

**MINNETONKA PLANNING COMMISSION  
MINUTES**

**OCTOBER 7, 2004**

**1. CALL TO ORDER**

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

**2. ROLL CALL**

Commissioners Allendorf, Bonoff, Gallop, Maes, and Hart were present. Britain 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. Olson reviewed the items provided in the Change Memo dated October 7, 2004.

Olson explained that if five commissioners were present at the time a vote took place, a five-vote item would still require five votes and a majority vote item would require three votes to pass.

- 4. APPROVAL OF MINUTES:** September 23, 2004

*Allendorf moved, second by Maes, to approve the September 23, 2004, meeting minutes as submitted.*

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

**5. REPORT FROM STAFF**

Olson briefed the commission on land use applications considered by the city council at its meeting of October 4, 2004:

- Adopted a resolution approving a conditional use permit for a farmer's market at the southwest corner of the Westwind Plaza Shopping Center for Craig Gilb.
- Adopted a resolution approving a conditional use permit, with variances, for a medical use at the Ridgehill Professional Building at 2000 Plymouth Road for Now Care Medical Center.

- Adopted a resolution approving a detachment/annexation agreement to build 28 townhomes (Deephaven Cove) at 3600 County Road 101 for Steven Scott Development with a few changes. The development would utilize Minnetonka city water instead of a well, five affordable housing units were added, and twelve units on the south would stay in Minnetonka.
- Adopted a resolution approving 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.

**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.

Phil Echort, Minnetonka resident and president of St. Paul's Lutheran Church's council, introduced himself and expressed his enthusiasm for the project and appreciation for staff's recommendation. He did not wish to remove the item from the consent agenda.

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

**A. Conditional use permit for a religious institution, with parking lot setback variances, at 13207 Lake Street Extension for St. Paul's Lutheran Church (99029.04a)**

1) Recommend that the city council adopt the resolution on pages A1–A6 of the staff report, which approves a conditional use permit, with variances, for St. Paul's Lutheran Church at 13207 Lake Street Extension. This resolution is based on the following findings:

a. Apart from the requested parking lot setback variances, the proposal meets all conditional use permit standards.

b. The proposal meets the required standards for a variance, because:

(1) The most convenient location for additional parking spaces, especially for handicap-accessible stalls, is on the north side

of the property. Given the location of the existing north parking lot, the only possible expansion is to the west as proposed.

- (2) The location of the existing parking lot and surrounding roadways and driveways are unique circumstances not common to every R-1 zoned property.
  - (a) The proposed parking would be set back further from the north property line than the existing parking lot.
  - (b) An existing residential drive would be closer to area homes than the proposed parking lot expansion.
- (3) The proposal would increase the number of parking stalls available on the site and improve internal circulation, decreasing the number of cars parked on Lake Street Extension

Approval is subject to the following conditions:

- a. The site must be developed and maintained in substantial conformance with the following plans, unless modified by the conditions below:
  - Site plan dated October 1, 2004.
  - Landscaping plan dated August 6, 2004.
- b. The following must be completed before the city issues a grading permit or any site work is started:
  - (1) Final grading, drainage and erosion control plans must be submitted for staff approval.
  - (2) A letter of credit or cash escrow for 150% of the estimated cost to comply with grading permit requirements and restore the site must be submitted to the city.
  - (3) All trees to be preserved must be fenced and erosion control measures must be installed for staff approval.

- (4) A construction management plan must be submitted for staff approval.
- c. Record this resolution with the county before any site work starts.
- d. The city council may reasonably add or revise conditions to address any future unforeseen problems.
- e. 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.
- f. The applicant must agree to the above conditions in writing.

**B. Shoreland setback variance for an addition to the home at 5309 Rogers Drive for Eric Hansen (04065.04a)**

Adopt the resolution on pages A1–A3 of the staff report, which approves the proposed variance from 75 feet to 52 feet at 5309 Rogers 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 angle and location of the existing home in relation to the angle of the shoreline of Lake Minnetoga. The existing home is located within the required setback.
- 2) The variance would meet the intent of the ordinance since:
  - a. The proposal would have limited environmental impact because the additions would be constructed on columns, which have little impact on drainage to the lake.
  - 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 erosion control, tree protection and wetland protection fencing must be installed, subject to review by the city's environmental resources coordinator.
- 3) The existing cement patio must be removed, and may be replaced with pervious pavers.
- 4) The installation and maintenance of a 25-foot buffer and conservation easement extended from the ordinary high water elevation of Lake Minnetoga.
- 5) 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. Side-yard setback variance for an addition to the home at 11625 Live Oak Drive for Steven Gilbertson (04067.04a)**

