the current garage could be used as living space. Olson confirmed that it could be used as living space as long as the property had adequate room for a two-stall garage.

Knight supported the variance. He did not see a practical alternative to construct a two-car garage.

Edge was in favor of the proposal. The logic for the location of the proposed garage made sense. The pitch of the roof would fit the house and the proposed plan would allow light to pass through the glass block wall.

Gallop supported the variance because of the layout of the property and it fit well with the existing residence.

Chair Wagner supported staff's recommendation.

***Britain moved, second by Edge, to adopt the resolution on pages A1–A3 of the staff report. This resolution approves a side-yard setback variance from 12 feet to 7 feet, and a front-yard setback variance from 39 feet to 36 feet at 3633 Hazelmoor Place, 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 hardship is caused by the existing location of the home, which does not meet the side yard setback requirement.
  - b. The applicant is proposing to use the property in a reasonable manner. The addition of the two-car garage to the front of the home will be the most functional for its desired use.
2. The variance would be consistent with the spirit and intent of this ordinance for the following reasons:
  - a. The proposed garage addition would actually bring the applicant's home more in line with neighboring home building lines.
  - b. The proposed garage addition would be consistent with the neighborhood character of two-car garages.

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 complement the existing home and garage.

3. Applicant must install gutters and downspouts directed towards the street on the proposed two-car garage addition.
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.

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

**C. Items concerning a four-unit townhome development at 11907 Minnetonka Blvd for Dean Gannon (03087.03a):**

- 1) an ordinance rezoning the property from Planned Unit Development (PUD) to R-3;**
- 2) preliminary plat, with lot area variance; and**
- 3) site and building plan review.**

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.

Gallop asked if the original plan included four units. Thomas answered in the affirmative. Gallop had some trouble with reducing the lot size from 3,630 square feet to 1,560 square feet. Thomas explained that the reduction in total lot size references each individual parcel within the larger site. It is not the site as a whole. The applicant is requesting the variance to allow for more commonly held space. She indicated the benefiting areas located on the south property line and both sides. Characteristic of a town home development would be a larger percentage of the total site under common ownership and maintenance.

Knight asked if the Windmill Ridge project had lot area variances. Thomas stated that the Windmill Ridge individual units are slightly smaller than 2,500 square feet in size. Staff supports the variance because the property lines do not alter the visual characteristic of the proposed development.

In response to Knight's question, Thomas stated that there would be seven units per acre for the proposed development. Windmill Ridge maintains six lots per acre.

Knight questioned if the proposal would create future access problems for the other single-family lots when they are developed. Thomas stated that the proposal would include

restrictive covenants that would require a common drive if the property to the east was developed.

In response to Chair Wagner's question, Thomas explained that the property on the east side of the proposed site is guided for medium density residential housing.

Maes wondered if there was more history that prompted the need to rezone the site from a planned unit development to an R-3 district. Usually, it would be the other way around. Thomas acknowledged that generally a planned unit development allows for more flexibility, but, in this particular case, the planned unit development restrictions are stricter in regard to side yard setbacks. The planned unit development ordinance requires a thirty-five foot setback from exterior lot lines. The combined aggregate setbacks would equal 70 feet, or 46 percent of the total width, of the property. Thomas explained the history of the area's zoning.

Olson added that the proposal is an unusual situation. The city attorney pointed out that the property was zoned a planned unit development district without a plan, which defeats its purpose.

Egge asked what the situation for parking currently is on the road off Minnetonka Boulevard. Thomas stated that that road is a private drive. There are parking spaces for Windmill Ridge visitors.

Egge asked about the angle of the drive described in the report and if people would be able to find the drive in time when traveling at its higher speed. Thomas illustrated that the drive would be slightly angled to be at a right angle to the street. City code allows for signs at the entrances to residential developments. A sign permit would be required.

Chair Wagner asked Thomas to comment on the grade of the driveway. Thomas explained that the City does not have grade restrictions regarding private drives. Engineering encourages lesser grades. Hennepin County controls the grade of the right-of-way and the issuance of a driveway permit.

