

**MINNETONKA PLANNING COMMISSION
MINUTES**

SEPTEMBER 23, 2004

1. CALL TO ORDER

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

2. ROLL CALL

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

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

- 3. APPROVAL OF AGENDA:** The agenda was approved as submitted with the changes provided in the September 23, 2004 change memo. Olson explained that, due to the absence of two commissioners, four-vote items would require three votes to pass a motion and five-vote items would still require five votes to pass a motion.

- 4. APPROVAL OF MINUTES:** September 2, 2004

Gallop moved, second by Britain, to approve the September 2, 2004, meeting minutes as submitted with the changes from the change memo dated September 23, 2004:

Page 5:

- There was no technology on the immediate horizon that would allow for a more aesthetically pleasing tower.

Page 9:

- Chair Hart did not think that using guy wires to reduce the tower width ~~height~~ would be a significant improvement.

Allendorf, Britain, Gallop, Maes, and Hart voted yes. Bonoff and Periolat 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 September 13, 2004:

- Adopted a resolution approving a resolution approving a conditional use permit for an impervious trail in a required wetland buffer and site and building plan review concerning Knollway Park for Brauer & Associates, Ltd.
- Adopted a resolution approving the master development plan, with variances, for an office building at the southwest corner of the intersection of Hopkins Crossroads and Wayzata Boulevard for the Shelter Corporation.
- Adopted a resolution approving the preliminary plat and variance for a three-lot subdivision at 3634 Rainbow Drive for Capestone Builders Corporation.

Olson invited everyone to the fire department and city hall open house October 5, 2004 from 5 p.m. to 8 p.m.

6. **REPORT FROM PLANNING COMMISSION MEMBERS:** Chair Hart recommended a seminar on site planning she attended.

7. **PUBLIC HEARINGS: CONSENT AGENDA**

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

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

A. Minor amendment to a master development plan to expand and reconfigure the Ridgedale Regional Center parking lot at 12601 Ridgedale Drive (96033.04a)

Approve the minor amendment for parking lot expansion and reconfiguration at the Ridgedale Regional Center at 12601 Ridgedale Drive. Approval is based on the finding that the proposal would 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:

- Site plan, date-stamped August 5, 2004
- Grading plan, date-stamped August 5, 2004
- Landscape plan, date-stamped August 5, 2004

The above plans are hereby adopted as amendments to the previously adopted plans.

- 2) Before starting any site work, submit the following for staff approval:
 - a. Grading permit application and associated plans.
 - b. Construction Management Plan. No patron, employee, or construction vehicles may be parked on any adjacent street.
- 3) To ensure equal replacement of trees, additional deciduous trees must be incorporated into the landscape, as required by staff.
- 4) Erosion control fencing must be installed for staff review and approval before the city issues a grading permit.
- 5) During construction, the streets must be kept free of debris and sediment, and the tree protection fencing and erosion control fencing must be maintained.
- 6) Construction must begin by December 31, 2005, unless the planning commission grants a time extension.

B. Conditional use permit, with variances, for a medical use at the Ridgehill Professional Building at 2000 Plymouth Road for Now Care Medical Center (88105.04a)

Adopt the resolution on pages A1–A4 of the staff report. This resolution approves a conditional use permit, with variance, for medical use of the Ridgehill Professional Building at 2000 Plymouth Road for Now Care Medical Center. This resolution is based on the following findings:

- 1) Strict enforcement would cause undue hardship because of the following circumstances that are unique to this property:

- a. The discrepancy between the zoning and the guide plan for the property, together with the historical medical use of the building, present a practical difficulty.
 - b. The city previously allowed medical use of this building. New medical use in the building would be permitted by conditional use permit, without variance, with the future higher-density development of the property to the south. However, the use is not currently allowed without a variance. This is a unique circumstance, not common to every similarly zoned property.
- 2) The variance would be consistent with the spirit and intent of this ordinance for the following reasons:
- a. The proposed medical use of the building is reasonable. The city has received no complaints regarding the previous medical uses in the building.
 - b. The building has been completely or partially occupied by medical uses since its construction. The current conditional use permit request would not alter the character of the neighborhood

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) Exterior trash and recycling storage must be placed in a masonry enclosure compatible with the principle structure.
- 3) Spaces shown as proof-of-parking may not be paved, unless approved by the city upon showing a demonstrated need for these spaces. Staff may require additional landscaping adjacent to the new parking area at that time.