Adopt the resolution on pages A1–A3 of the staff report, which approves the variance from 30 feet to 26 feet at 11625 Live Oak 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 shape of the lot and the location of the existing home located within the required setback. The addition avoids two mature oak trees east of the existing home.
- 2) The variance would meet the intent of the ordinance since:
  - a. The proposal would be a minor intrusion into the required setback. The addition has a greater setback from the property line than the existing home.
  - 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 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, Bonoff, Gallop, Maes, and Hart voted yes. Britain and Periolat were absent. Motion carried and the items on the consent agenda were approved as submitted.***

## **8. PUBLIC HEARINGS**

### **A. Minor amendment to a master development plan for a 39-unit condominium at 408 Parkers Lake Road for Wyldewood Condominiums, LLC (03001.04b)**

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 questioned if it would be worth a try to preserve the oak trees. Colleran met with the applicant and they reviewed scenarios to try and save the trees. She explained that the building is low in the ground and the foundation would have to meet OSHA standards. That would result in equipment and work taking place up to ten feet from the trees. The trees would probably die and the area would end up being an island surrounded by retaining walls. The proposal would require the applicant to plant replacement oaks in the area and place them in a conservation easement, so those trees would be protected.

In response to Chair Hart's question, Colleran confirmed that the planted oak trees would be a range in diameter size from one inch and a quarter to two inches. Oak trees do not transplant well, so it is better to plant them small. The applicant has agreed to plant a greater number of trees than would be removed to create an oak forest. Colleran would work with the applicant's landscaper to determine the quantity and species that the area can accommodate.

Bonoff asked where the conservation easement area would be located. Colleran indicated the areas on the map.

Chair Hart asked why the south drive would be removed. Teague invited the applicant to answer.

Frank Dunbar, applicant, stated that he concurred with staff's recommendation. The south driveway was removed because he did not want two levels of underground parking. It would be less confusing to residents, provide better security, and increase the green space. The required number of parking spaces would remain.

The public hearing was opened.

Linda Lemke, 100 Parkers Lake Road, asked:

- How would the pond be accessed for removing sediment from the pond.
- How would access be made to the west side of the building for fire safety.
- How would the building be reduced in height, by digging further into the ground to lower the building or by decreasing the size of the building.
- Heavy equipment has been used and there is no erosion control fencing.
- Trucks have caused damage to the adjacent driveways, including 302 Parker's Lake Road. She questioned how that would be rectified.
- Painting the bike lane would increase bicycle and pedestrian safety on Parker's Lake Road.

Mr. Dunbar stated:

- There is a path to the pond. Smaller equipment would have to be used. He pointed out the route on the plan.
- The changes would allow for additional green space.
- The lower slope to the driveway was done to improve safety in the winter caused by slippery slopes.
- The height was reduced by the removal of the second level of the garage and the slope of the roof was reduced.
- Fire access has been approved because the building would be sprinklered and a second interior elevator added. The fire marshall has reviewed and approved the plan.
- The adjacent driveway will be fixed tomorrow.

- Erosion fencing would be installed before starting construction.

Colleran noted that the city does not currently require erosion or tree control fencing for demolition. City staff is working to correct this problem.

Ms. Lemke asked if the applicant would be willing to install erosion control fencing. Mr. Dunbar stated that the fencing would be installed if the project moves forward and a building permit is issued. At that point, erosion control fencing would be installed.

No additional testimony was submitted and the hearing was closed.

Allendorf supported the project as it was previously presented. The amendments are positive and make it an even better project.

