

**MINNETONKA PLANNING COMMISSION
MINUTES**

MAY 6, 2004

1. CALL TO ORDER

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

2. ROLL CALL

Commissioners Bonoff, Britain, Gallop, Maes, Periolat, Allendorf, and Hart were present.

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

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

4. APPROVAL OF MINUTES: April 15, 2004

Britain moved, second by Maes, to approve the April 15, 2004, meeting minutes as submitted with the changes from the change memo dated April 15, 2004:

- Page 12, last paragraph, line 3:

Hopkins Crossroads added a median that cut off the left-in ~~left-end~~ traffic access and further damaged the access.

- Page 18, paragraph 4, line 1:

Britain asked why staff recommended approval of the proposal when five of the six lots do not meet the 15,000- ~~50,000~~ square-foot ~~feet~~ minimum lot size requirement for a planned unit development.

- Page 21, paragraph 2, line 1:

Britain was not a fan of lots smaller than 15,000 ~~50,000~~ square feet, but certainly the history of the project and the character of the neighborhood would indicate that it would be justified.

Bonoff, Britain, Gallop, Maes, Allendorf, and Hart voted yes. Periolat abstained. Motion carried.

5. REPORT FROM STAFF

Olson briefed the Commission on land use applications considered by the City Council at its meeting of April 26, 2004:

- o Approved items concerning a proposed car wash at 3864 Hopkins Crossroad for LMV Corporation.

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 Gallop, to approve the items listed on the Consent Agenda as recommended in the respective staff reports as follows:

A. Items concerning eleven projects to improve water quality in the Nine Mile Creek Watershed by the City of Minnetonka and the Nine Mile Creek Watershed District (04019.04a)

- 1) *Recommend the city council adopt the ordinance on pages A8–A19 of the staff report, which approves the proposed change in the wetland overlay district boundaries for three wetlands.*

This ordinance is based on the following findings:

- a. The fill is needed in order to provide for a greater water quality benefit to Glen Lake, Minnetoga Lake, Shady Oak Lake, Lone Lake, and Woodgate Pond.
- b. The water quality improvement strategies are consistent with the city's Water Resources Management Plan.
- c. The plan meets the criteria required by the WCA and the technical evaluation panel has accepted the plan.

Approval is subject to the following conditions:

- a. Must be developed in general conformance to the plans date stamped March 15, 2004.
 - b. Implement best management practices and install and maintain erosion control devices during the project.
- 2) *Recommend the city council approve the wetland alteration permits for six wetlands, floodplain alteration permit in three wetlands, and the resolution on pages A20–A22 of the staff report for a conditional use permit to grant a public impervious trail to be located within the wetland buffer. These approvals and the resolution are based on the following findings:*
- a. The work is needed in order to provide for a greater water quality benefit to Glen Lake, Minnetoga Lake, Shady Oak Lake, Lone Lake, and Woodgate Pond.
 - b. The water quality improvement strategies are consistent with the city's Water Resources Management Plan.
 - c. The plan meets the criteria required by the WCA and the technical evaluation panel has accepted the plan.
 - d. The proposed trail meets the required conditional use permit standards as specified by the code.

Approval is subject to the following conditions:

- a. Must be developed in general conformance to the plans date stamped March 15, 2004.
 - b. Implement best management practices and install and maintain erosion control devices during the project.
- 3) *Recommend the city council approve the Wetland Conservation Act replacement plan application based on the following finding:*
- a. The plan meets the criteria required by the WCA and the technical evaluation panel has accepted the plan.

B. Resolution approving a front yard setback variance from 35 feet to 30 feet for a second stall to the existing garage and a second-story addition at 16616 Temple Drive North for A&H General Contractors (04024.04a)

Adopt the resolution on pages A1–A3 of the staff report. This resolution approves a front-yard setback variance from 35 feet to 30 feet at 16616 Temple Drive North, 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 is located within the required front yard setback.
- 2) The variance would be consistent with the spirit and intent of this ordinance for the following reasons:
 - a. The proposed garage addition is consistent with sightlines established with the home to the east and west.
 - b. There will be no adverse impact on neighboring properties.
 - c. The addition would not encroach further into 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) This variance will end on December 31, 2005, unless the city has issued a building permit for the project covered by this variance or approved a time extension.

