

**MINNETONKA PLANNING COMMISSION  
MINUTES**

**JUNE 3, 2004**

**1. CALL TO ORDER**

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

**2. ROLL CALL**

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

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 with the modification listed in the June 3, 2004 change memo.

Olson explained that, due to the absence of two commissioners, five-vote items still required five votes to carry a motion. Four-vote items required a simple majority, three out of the five commissioners, to carry a motion.

**4. APPROVAL OF MINUTES:** May 20, 2004

***Bonoff moved, second by Periolat, to approve the May 20, 2004, meeting minutes as submitted.***

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

**5. REPORT FROM STAFF**

Olson briefed the Commission on land use applications considered by the City Council at its meeting of May 24, 2004:

- Adopted a resolution approving final plans and acquisition of easements and wetland and floodplain issues 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.
- Adopted a resolution approving the site and building plan review with setback variances and a resolution approving a conditional use permit

concerning a new CVS Pharmacy at 11525 Excelsior Boulevard for Bear Creek Capital. The city council denied multiple sign variances, in accordance with the planning commission's recommendation.

- Adopted an ordinance rezoning 5621 Smetana Drive from B-2, limited business, to R-5, high density residential, for JLT Group, Inc., represented by Kurt Williamson.

Olson informed commissioners that the city council is holding a study session Monday, June 7, 2004, to discuss potential changes to development standards. Natural resource and lot behind lot standards will be reviewed. Olson felt the Crosby Cove project prompted councilmembers to consider requiring tree preservation, as well as replacement, in some situations. Limiting the maximum floor area or tying a specific house plan to a plat will also be discussed.

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

**7. PUBLIC HEARINGS: CONSENT AGENDA**

Item 7C, a resolution approving a rear-yard setback variance from 32 feet to 25 feet for a remodeling project at 4908 Williston Road for Doug Holmquist (86112.04a), was removed from the consent agenda for discussion and separate action.

***Allendorf moved, second by Gallop, to approve items 7A and 7B as listed on the Consent Agenda and as recommended in the respective staff reports as follows:***

- A. Resolution approving a conditional use permit for telecommunications antennas and ground equipment, with a wetland setback variance from 35 feet to 10 feet, at the northwest corner of Stone Road and I-494 for Voicestream Minneapolis (93039.04a)**

Recommend that the city council adopt the resolution on pages A1–A3a of the staff report, which approves the proposed conditional use permit with a wetland setback variance from 35 feet to 10 feet for the ground equipment. This resolution is based on the following findings:

- 1) The city code recognizes telecommunications facilities as valuable public resources.

- 2) With the exception of the setback variance, the proposal meets all of the conditional use permit standards.

Approval is subject to the following conditions:

- 1) Record this resolution with the county before the city issues a building permit.
- 2) With the exception of relocating the ground equipment to the east side of the public trail, the site must be developed and maintained in substantial conformance with the plans dated May 3, 2004.
- 3) The exterior surface of the antennas and equipment must be painted to match the existing power tower.
- 4) The ground equipment must maintain a 10-foot setback from the delineated wetland.
- 5) If the existing vegetation around the ground equipment dies, the applicant must replace it with year round screening, subject to staff approval.
- 6) The city council may reasonably add or revise conditions to address any future unforeseen problems.
- 7) The applicant must agree to the above conditions in writing.

**B. Resolution approving an aggregate side-yard setback variance from 30 feet to 28 feet to build a two-car garage addition onto the home at 2313 Essex Road Nevin Nolder (04034.04a)**

Adopt the resolution on pages A1–A3 of the staff report. This resolution approves an aggregate side yard setback variance from 30 feet to 28 feet at 2313 Essex Road, 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 position of the home on the lot is at an angle, creating a hardship.
2. The variance would be consistent with the spirit and intent of this ordinance for the following reasons:

- a. The variance requested is a minor point-intrusion into the 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.

***Gallop, Periolat, Allendorf, Bonoff, and Hart voted yes. Maes and Britain were absent. Motion carried and items 7A and 7B on the Consent Agenda were approved as submitted.***

## **8. PUBLIC HEARINGS**

### **A. Resolution approving a rear-yard setback variance from 32 feet to 25 feet for a remodeling project at 4908 Williston Road for Doug Holmquist (86112.04a)**

Chair Hart 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.

