

**MINNETONKA PLANNING COMMISSION
MINUTES**

JUNE 17, 2004

1. CALL TO ORDER

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

2. ROLL CALL

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

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

- 3. APPROVAL OF AGENDA:** The agenda was approved as submitted with a modification to Item 8A, a resolution approving side-yard setback variances for a new two-stall garage at 5142 Woodridge Road for Steven Erickson (04039.04a), as listed in the change memo dated June 17, 2004 and the removal of Item 8C, an ordinance approving a major amendment of a master development plan with final site and building plan at 408 Parkers Lake Road for Yellowstone Trail LLC (03001.04a). The applicant withdrew the application. She modified her plans to meet ordinance requirements.

- 4. APPROVAL OF MINUTES:** June 3, 2004

Bonoff moved, second by Periolat, to approve the June 3, 2004, meeting minutes as submitted.

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

5. REPORT FROM STAFF

Olson briefed the commission on land use applications considered by the city council at its meeting of June 14, 2004:

- Adopted a resolution approving a conditional use permit for telecommunications antennas and ground equipment at 10700 Cedar Lake Road for Voicestream Minneapolis.
- Adopted a preliminary plat, with buildable area variances, to divide the property at 16451 McGinty Road West into two lots for Chad Winter.

- Referred an ordinance rezoning 5431 and 5439 Williston Road from R-1, low-density residential, to PUD, planned unit development for MSC Concrete, Inc. to be reviewed by the planning commission in July 2004.
- Affirmed the planning commission's denial of a request for approval of multiple variances to tear down and rebuild a home at 2505 Bantas Point Lane for Kathleen Nelson. The city council felt that the small lot could not accommodate the proposed three-story residence in a neighborhood that was predominantly single-level residences.
- Upheld the planning commission's denial of a lot area variance with a floodplain setback and buildable area variance and ordinance amending the floodplain district boundary concerning construction of a single-family home on the vacant property at 3505 Elmo Road for Mary Anders. The city council agreed with the planning commission's findings for denial.

Olson briefed the commission on the issues discussed by the city council at its June 7, 2004 study session. The major change discussed regarding the development standards would replace the tree replacement ordinance with a tree preservation ordinance. Specific wooded lots would be identified and preserved, although density of the site would not be reduced by more than one-third, regardless of the number of significant trees on the site.

The city council discussed expanding the shoreland ordinance from 150 feet to 300 feet from streams and 1,000 feet from lakes. The Department of Natural Resources requires this change.

The city council looked at increasing lot behind lot setbacks from 25 feet, in all directions, to 40 feet on the lot line closest to the street and 40 feet on the rear lot line to add additional distance. An ordinance change will be drafted and referred to the planning commission for review in the future.

6. REPORT FROM PLANNING COMMISSION MEMBERS: Chair Hart and Periolat attended a seminar where Minnetonka City Attorney Desyl Peterson instructed council members, commission members, and city staff. They found the training very beneficial.

7. PUBLIC HEARINGS: CONSENT AGENDA

No items were removed from the consent agenda for discussion or separate action.

Allendorf moved, second by Britain, to approve the items listed on the consent agenda as recommended in the respective staff reports as follows:

A. Resolution approving side-yard setback variances for a new two-stall garage at 5142 Woodridge Road for Steven Erickson (04039.04a)

Adopt the resolution on pages A1–A3 of the staff report, which approves the proposed variance. This resolution approves a side yard setback variance from 10 feet to 8 feet and an aggregate side-yard variance from 30 feet to 27 feet at 5142 Woodridge 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 hardship is caused by the narrow width of the lot and the existing location of the home.
- 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 north and south.
 - 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) Require tree protection fencing prior to grading and construction around all trees to be saved.
- 3) 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.

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

8. PUBLIC HEARINGS

A. Conditional use permit, with setback variances, for an accessory structure over 12 feet in height and 1,000 square-feet in area at 3901 County Road 101 for Ray and Betty Sufka (04038.04a)

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

Thomas reported. She recommended denial of the application based on the findings listed in the staff report.

Maes asked if a variance would be needed to build a one-story garage if the exact footprint would be used. Thomas stated that a setback variance would still be required. A structure 12 feet in height would require a 10-foot setback from the north property line. The proposal would have a 5-foot setback.