C. Resolution approving a front yard setback variance from 35 feet to 20 feet for a two-car garage addition at 4818 Caribou Drive for Bill and Marcia Anderson (04025.04a)

Recommend that the planning commission adopt the resolution on pages A1–A3 of the staff report, which approves the proposed front-yard setback variance from 35 to 20 feet. 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 not adequate area in the front or either side of the home to build an attached two-car garage without a variance.
 - b. The topography of the site, including slopes on both the north and south side of the home, make it difficult to construct a garage in the rear yard.
- 2) The variance would be consistent with the spirit and intent of this ordinance for the following reasons:
 - a. The proposed garage addition is consistent with sightlines established with the homes to the east and west.
 - b. There will be no adverse impact on neighboring properties.

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, 2005, unless the city has issued a building permit for the project covered by this variance or approved a time extension.

D. Aggregate side yard setback variance from 30 feet to 17 feet, and a side yard setback variance from 10 feet to 4 feet, for a second-story addition to the home at 3650 Fairlawn Drive for Kuhl Designers-Builders LLC (04026.04)

Adopt the resolution on pages A1–A3 of the staff report. This resolution approves an aggregate side yard setback variance from 30 to 17 feet and

the side yard setback from 10 to 4 feet at 3650 Fairlawn Drive, 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 small lot size of 10,250 square feet.
 - b. The existing home encroaches into the required side yard setback.
- 2) The variance would be consistent with the spirit and intent of this ordinance for the following reasons:
 - a. The addition would not encroach into the setback any further than the existing structure.

Approval is subject to the following conditions:

- a. Submit proof of having recorded this resolution with the county before the city issues a building permit.
- b. This variance will end on December 31, 2005, unless the city has issued a building permit for the project covered by this variance or approved a time extension.

Bonoff, Britain, Gallop, Maes, Periolat, Allendorf, and Hart voted yes. Motion carried and the items on the consent agenda were approved as submitted.

8. PUBLIC HEARINGS

A. Items concerning a new CVS Pharmacy at 11525 Excelsior Boulevard for Bear Creek Capital (95052.04a)

- 1) Site and building plan review with setback variances;**
- 2) Conditional use permit; and**
- 3) Multiple sign variances.**

Chair Hart 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.

Allendorf questioned the height of the proposed CVS building and if it would be taller than the existing building.

Bill Tippman, Vice President of Bear Creek Capital, representing CVS Pharmacy, applicant, at 9549 Montgomery Road, Cincinnati, Ohio, 45242, stated that the building would be between 23 feet and 24 feet tall. The entry feature would be 29 feet in height. Mr. Tippman estimated the existing building to be 18 feet to 20 feet tall.

Mr. Tippman was present to answer questions. He stated that the proposed project would be a quality project. CVS is currently the second largest pharmaceutical company in the country. Its headquarters is located in Rhode Island. It is very financially sound. Its products and services are comparable to Walgreens and Snyders stores.

Chair Hart asked if any CVS Pharmacy stores had been built in the area. Mr. Tippman stated that 2 projects are currently going through the planning process in Minneapolis. The company plans to have 30 stores operating on the west side of the Mississippi River within 3 years.

Gallop had trouble with the number and dimension of the proposed signs. Mr. Tippman stated that a retailer depends on signs and visibility. He routinely requests as much as a community considers reasonably acceptable. In each case, a resolution is reached with the community.

In terms of industry standards, Bonoff asked if a sign variance had been granted for similar businesses. She asked about the Walgreens in Hopkins. Mr. Tippman asked the age of the ordinance preventing signs from including product and service advertising. Olson stated that it was incorporated at the same time as the current sign ordinance, between 1986 and 1988. Mr. Tippman felt the drive-through pharmacy sign is reasonable. He felt it would be informative and directional. The pick-up window would be located in the rear and not visible.