Teague explained that the point intrusion would be created if the existing residence would be torn down and rebuilt using the footings of the detached garage.

Gallop asked if the variance would be 24.5 feet or 25 feet. Teague confirmed that the measurement was rounded-up to 25 feet.

Doug Holmquist, 4908 Williston Road, applicant, described the difficulties of the site. The goal of the project is to make the entry safer and more easily accessible. The variance would cause minimal impact to the neighborhood. He described the landscaping of the site. The structure is a two-story structure. He wishes to join the two structures.

The public hearing was opened.

Jan Hoyt, resides behind the applicant property, she came to the meeting concerned it would decrease the value of her property. She strongly approved the proposal and stated the applicant is an excellent neighbor.

No additional testimony was submitted and the hearing was closed.

***Allendorf moved, second by Periolat to adopt the resolution on pages A1–A3 of the staff report. This resolution approves a rear-yard setback variance from 32 feet to 25 feet at 4908 Williston Road, 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 detached garage is located within the required rear yard setback.
  - b. The site contains mature trees and slopes, which the applicant is avoiding by using the same footprint of the original home and detached garage.
- 2) The variance would be consistent with the spirit and intent of this ordinance for the following reasons:
  - a. The proposed addition is for a point intrusion of 74 square feet into the required setback.
  - b. There will be no adverse impact on neighboring properties, as the nearest home is 95 feet away.
  - 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.

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

**B. Conditional use permit for a learning center and special education school in an industrial zoned district at 11140 Bren Road for Intermediate School District 287 (04033.04a)**

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.

Gallop was concerned with the access. He asked if additional signs would direct traffic. Thomas stated that a condition of approval would require signs indicating the entrance to the staff and student parking area. Thomas explained that there would be direct access to the south side of the site, without having to circle around Bren Road.

Sandy Lewandowski, assistant superintendent, representing the applicant, introduced others who were present to answer questions: Director of Special Education Laura-Keller-Gautsch, Director of Business Services Mark Case, EBD Supervisor Nancy Trautman, Bren Road Project Coordinator Chris Helgestad, and Sergeant Lauri Drier of the St. Louis Park Police Department. Ms. Lewandowski stated:

- The school provides services for 13 school districts.
- The anchor program for the proposed site would be the explore emotional/behavioral disorders program.
- The program has been at the Eliot School in St. Louis Park for the last 12 years. They are moving because the building needs renovation and repair, not because of any problems with the city or neighborhood. The school board preferred not to rebuild on the same site because it would require a referendum.
- There would be room for offices for Hennepin County Probation offers in the proposed facility.
- The students almost never drive to the site. Students take the bus.
- There are almost no evening programs.
- Approximately 70 students to 100 students in grades 8 through 12 would attend the school. It would accommodate girls and boys.
- The cognitive ability of the students ranges from low functioning to gifted and talented. They are all classified as “emotionally and behaviorally disturbed.” Typically they are working on integrating

into a mainstream school and completing their high school diplomas.

- It is unusual for the school to receive a complaint call from a resident, maybe one or two each year.
- The explore program busses their students. If they add the area learning center program, there would be student drivers.
- There would be a full-time police liaison officer, security cameras, and limited entry and exit points. The student staff ratio would be maintained at four students to each staff member.
- District 287 has a high success rate with these types of students.
- The district would be active and proactive to be a valuable part of the community.
- Students do not live in the area, so they would not hang around after school.
- They would support preparing a regular newsletter and annual survey for residents.

Gallop asked if the Eliot School is currently located in the middle of a residential neighborhood. Ms. Lewandowski answered in the affirmative. She stated that the behavioral problems are handled inside the school by the full-time, on-site police liaison officer. The school has not had problems with the students causing problems in the neighborhood.

Sgt. Drier stated that the facility was beneficial for training officers and she was sad to have the facility leave St. Louis Park. The police department enjoyed a cooperative relationship with the school. The police department did not get calls regarding students loitering. Many calls were received from residents regarding students from the regular high school loitering in neighborhoods.

Allendorf asked the meaning of "resource intensive." Ms. Lewandowski explained that each child's needs are met. This often includes a high staff to student ratio that includes teachers, psychologists, aids, and police liaison officer. Sgt. Drier explained that the police liaison officer works with the students to work out issues before they became "criminal" issues. In the 2003-2004 school year, the department received 180 calls.

