

**MINNETONKA PLANNING COMMISSION  
MINUTES**

**NOVEMBER 4, 2004**

**1. CALL TO ORDER**

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

**2. ROLL CALL**

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

Staff members present: Planning Director Geoff Olson, Principal Planner Cary Teague, Planner Susan Thomas, Planning Intern Kyle Sobota, Environmental Intern Aaron Schwartz, and Engineering Director Lee Gustafson.

- 3. APPROVAL OF AGENDA:** The agenda was approved as submitted. Olson noted that the change memo dated November 4, 2004 included a comment from a resident regarding Item 7C, Fine Design Contracting.

- 4. APPROVAL OF MINUTES:** October 21, 2004

*Allendorf moved, second by Periolat, to approve the October 21, 2004, meeting minutes as submitted.*

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

- 5. REPORT FROM STAFF:** None

- 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.

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

- A. Side yard setback variance for a house addition at 3437 Fairlawn Drive for Brad Bruckschen (04069.04a)**

Adopt the resolution on pages A1–A3 of the staff report, which approves the variance from 9 feet to 7 feet at 3437 Fairlawn 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 located within the required setback.
- 2) The variance would meet the intent of the ordinance since:
  - a. The proposal would be a minor intrusion into the required setback with only forty square feet encroaching into the required setback.
  - b. The proposed addition would minimally 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 and tree protection, subject to review by the city's environmental resources coordinator.
- 3) The installation of sheetrock on garage ceiling and interior walls.
- 4) 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.

**B. Front yard setback variance for a new home at 4401 Wilson Street for Brenshell Homes (99052.04a)**

Adopt the resolution on pages A1–A3 of the staff report, which approves a side yard setback variance from 25 to 12 feet at 4401 Wilson Street. This resolution is based on the following findings:

- 1) Building within the required setbacks would result in the loss of two large oaks between the proposed home and existing conservation easement.

- 2) Shifting the location of the home meets the intent of the ordinance for the following reasons:
  - a. The shift would result in saving two mature oak trees
  - b. The revised location should reduce the amount of grading on the slope, reducing the impact to the roots of trees along the conservation easement boundary and adjacent property line
  - c. The city council indicated a willingness to consider variances to save more trees on the lot at the time of the lot division.

Approval is subject to the following conditions:

- 1) Construction activity and grading must be kept 15 feet from the trunk of the white oak and 10 feet from the trunk of the red oak.
- 2) The installation and maintenance of erosion control and tree protection fencing around trees to be preserved, subject to review by the city's environment resources coordinator.
- 3) Submit proof of having recorded this resolution with the county before the city issues a building permit.
- 4) 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. Aggregate side-yard setback variance for an addition to the home at 2348 Ford Road for Fine Design Contracting (04075.04a)**

Adopt the resolution on pages A1–A3 of the staff report, which approves the variance from 30 feet to 24 feet at 2348 Ford Road. 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 location of the existing home within required setbacks; any addition to the north or south side of the home requires a variance.

- 2) The variance would meet the intent of the ordinance since:
  - a. The proposed addition would minimally affect neighboring properties.
  - b. The property nearest the setback encroachment is vacant and owned by the City of Minnetonka.

Approval is subject to the following conditions:

- 1) Submit proof of having recorded this resolution with Hennepin County before the city issues a building permit.
- 2) The installation and maintenance of erosion control, subject to review by the city's environmental resources coordinator.
- 3) The installation and maintenance of silt fence around the perimeter of the site to protect the wetland and trees from erosion and construction activity.
- 4) Removal of the existing shed from city property to placement on the owner's property.
- 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.

**D. Time extension of previously approved variances for a garage addition at 9722 Minnetonka Boulevard for Cliff and Karla Lambert (02010.04a)**

Approve a 12-month time extension to end on December 31, 2005.

**E. Ordinance changing some planning application fees (03081.04a)**

Adopt the ordinance on pages A1–A3 of the staff report, which approves the proposed fee increases.