Dean Gannon, 5821 Irving Avenue, Minneapolis, applicant, stated that the proposed townhouses would be similar in size and finish to Windmill Ridge homes. The property is guided for medium density residential housing. The current house has "seen its better days." The proposal would improve the aesthetics along Minnetonka Boulevard. He would save as many trees as possible on the property because it would increase its value. The grounds would be maintained by an association and snow professionally plowed. The grade of the future driveway could be less steep than the current driveway. The right-of-way would not be graded. His goal is to provide the safest drive possible. He pointed out that a curved driveway would save a significant tree.

Egge asked where the snow would be stored. Mr. Gannon stated that it would be located east of the cedar tree. She questioned if that would block motorists' sight when backing out of the driveway. Mr. Gannon assumed that the resident would back out between the landscaping and turn around. The driveway between units three and four is over 40 feet wide.

Egge asked about guest parking. Mr. Gannon stated that parking would be available in front of the garages or in the common space. Egge confirmed that Mr. Gannon was aware that Windmill Ridge opposed side parking along the road.

The public hearing was opened.

John Reagan, 11871 Minnetonka Boulevard, president of the Windmill Ridge Homeowners Association, spoke on behalf of the homeowner's association and asked for more than eight minutes to speak. Chair Wagner stated that he could take as long as he liked. Mr. Reagan was concerned with:

- The proposed development's access on Minnetonka Boulevard causing a traffic safety hazard.
- More information firmly requiring the proposal to be developed similarly to Windmill Ridge.
- The loss of trees.
- How much excavation would be done and the amount of time it would take.
- How no outside storage would be accommodated.
- How the association would be established.
- He did not see room for the service providers on the property, including a garbage truck turning around.
- His principle problem is with visitor parking.
- The qualifications of the architect.

Chair Wagner reviewed Mr. Reagan's concerns. Mr. Reagan was concerned with the narrowness of the driveway and the lack of visitor and service vehicle parking. Olson confirmed that a typical driveway is usually between 18 feet and 24 feet in width.

Mr. Reagan explained that if there are service vehicles or one person has a party, vehicles park on their private drive. Chair Wagner discussed with Mr. Reagan that if the association did not provide access, the proposed development would have to gain access on Minnetonka Boulevard.

Mr. Reagan stated that it could be conceivable to make the parking area larger by removing the trees.

Thomas stated that additional hard surface could be created on the site, but it would be at the loss of green space. The recommendation does not include additional hard surface. Thomas stated that a condition could be included that would require proof-of-parking.

Egge stated that a study session was held regarding impervious surface where parking may be created with different materials. Olson reviewed options to hard surface parking, but stated that the ordinance requires parking areas to be paved. A condition may be included that would require the applicant to provide proof of parking and allow additional hard surface for parking if a parking problem exists.

Chair Wagner gained a confirmation from Olson that the proposal's parking would need to be contained on its own site.

Mr. Reagan would like a more detailed drawing of the proposed building itself, its height, and the interior look of the building. Chair Wagner stated that the height would be twenty-five feet. Thomas explained how the height was calculated from the highest grade within the footprint of the building to the midpoint of the roof.

Maes stated that the City would not approve the plan if emergency vehicles would not be able to access the buildings.

Britain asked where the service vehicles park at Windmill Ridge. Mr. Reagan responded at the top of the hill. Mr. Reagan stated that no one ever parked in the entrance. An existing home has access to the Windmill Ridge drive. This was grandfathered in at the time of the Windmill Ridge project. They would be opposed to future townhomes using this drive. There is no parking allowed on the entry drive.

Chair Wagner confirmed with Thomas that the property to the east would be required to share a driveway that would access Minnetonka Boulevard with the proposed plan.

In response to Chair Wagner's question, Thomas stated that ordinances do not require the proposal to match neighboring developments. Egge pointed-out that the proposal is a stand alone project. The applicant has done a good job to create similar looks, but there would not be a requirement. The City has no authority to dictate who the architect of the project would be. The articles of incorporation and bylaws are governed by state law.