Bonoff asked the nature of the calls. Sgt. Drier stated that the calls all occurred inside the building. The main type of call was for disorderly conduct. The students deal with anger issues and are taught to deescalate their anger, but when one is unable to, that's when intervention may be needed. There was no problem with weapons being brought in. Security is located at the doors all day and the facility is locked.

Minnetonka Chief of Police Joy Rikala met with the school staff to address two main concerns: impact on police services and the impact on the surrounding residences. She spoke to a member of the St. Louis Park Police Department and reviewed two years of calls that the police liaison officer handled internally. Most of the calls were disturbance calls contained within the building. There was no evidence of external impact. Minnetonka currently has police liaison officers in high schools where one officer is responsible for 1800 students. The facility's staff is trained to intervene with behavior problems. The district would fully fund the police liaison position. There was no evidence of criminal behavior in the surrounding neighborhood at Eliot School. Chief Rikala anticipated the proposed location would have the same outcome. Students generally do not live in the area, so they do not walk to or from home. The proposed site would be appropriate.

Allendorf asked what the liaison officer would do before and after school. He recognized the after-school hours as the time when most teen-related offenses occurred. Chief Rikala stated that it would be appropriate for the officer to make sure that students met their appropriate transportation. District squads would also be in the area.

Periolat asked how many students drive to the current school. Ms. Lewandowski stated that no student drives to the Explorer program. There may be, on a rare occasion, one student who may be on special privilege and transitioning back to his or her high school that would have access to a car. That would happen no more than once or twice a year. If an area learning center was operational in the proposed facility, approximately 75 students to 100 students would drive to the site.

In response to Periolat's question, Ms. Lewandowski explained that an area learning center program is a program for students with learning problems, but not behavioral problems. Every school district has an area center learning program with small group, customized programs. The students chose to attend the learning center program.

Periolat asked Chief Rikala's what her greatest concern regarding the proposal was and if her concern had been addressed. Chief Rikala stated that her greatest concern was the potential impact on her staff. The school district is fully funding the liaison officer, so that alleviated her main concern and would result in adding to her staff. She was impressed that the school's staff is trained to do hands-on interventions and that Hennepin County Probation Officers would have offices in the facility.

Bonoff questioned if the students would be allowed to leave the building at any time, including the lunch hour. Ms. Lewandowski stated that students are never out of site of a staff member. She stated that the police liaison officer would be available to be present when students load the buses, but that staff constantly interacts with students from the door to the bus to assure that the transfer occurs successfully. She stated that the students are highly supervised.

Gallop asked about evening meetings or classes. Ms. Lewandowski stated that an occasional in-service meeting for staff or with parents takes place, but probably no more than once per month.

Chief Rikala noted the number of complaints received from neighbors of open campus high schools related to traffic occurring throughout the day. Having a closed campus would provide a significant difference.

The public hearing was opened.

Michelle Shrimbetta, 5641 Pompano Drive, was concerned that the programs in addition to the Explorer program were not taken into consideration when determining how the surrounding area would be impacted. The additional programs would cause an increase in the number of students and drivers. There would be no road or physical barrier between the school and the parking lot. Dead trees were removed from the berm, but no trees were planted to replace them. She asked that a physical barrier be located between her residence and the site. Chair Hart clarified that the student count would remain the same if the learning center program would be housed at the proposed facility. The only impact would be the number of students driving.

Ms. Lewandowski stated that housing probation officers at the facility would be positive in that some of the students have been assigned a probation officer. The facility would collocate 12 probation officers to 14 probation officers from the county in the building. Probation officers currently meet at the Eliot school.

Teague stated that staff would review the landscaping plan to determine if the trees are a condition of approval and, therefore, required to be replaced. Chair Hart suggested that the district meet with the neighbors to discuss providing a fence.

An area resident asked if the probation officers would service only the students at the school or if additional students would visit the site to see the probation officers.

Ms. Lewandowski stated that the arrangement with Hennepin County was orchestrated to promote a good use of public dollars. Most of the officers' case loads would be in other parts of the communities. The probation officers would travel to their clients, the clients would not see them at the school, unless they were students of the school.