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

## 8. PUBLIC HEARINGS

### A. Applications for a bank with drive-up windows at 14816 State Highway 7 for Minnwest Corporation (04073.04a)

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. Teague introduced Minnetonka Engineering Director Lee Gustafson. Gustafson was present to answer questions regarding the realignment of the road.

Olson reemphasized that the frontage road was not part of the present application, but he requested Gustafson to be present since the frontage road relates to the proposed project.

Gustafson explained that the frontage road project has been discussed for at least 10 years. The plan has been modified several times to address neighbors' concerns. The road layout was approved by the city council on October 18, 2004. A funding application was submitted to the Department of Transportation and will take time to be reviewed. The city is trying to mitigate the impact of the road being relocated closer to the neighbors on the north side. The area identified with green dots could be left in a natural state or a 4-foot tall berm with landscaping could be created. Staff will meet with neighbors to discuss the options. Staff hopes the funds will be available July 1, 2005. Construction would begin mid-July with substantial completion by the end of 2005. Landscaping would be completed spring of 2006.

Britain asked where the stoplights and signs would be located. Gustafson stated that the stop sign at Highwood and Williston Road would be moved west. The intersection of Highwood and Woods Way would also stop, but traffic on the frontage road would not stop. The intersection of the frontage road and Williston Road would have a stop sign. There are no new proposed traffic signals. The existing light on State Highway 7 would be upgraded.

Perolat confirmed with Gustafson that the berm would be located where the green dots were located on the map. The berm and landscaping would not be completed until 2006 and is separate from the bank project. Gustafson projected that the landscaping would be done in the spring of 2006 because of the different planting times for each species of vegetation.

Periolat clarified that the berm would be completed in December of 2005. Gustafson answered in the affirmative.

Allendorf questioned how the bank project timeline would coincide with the road project. Gustafson was aware of the timeline for the frontage road project, but invited the applicant's representative to address the bank's construction schedule. Gustafson stated that the road construction schedule would have no bearing on the bank's construction. Highwood Drive would remain open until the surface of the new frontage road is in place. It would allow access for construction vehicles and neighbors.

Britain asked why the design of the frontage road in front of the Bayside Bank, that runs parallel to Williston, was not utilized for the current redesign. Gustafson explained that the current plan would save more green space, flow better to reach the properties located on the west, and have a softer curb.

Bonoff asked Gustafson to point out the area owned by the Holiday Corporation. Gustafson explained that the Total station was located on property owned by the Holiday Corporation.

In response to Maes' question, Teague explained that the basement is included in the calculation of the square footage used to determine the required number of parking stalls. Teague also confirmed that a lighting plan was not submitted. A lighting plan would be required at the time of a building permit, and would be required to adhere to ordinance standards.

Allendorf questioned the difference between the illustrations on pages A-21 and A-22. Page A-22 showed part of the building located in the unbuildable area. Teague explained that page A-22 illustrated the need for the variance.

In response to Chair Hart's question, Gustafson confirmed that most of the road would be located on the parcel she described. A portion of the road would be placed north of the lot that the city owns. Part of the right-of-way acquisition process would include the purchase of part of that parcel. A detached garage would have to be relocated.

Teague pointed out the location of the proof of parking stalls for Chair Hart.

Allendorf clarified with Teague where the stacking of vehicles would occur. Allendorf was concerned with what options would be available if there would be a problem with the traffic pattern. Teague explained a couple possibilities including relocating the drive entrance. Allendorf favored having a solution for traffic

congestion included in the approval process, such as additional proof of parking. Olson explained that staff and the applicant are comfortable that the proposal would work. The traffic at Bayside Bank has been observed and used as a guide.

Perolat asked how the frontage road construction would tie-in with the construction of the proposed bank. Olson stated that coordination with staff and the applicant would take place and the applicant would be able to construct the bank without the completion of the frontage road, but the bank would not be able to be occupied until the parking lot would be completed.