***Allendorf moved, second by Bonoff, to approve the revised site and building plans for Wyldewood Condominiums at 408 Parkers Lake Road with the changes provided in the October 7, 2004 change memo.***

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 May 7, 2004
  - Grading plan date stamped May 7, 2004
  - Landscaping plan date stamped May 7, 2004
  - Building elevations date stamped May 7, 2004
  - Wetland/wetland buffer summary date stamped May 7, 2004
  - Utility plan date stamped May 7, 2004
- 2) The following work must be completed before the city issues a grading permit or before starting any site work:
  - a. The installation and maintenance of a temporary rock driveway, erosion control, tree protection and wetland protection fencing for the site must be installed, subject to review by the city's environmental resources coordinator.
  - b. Submit final site, grading, drainage, utility, and erosion control plans for staff approval. Final grading plans must include the following revisions:

- (1) If retaining walls on the south side are to be eliminated, storm sewer must be moved west to avoid the clump of trees at the east end.
  - (2) Additional storm sewer catch basins should be added to the parking area.
  - (3) A drainage and utility easement must be established over the wetland along Parkers Lake Road. The easement must be established over the 944.7 elevation.
  - (4) Utility plan must be revised so the connections do not encroach on the property to the north.
  - (5) Use benching, terracing, or other slope-stabilizing techniques for fill, as determined appropriate by the city engineer.
  - (6) The ponding area should be reviewed and formally approved by a soils engineer to ensure soils would support the proposed ponding areas.
- c. Submit a letter of credit or cash escrow for 150% of the estimated cost to comply with grading permit requirements and restore the site.
  - d. Submit copies of the watershed district permit. The city may require revisions to the approved plans to meet the district's requirements.
  - e. Submit a construction management plan for staff approval.
  - f. A wetland certificate of no loss or exemption form must be completed and mailed to the appropriate parties.
- 3) The following must be submitted to the city before the city issues a building permit:
    - a. The installation and maintenance of a temporary rock driveway, erosion control, tree protection and wetland protection fencing must be installed, subject to review and approval of the city's environmental resources coordinator.

- b. An illumination plan for staff approval. Exterior lighting must be designed and arranged to limit direct illumination and glare upon or into any contiguous parcel. Reflected glare or spill light shall not exceed five-tenths (.5) foot-candles as measured on the property line when abutting a residential parcel.
  - c. All required hook-up fees.
  - d. Record this ordinance with the county.
- 4) The following must be submitted to the city before the city issues a certificate of occupancy for the building:
- a. Conservation easements over the wetland, buffer, and tree protection areas, including a drawing of the easements for the approval of the city attorney. Final location of the easements are subject to staff approval. The easements and drawing must be recorded with the final plat.
  - b. Documents establishing a homeowners' association. The association must be responsible for maintaining any common areas, common drives, the required drainage pond and any other required drainage improvements approved by the city. Maintenance will include, but not be limited to, the periodic removal of sedimentation at the base of the pond and any adjacent drainage ditches, keeping a vegetative cover within the ditches and pond, and removing any blockage of the swale or culvert that may impede the drainage of the site, as approved with the building permits. Documents must also include maintenance agreement for the wetland and buffer areas. This language shall be subject to review and approval of the city attorney and environmental resources coordinator.
  - c. A final landscape and irrigation plan for staff approval. Minimum planted tree sizes shall be 3-1/2 inch caliper for deciduous trees, 2-inch caliper for ornamental trees and 10 feet in height for coniferous trees; or the sizes must meet the minimum code requirement at the time of submittal of the final landscape plan.
  - d. The landscape plan must include a minimum investment of 2 percent of the total project value.

- e. A letter of credit or cash escrow for 150% of the estimated cost of all required landscaping.
- 5) Revegetate disturbed slopes as soon as practical after grading to stabilize steep slopes and prevent erosion, as required by the city.
- 6) The property owner is responsible for replacing any required landscaping that dies.
- 7) The eight affordable housing units are to be priced at \$193,700 and indexed at 50 percent of the average annual percent increase of the metropolitan area.
- 8) 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.
- 9) The building must be constructed with automatic fire sprinklers throughout.
- 10) A wood chip trail must be constructed along the west side of the building to allow for pedestrian movement around the building and wetland area. Final location and construction of this trail shall be subject to review and approval of the environmental resources coordinator and the fire marshal.
- 11) Approval does not include the signs shown on the drawings. Separate permits are required from staff.
- 12) The floor area ratio must not exceed 50 percent of the site above the wetland boundary.
- 13) Construction must begin by December 31, 2005, unless the planning commission grants a time extension.

The above plans are hereby adopted as the master development plan and as final site and building plans.

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

**B. Preliminary plat, with variances, for a two-lot subdivision at 1724 Ford Road for Jack Bolke (04066.04a)**

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.

Britain joined the meeting.