Paul Heinz, 11112 Abbot Lane, questioned what would be the benefit to the residents surrounding the property and why it has to be located near residences since there is commercial property available. He had received different information regarding what grades and the number of students who would attend the school. He was concerned that the school district would be allowed to choose what programs the facility would house and he questioned if the impact study was done with proper knowledge of which program would be housed in the facility. The school district's web site described the students as "aggressive, academically poor, problems with truancy, and problems with authority." He assumed that's why there would be a large number of staff members per student. He assumed that they posed a higher risk for problems. He would prefer to go without 180 responses by the police department. He was concerned with the volume and quality of traffic. Students would create a larger incidence of loud music. He was concerned with crime and supervision. He drove by the St. Louis Park facility and saw one student standing outside the building. He wanted to know that when staff escorts a truant to the bus, that the escort makes sure the student gets on the bus. He did not understand the rationale why a student would not be attracted to the Quik Shop mart, which would be 20 feet from the facility. He was curious why the facility would be located next to a retail store that has its own level of crime.

Chair Hart reviewed that a traffic engineer would provide a report before approval would be determined. Chair Hart stated that schools are typically located in the middle of residential areas and that loud music accompanies students.

Ms. Lewandowski stated that Mr. Heinz referenced information provided for the Shady Oak facility that is a transition stage for developmentally disabled facility. The students are between 18 years and 21 years old.

Ms. Lewandowski stated that there are currently two seventh graders in the currently facility. The population of the Explorer program fluctuates because the students transition into different schools.

Sgt. Drier clarified that police handled 180 incidents at the Eliot School. Most of these incidents were handled solely by the school's liaison officer.

Ms. Lewandowski estimated that a student standing outside was under visual surveillance by an adult inside the school.

Chair Hart commented that the proposed use is allowed by ordinance. A school can be located in a residential area or in a mixed-use industrial residential area. So, unless specific conditions listed in the conditional use permit are not met, the planning commission would recommend the city council approve the application.

Wayne Vanhouse, 5641 Pompano Drive, agreed that loud music accompanies school property. He requested that property values have been set to accurately reflect being located near a school.

A resident supported the school and objected to the "not in my background" attitude.

Bob Davis, president of the homeowners association, stated that his main concern was the safety of walkers on the trails. Mr. Davis questioned the property values around Eliot School. The association has mixed feelings about the school. He invited the school district to attend their homeowners association meeting.

Allendorf asked what would happen if the district did not comply with the conditional use permit. Olson stated that the city council has the authority to revoke the conditional use permit.

No additional testimony was submitted and the hearing was closed.

Chair Hart reviewed the primary issue.

Allendorf noted that the information presented comforted him and that the findings for a conditional use permit were met, including the public safety issues. If there would be a problem, the city council has the authority to revoke the permit.

Gallop concurred. He understood the concerns of the neighborhood, but saw no reason to deny the conditional use permit. He supported the application.

Periolat stated that before coming to the meeting, she had concerns with the project and its safety impact on the neighbors. She decided to support the project and felt confident after hearing from Sgt. Drier and Chief Rikala. She recognized that students in public schools also have issues.

Bonoff noted that commissioners must make decisions in regard to what is good for the community as well as this specific neighborhood. She supported the project 100 percent, but had to research the safety risk. She found glowing reports of the district in her research. She was impressed with the presentations by Chief Rikala and Sgt. Drier.

Chair Hart resides in the Beachside Community. She supported the proposal.

***Gallop moved, second by Bonoff, to recommend that the city council adopt the resolution on pages A1–A5 of the staff report with the modification listed in the June 3, 2004 change memo, which approves a conditional use permit for a learning center and special education school in an industrial zoned district at 11140 Bren Road. This resolution is based on the finding that the proposal meets all conditional use permit standards. Approval is subject to the following conditions:***

- 1) The school district must come to an agreement with the City of Minnetonka Police Department to provide adequate funding for the delivery of police liaison services to meet the additional service needs that this special population will be adding.
- 2) Submit an emergency plan for police department review and approval.
- 3) The building must be sprinklered or meet all minimum building code requirements for schools.
- 4) A sign must be installed at the property's northerly drive noting the student and staff parking and entrances. A sign must be installed at the southerly drive noting the visitor parking and entrance.
- 5) The district must notify city staff if student or staff numbers exceed the current proposal. Parking must be reevaluated at that time.
- 6) Record this resolution 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.
- 10) Before city council action, a traffic consultant must verify that the proposed school would not worsen the traffic service level on Bren Road and Shady Oak Road over what it would be with an office use in this building. The cost of the consultant must be paid by the school district.