Tom Morris, architect that represented the applicant, Minnwest Corporation, stated that he hoped to begin construction in spring of 2005 and occupy the facility by October of 2005. The frontage road would be in place at the same time the building would be nearing completion. At which time, the parking lot would be completed. City staff worked through the scenarios with the applicant.

T. Todd McVay, bank president, noted that the amount of floor space devoted to banking is half the building. The second story consists of corporate offices. An extra drive up lane would be included to provide more room for vehicles. During the peak time at a similar facility, there are no more than four to six vehicles at a time.

Mr. Morris clarified that each drive up lane would accommodate four vehicles, one at the window and three stacked.

Allendorf felt more comfortable with the site being able to accommodate 12 vehicles, rather than 6 as illustrated on page A-21. He suggested modifying the illustration for the city council meeting to reflect its actual capacity.

The public hearing was opened.

Debbie Marty, 4405 Woods Way, was concerned that she would lose 100 feet of buffer area. A woods would be removed and leave her property exposed to State Highway 7 and Williston Road. There is no way berming and screening could produce the same condition she has now. She was concerned with parking problems, trees that had already been removed along Highway 7 on the Holiday property, and lighting.

Chair Hart asked if the city council had approved the frontage road plans. Gustafson clarified that the city council approved the layout. Review of the plans for the final approval will occur when the landscape plan has been completed.

Chair Hart noted that the planning commission has no jurisdiction regarding the plans for the frontage road. The planning commission reviewed only the application for the bank. She sympathized with Ms. Marty, but explained that as long as the plan met ordinance lighting requirements, the planning commission would take no further action regarding lighting.

Ms. Marty stated that trees previously located on the Holiday property completely blocked her and her neighbors' views to State Highway 7. Now, her living room has a direct view of the vehicles at the intersection. She questioned what would happen with the Holiday property. Gustafson pointed out where the holding pond would be located. Staff intends to locate dense landscaping, bushes and evergreens on the north side between the pond and Highwood Drive. On the south side of the pond, boulevard trees would be planted to not block drivers' sight lines. That would be included as part of the frontage road project.

Ms. Marty was concerned with Minnwest selling to a larger company with more traffic in the future. She asked if there would be a restriction in place. Olson stated that a condition could be included that would limit the use to a corporate type bank of a certain size or it would need to be reviewed by the city.

Allendorf noted that the condition regarding congestion problems would apply to any owner of the property. His concern was that the solution would not be readily available and could cause a controversy regarding what the solution should be.

Maes understood Ms. Marty's concern if, in the future, it became more of a user bank. She appreciated Ms. Marty bringing that to the commission's attention. She assured Ms. Marty that staff would work with her to determine proper screening.

Chair Hart asked if the majority of commissioners agreed on a condition that would require the use to remain a corporate bank without city approval.

Periolat felt that the traffic congestion condition would cover any type of future business.

Bonoff favored having more specifics since the traffic study was completed based on the use being a corporate bank. She felt it was justified to require the use to be a corporate type rather than consumer type bank.

Chair Hart confirmed with staff that another type of use would be required to apply for another conditional use permit. Teague stated that right now the property owner would not have to apply for a conditional use permit if the use was switched from a corporate bank to a commercial bank. However, the

conditional use permit would be reviewed if stacking became a problem no matter if the use remained the same or changed.

Periolat felt that the current condition applied to any type of use of the property. Allendorf asked staff if the traffic congestion issue would be covered by the current condition. Olson answered in the affirmative. If the site changed to a commercial bank, it would not be reviewed by the city unless a parking issue developed. A condition could be included to limit the use to a corporate bank.

Allendorf felt the traffic issue was covered, but it would not hurt to include a stipulation that if the use changed from a corporate bank to another type, it should be reviewed by the city. Maes supported including the stipulation and felt that it would address the neighbors' concerns.