C. Conditional use permit for a farmer's market at the southwest corner of the Westwind Plaza Shopping Center for Craig Gilb (88030.04a)

Recommend that the city council adopt the resolution on pages A1–A6 of the staff report. This resolution approves a conditional use permit for a vegetable stand in the Westwind Plaza parking lot for Sever Peterson of Sever's Farm

Market. Approval is based on the finding that the proposal meets the required conditional use permit standards and is subject to the following conditions:

- 1) Record this resolution with the county.
- 2) The vegetable stand may be operated July through September.
- 3) Any display of items must be limited to representative samples and must be arranged in as compact a manner as reasonably practicable.
- 4) Any change in the person, location, or items sold at the stand renders this permit invalid.
- 5) This approval does not approve any signs at the site. A sign permit application must be submitted for staff review and approval. Any proposed sign must be requirements outlined in city code.
- 6) Violation of any conditional use permit standards outlined in city code will result in immediate revocation of the conditional use 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.

D. Rear-yard setback variance for an addition to the home at 12838 Burwell Drive for GS Buildings (04063.04a)

Adopt the resolution on pages A1–A3 of the staff report, which approves the proposed variance from 36 feet to 29 feet at 12838 Burwell Drive. This resolution is based on the following findings:

- 1) Strict enforcement would cause undue hardship because of the following circumstances that are unique to this property:
 - a. The hardship is caused by the existing location of the home, which was constructed at an angle to the rear lot line.

- 2) The variance would meet the intent of the ordinance since:
 - a. The proposal would be a point intrusion into the required setback. There would still be adequate separation between the home and rear property line.
 - b. The proposed addition would not affect 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) The installation and maintenance of a temporary rock driveway, erosion control, tree protection and wetland protection fencing must be installed, subject to review by the city's environmental resources coordinator.
- 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.

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

Allendorf appreciated the reconfiguration of the Ridgedale library.

Chair Hart explained that Items 7A, minor amendment to a master development plan to expand and reconfigure the Ridgedale Regional Center parking lot at 12601 Ridgedale Drive (96033.04a), and 7D, rear-yard setback variance for an addition to the home at 12838 Burwell Drive for GS Buildings (04063.04a), are final decisions that can be appealed to the city council. Items 7B, conditional use permit, with variances, for a medical use at the Ridgehill Professional Building at 2000 Plymouth Road for Now Care Medical Center (88105.04a), and 7C, conditional use permit for a farmer's market at the southwest corner of the Westwind Plaza Shopping Center for Craig Gilb (88030.04a), are recommendations to the city council that are tentatively scheduled to be reviewed at its October 4, 2004 meeting.

8. PUBLIC HEARINGS

A. Preliminary plat for a three-lot subdivision, with lot width at the right-of-way variances for two lots at 2637 Plymouth Road for Curt Fretham (90011.03a)

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 asked when the access to the north would be created. Teague stated that the property owner currently has no desire to develop the site, so it would be difficult to predict.

Gallop asked if the curb cut would be removed at that time. Teague explained that the curb cut would remain for the existing home.

Britain questioned if the city would be required to install the public street if the "ghost plat" was approved. Teague explained that the city could construct the street at the expense of the developer or the developer could construct it. The city would maintain the street. The "ghost plat" would meet all ordinance requirements. The existing home would have to be removed.

Curt Fretham, 12716 Cedar Lake Road, applicant, felt that Teague did a good job explaining the project. He was present to answer questions.