Gallop asked if the entry for the new home would face Ford Road or the driveway. Teague stated that the surveyor positioned the footprint of the home as a reference only. The entry would be determined at the time of building permit.

Bonoff questioned if the commission had the authority to restrict the size of the residence due to her concern that one home could be significantly bigger than the other home and detract from the character of the neighborhood. Teague stated that specific setbacks could be required to limit the building area.

Bonoff noted that the proposal would require a setback variance. She asked if there would be a way to alter the setback to ensure a reasonable size to the residence. Teague stated that the change memo requirement would protect the drip line of the elm and Norway spruce. This would require the new house to be built further away from the rear lot line.

Chair Hart and Teague reviewed the proposed variance and the setbacks. Bonoff understood that, originally, there would be 25 feet between the residences. Chair Hart calculated that 40 feet would exist between the two residences. Teague explained that the change memo requirement (that protects the critical root zone of the Norway spruce and elm by not allowing grading or construction activity within the drip line) would move the home an 10 additional feet away from the rear lot line.

Chair Hart confirmed with Teague that the site would share the existing driveway.

Gallop asked if the front setback could be modified without a variance. Teague explained that all of the homes on Ford Road have a 50-foot front setback. The ordinance changed the street definition so that the required front setback is now 35 feet. A condition is included in staff's recommendation that would require a 50-foot front setback so that it would be consistent with the neighborhood.

Allendorf reviewed that the condition protecting the tree's critical root zones and the 50-foot setback to Ford Road would limit the new house size to one that would be similar to nearby houses. Chair Hart noted that the driveway would also reduce the buildable area.

Jack Bolke, applicant, 1724 Ford Road, introduced himself and provided a history of the property. He plans to continue to live there. He will work with the builder to ensure the residence would conform to his house and the neighborhood. Protection of the trees is a high priority. The spruce is the buffer between his residence and Ford Road.

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

Gallop generally did not support lots behind lots, but thought this particular case was unique and provided a reasonable use of the property. It would not change the character of the neighborhood. There would be no precedent because there are no similar lots in the area. He urged the city council to review requirements regarding zero lot lines and the size of a residence on a lot. With those comments, he supported staff's recommendation.

***Gallop moved, second by Bonoff, to recommend that the city council give preliminary approval to the Big Spruce Addition, date-stamped August 26, 2004, with a lot width at the right-of-way variance from 80 feet to 0 feet, and a building setback variance from 25 feet to 12 feet for the existing home and the modification provided in the October 7, 2004 change memo. Approval is based on the following findings:***

- 1) The proposal meets the required standards and ordinances for a preliminary plat.
- 2) The proposal meets the required standards for a lot width at the right-of-way and setback 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 \$2,375.00.
- 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. 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) A private driveway easement between the street right-of-way and Lot 1. The easement must state the maintenance responsibilities of each owner. The easement must be 34 feet wide. The minimum driveway width must be as required by the fire marshal.
    - (3) A private utility easement across Lot 2 to provide services to Lot 1.
    - (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.

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

- d. Any other requirements included with final plat approval.

- 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. 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. 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.
  - f. The new home on Lot 1 must maintain at least 50-foot front yard setback.
  - g. The two Norway spruce and one elm behind the proposed home must not be cut down, and no impacts may occur to the critical root zone. Tree protection fencing must be installed around these trees to protect them during construction.
- 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 7 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 will be void.

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

**9. OTHER BUSINESS**

**A. Change in by-laws concerning the meeting schedule.**

Olson reviewed the proposed changes to the by-laws concerning the meeting schedule. The change would minimize the time between planning commission and city council meeting so that the review process would occur more quickly. The planning commission meeting would no longer be consistently on the first and third Thursday evenings. The benefit in customer service may be worth consistency in the schedule. The official city meeting calendar would be set a year in advance.

***Bonoff moved, Allendorf seconded, approving the following change in the by-laws. This change adopts the city calendar as the planning commission's meeting schedule:***

**Section I. Regular Meetings**

The regular meetings of the commission shall be held at the offices of the City of Minnetonka, location at 14600 Minnetonka Boulevard, at 6:30 P.M., ~~on the first and third Thursday of each month.~~ The meeting schedule will be as designated on the official city calendar. All meetings shall be open to the public except as otherwise provided by law.

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

10. ADJOURNMENT

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

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