Olson stated that the Walgreens in Hopkins did not need a variance, but that Hopkins may have a slightly more liberal sign ordinance than Minnetonka. Chair Hart viewed the Walgreens and noticed that it had two "Walgreens" signs, one on each side of the building, a pharmacy sign, and a one-hour photo sign.

Mr. Tippman stated that the pharmacy drive-through sign is not advertising, but would be directional and informative in nature. Bonoff wanted to know what size that sign would be and asked if CVS had prepared an alternate sign package. Mr. Tippman stated that the proposed signs are negotiable, but there was no alternate sign plan prepared. The drive-through pharmacy sign is very important to the applicant. It would be nine inches tall by eight feet, five inches in length. He suggested that the drive-through sign be permitted as the permitted wall sign.

Allendorf felt somewhat uncomfortable negotiating the sign package. He would feel more comfortable if commissioners held a discussion and provided general direction. Chair Hart agreed and stated that commissioners would listen to Mr. Tippman and then hold a discussion.

Mr. Tippman suggested that a low monument sign be permitted at each entrance to inform motorists where to enter the property, to not miss the drive. In response to Mr. Tippman's question, Thomas confirmed that the proposal met the six-vehicle, stacking requirement.

Mr. Tippman stated that a consultant performed a traffic study at a Walgreens and observed no more than three cars stacked at the drive through pharmacy during the peak evening hours. They are not heavily used at all. The only item picked-up at the drive through would be pharmaceuticals.

Perolat asked if the drive through pharmacy sign was part of a package that included four signs labeled "D." Mr. Tippman pointed out where the signs would be located.

Gallop asked if the directional signs would be visible from neighboring residences. Thomas stated that the signs associated with the drive-up window would be relatively small. Staff considered the signs on the canopy as directional and did not include them in the wall sign calculation. They would be important to regulate traffic.

Allendorf asked for staff's reaction to Mr. Tippman's comments and to address the concern of setting a precedent. Teague stated that staff determined that the property did not demonstrate a hardship to warrant signage over and above what is allowed by the ordinance. Staff recommended that the applicant provide a sign plan that met ordinance requirements. The directional signs were not calculated in the wall sign total. Chair Hart confirmed with Teague that the signs checked on page A-21 of the staff report were considered directional signs and were essentially approved.

Allendorf confirmed with Teague that page A-20 of the staff report identified the signs that did not meet ordinance requirements.

Chair Hart discussed with Teague what was included in the final sign calculation.

Gallop asked what it would take to bring the two main signs into compliance with the ordinance. Thomas stated that the pylon sign would have to be reduced from 24 feet to 15 feet in height and reduced in overall area to less than 60 square feet. The reader board is in violation of the ordinance. The smaller monument signs are not allowed when a pylon sign is at the same location.

Allendorf asked what it would take to make signs "A" and "C" in conformance with ordinance standards. Thomas stated that the CVS Pharmacy sign "A" would need to be reduced in size. Product and service advertisements are not allowed on pylon signs.

Chair Hart confirmed that the alternate pylon shown by Mr. Tippman would meet ordinance size requirements, but the reader board would not be allowed.

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

Bonoff supported staff's desire to be consistent with the sign ordinance. She understood a new business' challenge to be identified in a community and what a marketing challenge that is. She appreciates the way the city looks without huge signs, but she understood the signs' importance.

Allendorf viewed a building similar to a Walgreens as a quite prominent structure. A 13,000 square foot building, 24 feet in height would be unavoidable, especially on the corner. He was also sympathetic to a new business, but he felt the sign ordinance and height of the building allowed every bit of advertising necessary for consumers to find it. He saw no hardship. He supported staff's recommendation. He suggested that it be made clear that the signs on page A21 of the staff report are not part of the proposal's signs that are in noncompliance.