Chair Hart confirmed with Mr. Fretham that he would be comfortable with locating the garage door at the north or west corner.

Chair Hart asked if the driveway with the loop would be reconstructed. Mr. Fretham stated that it would continue on and moved slightly, but it would remain where it was for the most part.

The public hearing was opened.

Sandy Wesley, 12610 Bent Tree Road, was concerned about drainage affecting her lot. Her residence is located on the lowest land. Teague reviewed the engineer's report. He stated that drainage from Lots 1 and 2 would travel toward Plymouth Road along the driveway. Drainage from Lot 3 and the easterly steep slopes would flow to the southeast pond. That pond has an outlet. The pond would be designed to accommodate four lots.

Ms. Wesley pointed out an area with a steep slope. Chair Hart demonstrated where the conservation easement would be implemented. Teague concurred.

No additional testimony was submitted and the hearing was closed.

Chair Hart reviewed the primary issues.

Britain complimented the staff and developer on creating a good plan. It would save as many trees as possible and preserve the character of the land.

Britain moved, second by Allendorf, to recommend that the city council give preliminary approval to Fretham 2nd Addition, date-stamped June 18, 2004, with lot width at the right-of-way variances from 80 to 0 feet for Lots 2 and 3 and a modification listed in the September 23, 2004 change memo. Approval is based on the following findings:

- 1) Except for the variances, the proposal meets the required standards and ordinances for a preliminary plat.
- 2) The proposal meets the required standards for a variance, because:
 - a. There is a unique hardship to the property caused by the mature trees on the property, and the existing home is setback over 300 feet from Plymouth Road.
 - b. The variance would meet the intent of the ordinance because the applicant could develop this property with a public street and meet all minimum zoning ordinance requirements. In doing so, over 30 mature trees would have to be removed from the site, and the existing home would have to be removed.
- 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. This would include extending the water line to the north property line along Lots 1 and 2 for future looping of the water main.
- b. Pay the city a park dedication fee of \$4,750.00.
 - c. If the developer is petitioning the city to construct the public improvements, the city council must order the improvements.
- 2) The following items must be submitted to the city 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. If the developer is constructing any public improvements, the developer must submit a signed agreement with the city. This agreement must guarantee that the developer will complete all public improvements and meet all city requirements. This agreement must include an escrow to ensure that the developer completes all public improvements and complies with all city regulations. This escrow must be a letter of credit or cash deposit. The amount must be 150% of the estimated cost of the improvements or 125% of the cost if based on actual bids.
 - d. 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) Conservation easements over the mature trees and extended 16.5 feet from the wetland. A drawing of the easements must be included for the approval of the city attorney. The easements and drawing must be recorded with the final plat.

- (3) A 34-foot wide private driveway easement between the street right-of-way extended to the north lot line between Lots 1 and 2, to allow for later connection to a public street. The easement must state the maintenance responsibilities of each owner. The minimum driveway width must be as required by the fire marshal. The easement must include language regarding the requirement to connect to the street to the north when and if it is constructed, and the removal of the existing driveway when and if the street to the north is constructed.
- (4) A private utility easement across Lot 1 and 3 to provide services to Lots 2 and 3.
- (5) Submit a special assessment waiver, in recordable form acceptable to the city attorney, agreeing to pay 100% of the cost for removing and restoring the existing driveway when the public street to the north is constructed, and the cost to extend the public street 90 feet to the south. The total costs not to exceed 125% of the city's current estimate (\$2,000 for the driveway and \$13,500 for the street), which will be increased annually for inflation. The waiver will bind all parcels in the subdivision, and the special assessments will be spread equally on each of them.
- (6) 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.