Gallop asked if staff discussed a shorter building with the applicant. Thomas answered in the affirmative. The applicant did not want to change the plans. Gallop asked if staff would have considered the variances more favorably if the structure had been proposed as a one-story. Thomas stated that, generally, staff would not support a full two-story structure, the proposed roofline, or the proposed setbacks.

Maes asked if the pole included in a photograph represented the height of the proposed structure. Thomas explained that the picture was provided by the applicant and invited the applicant to comment.

In response to Chair Hart's question, Thomas confirmed that the property line abuts the existing county right-of-way. The county purchased 11 feet of property. The trail would be located within the 11 feet.

Allendorf questioned if the stakes currently located on the site indicated the new property boundaries. Thomas answered in the affirmative. She stated that the trail would be west of the new lot line.

Bonoff asked Thomas to explain the modification made by the change memo. Thomas provided a revised map of the trail and right-of-way and compared it to the applicant's drawing.

John Powers, 3611 Rainbow Drive, represented Ray Sufka, applicant, who was ill, and Betty Sufka, 3901 County Road 101, applicant, were present. Mr. Powers stated that:

- The county purchasing additional right-of-way made the front yard far less usable.
- Locating the garage in the northeast corner of the rear yard would be a hardship.
- The Sufkas extended the pad about four feet.
- The proposed location is the most reasonable location for the garage because of the steep incline.
- Four out of five residents who responded to the public hearing notice were in support of the project.
- The project would be consistent with the neighbors' properties.
- The applicant needs a 12-foot-high door to house a motor home.

Mr. Powers expressed that he appreciated working with Thomas.

Ms. Sufka stated that she and her husband have two children and a lot of toys and bikes. There is no storage in the house. Larger items, like a snowmobile, are stored at other locations. The applicants want to have a neat yard, have a place to store equipment, and protect the equipment from damaging weather.

Britain was not opposed to having a garage, but questioned why the height was necessary. Ms. Sufka stated that the height was necessary to accommodate a door to allow access to the garage for a motor home and storage room on top. She stated that the storage area could be brought down a little, but it would make it more difficult to get things in and out.

Britain asked the applicant to consider a shorter structure, which would utilize a wider footprint, and would be located more in the middle of the yard.

Allendorf agreed with Mr. Powers' assessment of Thomas' professionalism, on behalf of commissioners and staff. He understood the loss of property in the front, but felt that trying to use that to justify a two-story building five feet from a property line was a stretch. He did not understand why the second story storage was needed if the storage would be used for snowmobiles and similar equipment.

Chair Hart asked for the side yard setback requirement. Thomas explained that any structure over 12 feet in height would require a 15-foot setback, or the height of the building, whichever is greater.

Gallop asked about adding storage space to the south, rather than going vertically, to get closer to meeting ordinance regulations. Ms. Sufka had not

considered that idea. A basketball area is there. She stated that it could be a possibility.

Mr. Powers stated that the essence of the proposal is accommodating a 12-foot garage door. Gallop noted that the applicant could consider tabling the planning commission's action on the application to reconsider modifying the plan. He favored limiting the structure's height to 12 feet to 14 feet, even if setback variances would be needed. Ms. Sufka asked if a peaked roof would make a difference. Gallop did not want to comment on the proposal's structural design, but staff could provide additional guidance. He wanted the applicant to be successful, but he had trouble supporting the current application.

Periolat referenced the applicant's letter that indicated that the upper area would be used as a play area. She questioned if it would be used for storage or play area. Ms. Sufka stated that they hoped it would accommodate both.

Maes complimented the applicant on the remodeling currently being done. She said it looked beautiful. She asked if the residence could be expanded to address the storage issue. Ms. Sufka stated that it was considered, but it would be too expensive.

Chair Hart commented that a standard garage is 24 feet by 24 feet. The height needed for the motor home would be allowed. The proposed structure would provide 1,632 square feet. She noted that it would be as large as some houses. Ms. Sufka stated that it would be screened. Ms. Hart stated that it would be visible from the side street and taller than the house.

Maes confirmed with Ms. Sufka that the pole in the picture represented the approximate height of the proposed structure.

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

Chair Hart reviewed the primary issues.

Britain acknowledged that the applicant needed a garage, but he was not comfortable with the current proposal. He encouraged them to work with staff.

Gallop concurred with Britain. He asked if the applicant preferred to withdraw the application or have the planning commissioners act on the item. Ms. Sufka requested that application be withdrawn.