Mr. Reagan commended Mr. Gannon for revising the first plan that included five units. He preferred two or three, but he understood that the homes needed to accommodate the purchasers.

Colleran stated that the site had 40 significant trees. The south tree buffer would be protected by the setback. One of the consequences of the proof of parking, if it needed to be paved,

would be the loss of trees, including the large evergreen near the driveway. The proposal would cause the removal of five trees, none of which was on the south side of the property. The applicant did an excellent job to save as many trees as possible.

In response to Wagner's questions, Thomas explained that once a building permit had been issued, the permit remains valid as long as work progresses. If work would be stopped for a specific period of time, another building permit would need to be obtained.

Mr. Gannon stated that the plan is to have the building up in five to six months. He wants to complete construction as soon as possible.

Chair Wagner asked if Mr. Reagan had all of his questions answered. Reagan stated that they were all covered.

Jacqueline Reagan, 11871 Minnetonka Boulevard, asked if Hennepin County could improve the traffic safety regarding people using the Babe Ruth fields in the summer specifically when two games are played back-to-back in the evenings. Vehicles were coming and going at the same time. She had trouble making a left hand turn onto Minnetonka Boulevard. Chair Wagner stated that the information would be passed on to the county.

No additional testimony was submitted and the hearing was closed.

Knight asked about who enforces parking on Windmill Ridge. Teague stated that it would be up to Windmill Ridge management to have unauthorized vehicles towed since it would be parking on private property. Olson stated that a chain link fence could be installed to restrict accessibility.

Chair Wagner asked about implementing a conservation easement along the south end of the property. Colleran stated that staff did not request one because it would not be required. Olson stated that Commissioners could recommend one.

Egge asked who would maintain the trees. Colleran stated that the property owners' association would be responsible for maintaining the trees. She stated that the Windmill Ridge property owners own part of the treed area.

Chair Wagner reviewed the issues.

Egge felt the rezoning was appropriate given the history of the site. The resources were not available to develop the property at the same time as Windmill Ridge. The current Windmill Ridge's association chose not to incorporate the project. She favored achieving the same results by rezoning. An R-3 District made sense to allow certain benefits.

Chair Wagner favored requiring proof of parking to allow long-term flexibility. Egge concurred. Chair Wagner saw the pros and cons of requiring a conservation easement.

Knight was in favor of the project overall, with the proof-of-parking requirement. He was open to requiring a conservation easement. His concern was the height of the building from the front. He felt the rezoning made sense due to its location and neighboring properties. He saw that access would be a problem in the future.

Gallop supported the rezoning. As staff pointed out, property zoned as a planned unit development really does not make sense without a plan. Parking and access were his concerns. Service vehicles may cause a problem. He would feel more comfortable with including the proof of parking requirement. He could go either way on the conservation easement. Dealing with two property owners may prove too impractical.

Maes appreciated staff recommending the planned unit development being rezoned to R-3. It decreased the number of building setback variances and it would not alter the density. She supported requiring proof of parking and agreed that the conservation easement might be hard to impose without knowing what would happen with the adjacent vacant property.

Britain agreed with most of what had been said. He wished the curb cut was not necessary, but felt this would be the next best plan. He supported the proof of parking requirement. With the number of vehicles that would need to visit the property, it does not appear adequate parking right now. He favored a conservation easement to protect the site long-term. He felt it would set a good precedent.

Chair Wagner thanked the applicant and those who spoke at the public hearing. He supported the conservation easement. He felt it would be a good precedent.

Olson stated that the conservation easement would be eighteen feet, fairly narrow for a conservation easement. A legal problem may exist with imposing a conservation easement over an existing driveway easement. The driveway easement runs from the south property line north thirty feet. Olson stated that if the driveway easement is public, a condition included in the staff report, would require the City Council to vacate it.

Chair Wagner asked Collieran if she felt an eighteen-foot conservation easement would be "worth it." Collieran stated that most of the significant trees are outside of the grading limit, within the eighteen feet, so she felt it would be a good idea to save the significant trees.

Egge asked what would trigger implementation of the proof of parking. Olson stated that, in the past, proof of parking was usually prompted by complaints and imposed primarily by the City Council if staff's investigation supported it.