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

- 4) The following must be submitted to the city before the city issues a building permit:
 - a. A grading and tree preservation plan for each lot, 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. The installation and maintenance of a temporary rock driveway, erosion control, tree protection and wetland protection fencing for each lot must be installed, subject to review and approval of the city's environmental resources coordinator.
 - c. A copy of the recorded plat and any easements or covenants required to be recorded.
 - d. A hookup fee for sanitary sewer and water.
 - e. The minimum low floor elevation must be at least 992.0
 - 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.
 - g. The homes must be constructed in substantial compliance with the building pad locations shown on the grading plans date stamped June 18, 2004. That would include the garage opening on Lot 1 facing east, and the garage on Lot 2 facing north or west.
 - h. The two new homes must be constructed with an automatic fire sprinkler system.
- 5) During construction, the streets must be kept free of debris and sediment, and the tree protection fencing, and erosion control fencing must be maintained.
- 6) 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.
- 7) Before the city makes a final inspection of the homes on Lots 2 or 3, the drive must be paved from the street to the houses on these lots. A driveway setback of at least seven feet must be maintained from the side lot lines. The driveway must be constructed per the recommendation of the city engineer, including construction of a bituminous curb along the

south side of the driveway to direct drainage towards Plymouth Road. The city may approve a time extension if weather prevents paving of the drive.

- 8) All three homes must connect to the public street along the north lot line if and when the street has been constructed.
- 9) 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.

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

Chair Hart stated that the city council is tentatively scheduled to review the item at its October 4, 2004 meeting.

B. Parking lot setback variances to reconfigure the parking lot at 3435 County Road 101 for Boyer Building Corporation (04053.04a)

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

Teague reported. He recommended denial of the south variance and approval of the remainder of the application based on the findings and subject to the conditions listed in the staff report.

Maes questioned how a customer would know not to enter the site from Manor Road. Teague agreed and suggested that a "do not enter" sign be required.

Chair Hart agreed with Maes. She suggested an entrance sign be required at the north entrance as well. Teague concurred.

Bob Boyer, applicant, stated that he was fairly satisfied with the proposed plan. He stated that:

- It is a difficult site and it was difficult to create adequate parking space.
- The building requires 11 parking stalls.
- He was concerned that 8.5' wide stalls on the north would not be wide enough for trucks. He felt there would only be room for five vehicles, but he would try to fit six.

- He was willing to withdraw his request for a 10-foot setback on the south side if he received consideration for the rest of the plan.
- He was concerned that his customers would not know how to get to the site.
- The alley is a pit. He did not want customers to drive around the dumpsters.
- He has had a problem with neighboring businesses' trucks blocking the access. Recently, trucks have been directed to park along the west side of Lakewinds. That parking area will be gone when the road reconstruction takes place.
- He was concerned with giving up his private entrance and having no assurance that vehicles would be able to enter his parking area.
- He requested more consideration to figure out "the alley situation."

Allendorf asked about the possibility of placing the site's major entrance off of Manor Road, as a one-way going north, and the exit off of the alley. Teague asked Mr. Boyer if he had discussed that option with Lee Gustafson, the city engineer. Mr. Boyer answered in the negative.

Allendorf recognized that the entrance connecting to the alley would not be optimal. Teague stated that half of the stalls would be able to exit onto Manor Road. Mr. Boyer stated that whether the alley would be the entrance or an exit, the problem would still remain. Mr. Boyer suggested a separate access to the alley for his property, to separate his traffic from the truck traffic.

Mr. Boyer tried not being a bother to the engineers, because he knows that they have been working really hard. He felt that the access issue has not been addressed properly. He is not totally opposed to losing the access to County Road 101. Many times traffic has been stopped by a truck backing on County Road 101 to try to gain access to the grocery store. He proposed two accesses, one almost private access on the alley and a separate, larger, truck traffic access. The accesses would be divided by a thin island.

Chair Hart stated that the island was not included in the current proposal. Chair Hart confirmed with Teague that the thin island would create an issue for turning trucks.