- B. Items concerning proposed Big Buck Roadhouse restaurant and outdoor eating area at 17805 State Highway 7 (formerly Tiramisu) for Pomodoro, Inc. (93003.04a):**
- 1) Conditional use permit for an outdoor eating area, with a side yard setback variance; and**
 - 2) Site and building plan review for an expansion of the restaurant, with a setback variance for a small building addition and a variance to reduce the required number of parking stalls.**

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.

Gallop was concerned with a parking problem developing in the future. Teague stated that a condition would be included that would allow the conditional use permit to be reviewed in the future by the City Council if a parking problem developed.

Chair Hart confirmed with Teague that the ordinance would require 77 parking spaces for the project and the proposal would accommodate 73 spaces. The variance would be for 4 parking spaces.

Allendorf understood the main concern of the adjacent clinic was high school students monopolizing the street parking, rather than a parking problem created by patrons of Big Buck restaurant. Teague agreed. At times, the medical clinic would like to utilize street parking.

Gallop asked if the "no parking" signs were installed recently. Teague was unsure.

Bonoff asked what would be the estimated volume of lunch business. Teague stated that the applicant provided documentation that the on-site parking would handle the lunch parking.

Maes clarified that the applicant would lease the seventeen spaces. Teague confirmed.

Periolat agreed that the high school student parking shortage needed to be addressed. She asked if there are any improvements planned. Teague was not aware of any plans. The restaurant's peak parking need would occur at night when there would be no need for student parking.

Linda Fisher, 1500 Wells Fargo Plaza, attorney for the applicant, was present with the owners and applicants, Jennifer Jackson King and Elliot King. She felt the staff report was thorough and accurate. The applicants agreed with all of the conditions, except condition f, regarding outdoor speakers. The background music would be in compliance with the noise ordinance. She understood that staff was not aware of the applicant's intent to have background music and requested the condition be changed. Ms. Fisher stated:

- The applicant has reached an agreement to lease 17 parking spaces. The agreement would be recorded as a condition of approval.
- The 53 parking spaces would accommodate customer counts during the lunch hour. The number of parking spaces is sufficient.

Teague agreed with removing the condition prohibiting outdoor speakers and audio equipment. The applicant would be required to adhere to noise ordinance standards of an outdoor eating area.

Jennifer Jackson King, and Elliot King, 9560 Lake Town Road, Chaska, applicants, own and operate two other restaurants in Minneapolis. Ms. King stated that they were excited to own property in Minnetonka. She and her husband look forward to beautifying the area and redeveloping the corner. They work in their restaurants on a daily basis. They strive to provide a quality product and look forward to working in Minnetonka.

Bonoff recognized Ms. King from her regular visits to *Three Fish* and was happy that one would be located in Minnetonka. Ms. King introduced Greg Hackett.

Greg Hackett provided a presentation that illustrated the outside of the proposal. It included preserving the existing pine tree and including a recirculating pond along the west property line, next to the outdoor eating area. The area around the pond would be replanted with native wetland species. A vestibule would be constructed. He described the site's elevations and views. Additional outside coolers would be added because of the fresh food menu. The cooler would be enclosed with siding and a roof, so it will look like part of the building.

Chair Hart felt the plan looked very nice.

Gallop asked if the sign plan had been determined. Mr. Hacket stated that the existing signs would be replaced and be the same size. Small, directional signs might be added. Teague explained that a sign plan would be approved, unless it required a variance. The applicant intends to meet the requirements.

The public hearing was opened.

Brian Holtz, program manager for Tree House Youth Outreach, located in the building to the south of the site, stated that the program serves at-risk kids and their families. Tuesday, Wednesday, and Thursday nights are the programs peak times. He was concerned that parents would leave if they see a full parking lot. He hoped there would be no parking problems with the shared parking. He hoped that the parking would continue to be barrier free.

Chair Hart requested Teague indicate the property line that divides the shared parking. Teague complied. He pointed out the 10 shared parking stalls. The shared parking was required as part of the city's approval of the office building.

Gallop asked if signs designating the Tree House Youth Outreach parking stalls could be installed. Mr. Holtz stated that there were currently no such plans. He acknowledged that would be an option if needed.

Perolat asked if the parking issue could be brought back if a problem developed. Teague answered that if the two neighbors would be unable to resolve the situation, the city council could review the problem as a violation of the conditional use permit.

Bonoff suggested that the directional signs refer to both uses.

No additional testimony was submitted and the hearing was closed.