Chair Hart read the note that indicated that the signs on page A21 of the staff report were not included in the wall sign calculation, but she did not understand that those signs were not part of the signs that required a variance. She approved of the building design and thought the new building and landscaping would be an improvement. She suggested that staff meet with the applicant to create a new sign proposal.

Gallop concurred with Hart. The existing structure does not meet setback requirements and the new building would be an improvement. He supported the setback variances and the conditional use permit, but felt that the signs should be in accordance with ordinance requirements.

Allendorf moved, second by Maes, to recommend that the city council approve the following items concerning a new CVS Pharmacy at 11525 Excelsior Boulevard for Bear Creek Capital (95052.04a):

- 1) *Recommend that the city council approve the site and building plans, with setback variances, for CVS Pharmacy at 11525 Excelsior Boulevard for Bear Creek Capital. Approval is based on the following findings:*
 - a. Apart from requested setback variances, the proposal would meet the required standards and ordinances for a site and building plan approval.
 - b. The proposal would meet the required standards for a variance, because:
 - (1) There is a unique hardship to the property caused by the “corner lot” status of the property. Required setbacks present a functional difficulty in trying to accommodate a commercial building, required parking, and an appropriate drive aisle for the proposed pharmacy pick-up window.
 - (2) The variance would meet the intent of the ordinance because:
 - a) The proposed CVS Pharmacy building would have a smaller footprint and greater overall setbacks than the existing building. The proposal would, therefore, decrease non-conformities
 - b) The proposed variance would have no visual affect on the surrounding area.

Approval of the site and building plans is subject to the following conditions:

- a. Subject to staff approval, the site must be developed and maintained in substantial conformance with the following plans, unless modified by the conditions below:

- Site plan dated March 29, 2004.
- Grading plan dated March 29, 2004.
- Landscaping plan dated March 29, 2004.
- Building elevations dated March 29, 2004.

b. The following work must be completed before the city issues a grading permit or before starting any site work:

(1) Provide the following documents for the city attorney's approval:

- a) Cross-access and cross-maintenance agreements between the properties at 11525 and 11523 Excelsior Boulevard.
- b) A driveway easement over 11415 Excelsior Boulevard.

(2) Submit the following plans for staff approval:

- a) Final site, grading, drainage, utility and erosion control. Plans must include:
 - 1. Two additional catch basins at either side of the entrance drive to Shady Oak Road.
 - 2. If required by the Fire Marshall, a second hydrant at the northeast end of the site in the island, to be served off existing water service.
 - 3. Removal of multiple sewer stubs. One service is allowed to the building.
- b) Final landscape plan and irrigation plan. Balsam fir trees must be replaced with Austrian or Norway pines or Black Hills spruce
- c) Internal circulation plan between 11525 and 11523 Excelsior Boulevard.
- d) A construction management plan.

- (3) The installation and maintenance of temporary rock driveways, erosion control, tree protection and wetland protection fencing for each lot must be installed, subject to review by the city's environment resources coordinator
 - (4) Submit a letter of credit or cash escrow for 150% of the estimated cost to comply with grading permit requirements and restore the site.
 - (5) If required, submit copies of the watershed district permit. The city may require revisions to the approved plans to meet the district's requirements.
 - (6) Submit copies of county access permit.
- c. The following must be submitted to the city before the city issues a building permit:
- (1) A letter of credit or cash escrow for 150% of the estimated cost of all required landscaping
 - (2) An illumination plan for staff approval
 - (3) All required hook-up fees
- d. The property owner is responsible for replacing any required landscaping that dies.
- e. 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.
- f. Approval does not include the signs shown on the drawings. Separate permits are required from staff.
- g. Construction must begin by December 31, 2005, unless the city council grants a time extension.

- d. Approval of such signs, for a highly visible location and building, may establish a precedent for future similar requests.

***Bonoff, Britain, Gallop, Maes, Periolat, Allendorf, and Hart voted yes.
Motion carried.***

9. ADJOURNMENT

Britain moved, second by Maes, to adjourn the meeting at 7:20 p.m. Motion carried unanimously.

By: _____
Lois T. Mason
Planning Secretary