Knight directed staff to contact Hennepin County regarding the traffic safety issue.

***Egge moved, second by Knight, to recommend that the City Council adopt the resolution approving the following items concerning a four-unit townhome development at 11907 Minnetonka Boulevard for Dean Gannon with changes listed in the Change Memo dated December 18, 2003, a condition requiring proof of parking and a condition requiring a conservation easement be placed on the south eighteen feet of the property, unless there is a legal conflict with the existing easement.***

*A. Recommend that the City Council adopt the ordinance on pages A1–A4 of the staff report, which approves the proposed rezoning. This ordinance is based on the following findings:*

- 1) The rezoning would be consistent with the City's guide plan.
- 2) The rezoning would be consistent with the public health, safety, and welfare.
- 3) The rezoning would better reflect the development potential of the site. The property would not be incorporated into a larger PUD. Therefore, the purpose of retaining the property's historical PUD zoning is no longer valid.
- 4) The rezoning would reduce the number of building setback variances.
- 5) It would not increase the allowable density of development on the site.

*B. Recommend that the City Council give preliminary approval to the Minnetonka Townhomes plat with the following lot area variances: Lot 1 from 3,630 square-feet to 1,831 square-feet; Lot 2 from 3,630 square-feet to 1,810 square-feet; Lot 3 from 3,630 square-feet to 1,784; and Lot 4 from 3,630 square-feet to 1,769 square feet. Approval is based on the following findings:*

- 1) Apart from the requested lot area variances, the proposal would meet the required standards and ordinances.
- 2) The proposal would meet the required standards for a variance, because:
  - a. Strict enforcement would cause undue hardship because of the following circumstances that are unique to this property:
    - (1) The applicants are proposing to use the property in a reasonable manner. Though lots complying with the City's area requirement could be created, they would present a functional difficulty.

- (2) The property's relatively small size is a unique circumstance, not common to all similarly guided residential properties in the city.
- b. The variance would be consistent with the spirit and intent of this ordinance for the following reason:
  - (1) The variance would not result in any visual difference in the development, as the individual lots would exist within the larger site.

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 other exterior lot lines
    - (2) Utility easements over existing or proposed public utilities, as determined by the City Engineer.
    - (3) Dedication of 7 feet of road right-of-way along Minnetonka Boulevard.
- 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. Pay the City a park dedication fee of \$7,125.00.
  - 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) Documents establishing a homeowners' association. The association must be responsible for maintaining any common areas and common drives.
    - (3) Common access easements for each lot. The easement must state the maintenance responsibilities of each owner. The minimum driveway width must be as required by the fire marshal.

- (4) Cross access easement from 11901 Minnetonka Boulevard to proposed driveway.
- (5) Provide a restrictive covenant that the current development and any future development of 11901 Minnetonka Boulevard share a common access drive. If the driveway is from 11901 Minnetonka Boulevard, the currently proposed drive must be removed. The City would determine the appropriate location of the future drive.

These documents must be recorded with the final plat, and a drawing of any easements must be attached to the easement deed.

- 3) 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.
- C. Recommend that the City Council approve final site and building plans. Approval is based on the finding that, apart from the lot area variance, the plans meet the required standards and ordinances. 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:
  - a. Site plan A101 date-stamped November 14, 2003
  - b. Grading plan dated November 14, 2003
  - c. Utility plan dated November 14, 2003
  - d. Landscaping plan November 14, 2003
  - e. Building elevations date-stamped December 24, 2002
- 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 a temporary rock driveway, erosion control, and tree protection fencing for each lot must be installed, subject to review by the City's Environmental Resources Coordinator.
  - b. Submit final site, grading, drainage, utility, landscape, and erosion control plans for staff approval. Final plans must include the following revisions:
    - (1) The grading plan must be amended, acceptable to the City Engineer and Environmental Resources Coordinator:

- (a) The driveway must access Minnetonka Boulevard at a more perpendicular angle.
  - (b) The driveway must be graded so that water does not flow onto the driving surface of Minnetonka Boulevard.
  - (c) The plan must be amended to reduce impact to the critical root zone of trees to be saved.
  