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

**C. Items pertaining to a proposal for a two-lot subdivision at 3601 Prestige Lane for Lecy Bros. Homes on behalf of Andy and Joyce Mundahl (04035.04a):**

- 1) **Preliminary plat, with lot width at the right-of-way variance from 80 feet to 0 feet for Lot 1.**
- 2) **A rear yard setback variance from 40 to 25 feet for the existing home, and a shared driveway setback variance from 17 to 0 feet.**

Chair Hart 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.

Chair Hart asked what would be the width of the paved driveway. Teague stated that it would be subject to the fire marshal's approval. It would probably be ten feet to fourteen feet wide.

Gallop questioned if access to the fire hydrant was sufficient to not require the residence to be sprinklered. Teague stated that the proposed residence would be required to have a sprinkler system.

Andrew Mundahl was present with his wife Joyce and son, applicants. They bought their house 12 years ago. He had prepared a 30-minute presentation, but kept it shorter. They love their neighbors and neighborhood. They have added 12 trees to the property. They want to downsize into a new, smaller residence to be

built in the rear lot and sell the existing house. He and his wife request the planning commission approve the application.

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

Chair Hart reviewed the primary issues. She noted that the variances are needed to preserve significant trees on the site. She felt the request was reasonable.

Allendorf supported the proposal, but what bothered him was the distance between the garages. The distance appeared closer than 25 feet. Had it not been for saving the trees, the Mundahls planning on residing in the proposed residence, and the proposed residence being well screened, he would not like the proposal. But, it is a unique situation with all of those circumstances.

Gallop was not a strong supporter of lots behind lots, but, after walking the site, he found it very secluded.

***Allendorf moved, second by Bonoff, to recommend the city council approve the two-lot preliminary plat with lot width at the right-of-way variance from 80 feet to 0 feet for Lot 1, the driveway setback variance from 17 feet to 0 feet, and the rear yard setback variance from 40 feet to 25 feet for Lot 2. Approval is based on the following findings:***

- 1) The proposal meets the required standards and ordinances for a preliminary plat.
- 2) Variances requested are for the purpose of saving mature trees.
- 3) 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
  - b. Pay the city a park dedication fee of \$2,375.
- 2) The following items must be completed 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) Provide a 34-foot private driveway easement between the street right-of-way and Lot 1 that is acceptable to the city attorney. The easement shall state the maintenance responsibilities of each owner. The minimum driveway width shall be as required by the fire marshal.
    - (3) A private utility easement across Lot 2 to provide services to Lot 2.
    - (4) Provide restrictive covenants to be recorded against the individual lots with the plat. The covenants must include the conditions that have not been met as of the release of the plat. These covenants must first be submitted for the city attorney's approval.
    - (5) Conservation easements over the significant trees outside of the required setbacks, and a drawing of the easements for the approval of the city attorney. The easements and drawing must be recorded with the final 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 subject to staff approval. The plans must be in substantial compliance with the agreed building areas as required with the final plat. The sewer and water services must be shown to minimize impact to the significant trees.
  - b. All trees to be preserved must be fenced and erosion control measures must be installed for staff approval.
  - c. Hook up fees.
  - d. A copy of the recorded plat and any easements or covenants required to be recorded.
  - e. The new home must be installed with a sprinkler system as approved by the fire marshal.
  - 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.
- 4) During construction, the streets must be kept free of debris and sediment, and the tree protection fencing and erosion control fencing must be maintained.
- 5) Trees must be planted to compensate for significant trees removed from each site that would be outside of the building pad and driveway area. The trees must be primarily species native to the area. They must be at least 2 1/2 inches in diameter for deciduous trees and 6 feet tall for coniferous trees. The property owner or original developer must replace the required trees if they die within one year after installation.
- 6) Before the city makes a final inspection of the house, the drive must be paved from the street to the house on Lot 1. A driveway setback of at least 30 feet must be maintained from the side lot lines. The city may approve a time extension if weather prevents paving of the drive.
- 7) 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.

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

Chair Hart stated that the item is tentatively scheduled to be reviewed by the city council on June 8, 2004.

**9. ADJOURNMENT**

***Bonoff moved, second by Periolat, to adjourn the meeting at 8:25 p.m. Motion carried unanimously.***

By: \_\_\_\_\_

Lois T. Mason  
Planning Secretary