Chair Hart reviewed the primary issues.

Gallop was now comfortable with the parking issue and comfortable with the other variances. He supported the proposal.

Britain felt the proposed restaurant would upgrade the area and be a benefit to the city. He supported it.

Allendorf asked if the outdoor eating area's entrance would be controlled. He recalled the ordinance that required entrance through the restaurant. Teague

confirmed that the outdoor access door would be locked and only opened to allow access for maintenance equipment.

Allendorf thought the restaurant would be a great addition. Ms. King explained the type of menu. Meat would be smoked and roasted on the site. Pizza and pastas would be served. It would have a “homey” feel in rich, warm, jewel tones. Couples on a night out and families would feel comfortable.

In response to Gallop’s question, Ms. King stated that the restaurant plans to open November 1, 2004.

Britain moved, second by Allendorf, to recommend that the city council approve the following items concerning proposed Big Buck Roadhouse restaurant and outdoor eating area at 17805 State Highway 7 (formerly Tiramisu) for Pomodoro, Inc. (93003.04a) with the modifications listed in the change memo dated June 17, 2004 and the removal of the condition prohibiting outdoor speakers or audio equipment:

- 1) *Recommend that the city council adopt the resolution on pages A1-A6 of the staff report, approving the conditional use permit for a restaurant having on-sale intoxicating liquor and an outdoor eating area with the side yard setback variance from 20 to 11 feet.*

Approval is based on the following findings:

- a. The hardship is caused by the small lot size, and location of the existing building. An outdoor eating area could not be located on the site to meet the required setbacks, without removing necessary parking stalls.
- b. The outdoor eating area would be adjacent to a parking lot to the west; the proposed landscaping around the perimeter of the outdoor eating area would be an improvement over the existing condition of the site. (See page A13.)
- c. With the extra leased parking spaces and the shared spaces, the use would have adequate parking spaces.
- d. The peak usage for the restaurant would be Friday nights and the weekends, which are times when the adjacent office is closed.

- e. The proposal meets the standards outlined in the city code, Section 300.21.2, regarding general standards for conditional use permits for business zoning districts.
- f. With the exception of the setback variance, the proposal meets the standards outlined in the city code, Section 300.21.4. r, regarding accessory sidewalk cafes and outdoor eating areas.

Approval is subject to the following conditions:

- a. Record this resolution with the county within one year from the date of city council approval.
 - b. The site must be developed per the landscape plans date stamped March 22, 2004.
 - c. In order to serve liquor within the outdoor eating area, a liquor license must be obtained.
 - d. Proper fencing must be installed subject to review and approval of the city fire marshal, and per the satisfaction of the conditions of a liquor license. The fence must not be interrupted.
 - e. The outdoor eating area must be equipped with refuse containers and periodically patrolled for litter pick-up.
 - f. The outdoor eating area may not have speakers or audio equipment that is audible from adjacent property.
 - g. The city council may reasonably add or revise conditions to address any future unforeseen problems.
 - h. 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.
 - i. An additional 17 spaces must be leased from the adjacent office site.
 - j. The applicant must agree to the above conditions in writing.
- 2) *Recommend that the city council approve the site and building plan review for an expansion of the restaurant, with a setback variance from 20 feet to*

1 foot for a small building addition and a parking stall variance from 77 to 73 stalls.

Approval is based on the following findings:

- a. The hardship is caused by the small lot size, and location of the existing building. An addition to the building could not be made to the east side of the building without a variance.
- b. There is no room on the site to provide extra parking spaces.
- c. With the extra leased parking spaces and the shared spaces from adjacent sites, the use would have adequate parking spaces.
- d. The peak usage for the restaurant would be Friday nights and the weekends, which are times when the adjacent office is closed.
- e. The adjacent office site contains 50 spaces, but is only required 30 spaces based on the size of the building

Approval is subject to the following conditions:

- a. The site must be developed per the landscape plans date stamped March 22, 2004.
- b. An additional 17 spaces must be leased from the adjacent office site.

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

- C. Ordinance approving a major amendment of a master development plan with final site and building plan at 408 Parkers Lake Road for Yellowstone Trail LLC (03001.04a)**

Was withdrawn from the agenda at the applicant's request.

9. ADJOURNMENT

***Maes moved, second by Allendorf, to adjourn the meeting at 7:53 p.m.
Motion carried unanimously.***

By: _____
Lois T. Mason
Planning Secretary