- (2) The utility plan must be amended to include:
  - (a) individual utility lines to individual units;
  - (b) sanitary services must be 6 inch diameter;
  - (c) water services must be 1.5 inch diameter.
  
- (3) The landscaping plan must be amended, acceptable to staff, to include additional landscaping along the east property line.
  
- c. 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.
  
- d. All trees and vegetation to be preserved must be fenced and erosion control measures must be installed for staff approval.
  
- e. A construction management plan must be submitted for staff approval.
  
- f. A conservation easement be included over the south eighteen feet of property.
  
- 3) The following must be completed before the City issues a building permit:
  - a. Either provide verification that the 30-foot roadway easement is a private easement or if it is a public easement the council must vacate the easement.
  
  - b. A hookup fee for sanitary sewer and water.
  
  - c. 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.
  
  - d. A copy of the recorded plat and any easements or covenants required to be recorded.
  
  - e. An access permit from Hennepin County, allowing access to Minnetonka Boulevard.
  
- 4) All structures must meet the minimum setback and height requirements.

- 5) The property owner is responsible for replacing any required landscaping that dies.
- 6) The buildings must be constructed with automatic fire sprinklers throughout.
- 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) Construction must begin by December 31, 2004, unless the Planning Commission grants a time extension.
- 9) Proof of parking must be provided.

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

## **9. OTHER BUSINESS**

### **A. Changes to the By-laws**

Olson explained two changes proposed for the Planning Commission's Bylaws. The first required a Planning Commissioner to vote on all items unless he or she has a conflict of interest as defined by the city's code of ethics or state law and the second provides a limit of the amount of time speakers may have at public hearings. Olson felt that a general consensus was reached by the Commissioners at a study session regarding these changes. The changes are beneficial to clarify what the rules are for current and future Commissioners. Staff recommends the Commissioners review the changes and adopt them into the bylaws.

Knight asked if abstaining from the minutes because he or she was absent at that meeting would be included in the requirement to vote on each item. Chair Wagner felt that would be covered by common sense, but could see the issue from a technicality stand point. Knight pointed out that voting on the minutes is a separate agenda item. Chair Wagner stated that an amendment added to the requirement excluding voting on the minutes of a meeting a Commissioner did not attend would be acceptable.

Chair Wagner asked if modification of the time limits at the discretion of the Chair, due to the specific issue at hand, should be included in the bylaws.

Gallop asked if it would be better to require all Commissioners to vote on all public hearing items.

Egge acknowledged that *Robert's Rules of Parliamentary Procedure* would supersede the Planning Commission's protocol. She felt the intent of the wording of staff's recommendation was clear.

Chair Wagner could go either way. He favored the discretion of the Chair language being included. Knight asked if Chair Wagner intended allowing the time amount to be modified longer and shorter.

Knight felt the suggestions were great. Discretion "opens up the door." He did not see the need for the inclusion of the discretion of the Chair. Chair Wagner did not have a problem with the speaker of the association speaking longer than fifteen minutes. Knight pointed out that the wording included, "about."

Maes felt the discretion part is important when a party represents numerous others. Discretion may be called into play to prevent meetings from continuing until 1:00 a.m. That is not good for anyone.

Gallop agreed with including "discretion of the Chair." A majority consensus was reached to include the Chair's discretion in the bylaws. Knight was not going to stake his life on that issue.

***Egge moved, second by Knight, to approve the changes to the Commission's bylaws with the inclusion of allowing the Chair discretion to shorten or lengthen the amount of time a speaker has to speak at a public hearing due to special circumstances.***

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

Britain thanked Chair Wagner for his excellent job as Chair of the Planning Commission. He wished him the best for the future and told him not to be a stranger. Chair Wagner stated that he enjoyed working with the Commissioners and staff.

Knight wished everyone happy holidays.

**10. ADJOURNMENT**

*Gallop moved, second by Egge, to adjourn the meeting at 8:51 p.m. Motion carried unanimously.*

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