Allendorf confirmed the location of the 20-foot setback. He asked if it would be possible to widen the stalls on the north. Chair Hart asked if angled stalls would help the situation. Teague explained that there is a fence and screening. An increase would require a variance, but might make sense to widen the stalls.

Mr. Boyer measured different parking stalls. The average was nine feet wide. Allendorf calculated that widening each stall would create the need for a 3-foot variance from the 20-foot setback. Mr. Boyer stated that his large utility cabinet would prevent expanding the parking area to the east. The site is locked into the 40-foot space for parking. That is why he originally requested the stall on the south side.

Chair Hart asked if angling the parking stalls would help. Teague stated that the angle may locate them in the drive aisle where 14 feet needs to be maintained.

Maes asked where employees park. Mr. Boyer stated that there is parking in the front, on the side, and in the back. Eight employees park during the day.

Allendorf favored voting on the proposed plan.

Gallop concurred with Allendorf and suggested acting on the variances for the north and west sides with the understanding that the south variance could be applied for in the future if it would be necessary.

Britain agreed with acting on the plan before the commission. He noted the difficulty vehicles would have to turn straight into the parking stalls if the one-way traffic traveled north.

Gallop suggested that a sign prohibiting truck parking be installed. Mr. Boyer agreed. Teague stated that the city engineer and community development are working to address the parking issues. The commission could make that suggestion.

Chair Hart supported requiring entrance and exit signs a condition of approval.

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

Chair Hart strongly recommended that staff work with the businesses to address the alley access problems and for business owners to contact city hall when a problem does occur.

Allendorf moved, second by Britain, to approve the following items, with the addition of a condition requiring entrance and exit signs and the denial of the south lot variance, concerning reconfiguration of a parking lot at 3435 County Road 101 for Boyer Building Corporation (04053.04a):

West and North Lot Line Variances

- 1) *Adopt the resolution on pages A1–A5 of the staff report that approves the proposed parking lot setback variances from 20 feet to 3 feet from the west lot line, and from 10 feet to 0 feet from the north lot line. This resolution is based on the following findings:*
 - a. Strict enforcement would cause undue hardship because of the following circumstances that are unique to the property:
 - (1) The small size of the lot, the location of the existing building, and the land taken from the site for expansion of County Road 101 cause a hardship to the property.
 - b. The variance would be consistent with the spirit and intent of the ordinance for the following reasons:
 - (1) The reconfiguration of the parking lot would provide green space and screening from the residential homes to the east. There would be a reasonable amount of green space along County Road 101.
 - (2) There will be no adverse impact on neighboring property.

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. Upright juniper or arborvitae must be planted adjacent to the southern parking space to provide screening from the residential homes to the east. A deciduous tree must be planted east of the northern parking area.
- c. The site must be developed per Exhibit A attached to the resolution.
- d. The exit on Manor Road must be posted for a right turn only.
- e. The installation and maintenance of temporary rock driveways, erosion control, tree protection fencing around the two trees to be saved on Manor Road, and wetland protection fencing must be

installed, subject to review by the city's environmental resources coordinator.

- f. The exterior trash area must be enclosed with materials compatible with the principal structure, subject to staff approval.
- g. Adding concrete curbing around the parking lot and drive perimeter, as required by code.
- h. The entrance and exit to the site must be clearly signed. An overall signage plan is subject to review and approval of staff.
- i. 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.

South Lot Line Variance

2) *Deny the proposed parking lot setback variance from 20 feet to 10 feet from the south lot line. Denial is based on the following findings:*

- a. The parking lot could be re-striped to meet the required number of parking spaces on the site; therefore, this parking stall, which requires a variance, is not needed.
- b. In denying the variance, two large maple trees would not have to be cut down.
- c. The applicant would not be denied reasonable use of the property, as they would have the required number of parking spaces as required by city code.

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

9. ADJOURNMENT

Maes moved, second by Britain, to adjourn the meeting at 7:30 p.m. Motion carried unanimously.

By: _____
Lois T. Mason
Planning Secretary