Mr. McVay stated that, in banking terms, there is no difference between a corporate bank and a commercial bank. He was unsure if there would be a legal definition that could separate the two. Mr. McVay stated that the potential buyers of the facility all have large, modern, facilities in the area and are better suited for retail business. The most likely use of the building would be as an office building. He strongly expressed that the conditional use permit not preclude an ordinary office building type use.

In response to Chair Hart's question, Teague stated that an office building would be a permitted use for the site. It would be a less intensive use.

Chair Hart was neutral regarding the stipulation.

No additional testimony was submitted and the hearing was closed.

Allendorf was not comfortable with a resident thinking she would be totally buffered from vehicles when the residence is located on a corner. He was comfortable that staff would find a good solution. He wanted it to be understood that the area would not be reforested because the property owner removed trees. Chair Hart concurred.

Bonoff clarified that the bank has its own substantial plans for landscaping. Aesthetically, it would improve the area.

Chair Hart reviewed the issues. She felt the use was perfect for the site. The corner is currently an eyesore. The proposed changes will be an improvement.

Allendorf prefaced his motion by stating that he chose not to include a condition requiring the use to remain a corporate bank because he felt the traffic congestion issue was covered and the owner made a good point regarding the difficulty of determining the difference between a corporate and commercial bank.

***Allendorf moved, second by Periolat, to recommend that the city council approve applications for a bank with drive-up windows at 14816 State Highway 7 for Minnwest Corporation (04073.04a)***

***Guide Plan Amendment***

- 1) *Recommend that the city council adopt the resolution on pages A1–A2 of the staff report, which amends the guide plan from LD, low-density residential to O, office at 14800 Highwood Drive. This resolution is based on the following findings:*
  - a. The guide plan change would be consistent with the adjacent land uses to the south and west.
  - b. With the realignment of Highwood Drive, this property is now located on the south side of the road.
  - c. The guide plan change would be consistent with the public health, safety, and welfare.

***Rezoning***

- 2) *Recommend that the city council adopt the ordinance on pages A3–A4 of the staff report. This ordinance approves a rezoning from R-1, low-density residential to B-1, office, at 14800 Highwood Drive. This ordinance is based on the following findings:*
  - a. The rezoning would be consistent with the city's guide plan.
  - b. The rezoning would be consistent with the public health, safety, and welfare.
  - c. The rezoning would be consistent with adjacent land uses to the south and west.

***Conditional Use Permit with Variance***

- 3) *Recommend that the city council adopt the resolution on pages A5–A8. This resolution approves a conditional use permit with a stacking space variance from 6 to 3 spaces for Minnwest Bank at 14816 State Highway 7. Approval is based on the following findings:*
- a. With the exception of the stacking space requirement, the proposal meets the required conditional use permit standards.
  - b. The proposal meets the required standards for a variance, because:
    - (1) There is a unique hardship to the property caused by the following: the narrow width of the lot, the utility easement that runs through the center of the lot, the restrictive front yard or street setbacks on all sides, and city staff requiring the entrance to the site to line up with Highwood Drive.
    - (2) The variance would meet the intent of the ordinance because there would be adequate on-site parking and stacking area for a corporate bank.

Approval is subject to the following conditions:

- a. Record this resolution with the county before the city issues a building permit.
- b. The city council may reasonably add or revise conditions to address any future unforeseen problems.
- c. If there are any congestion problems due to the stacking lanes, the property owner must bring options forward to correct the problem to the city council for consideration.
- d. 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.
- e. The applicant must agree to the above conditions in writing.

***Site and Building Plan with Variances***

- 4) *Approve the site and building plans with a parking space variance from 62 to 51 spaces, a parking lot setback variance from 20 to 9 feet, and a building setback variance from 40 to 10 feet for Minnwest Bank at 14816 State Highway. Approval is based on the following findings:*
- a. The proposal would meet the required standards and ordinances for a site and building plan approval.
  - b. The proposal would meet the required standards for a variance, because:
    - (1) There is a unique hardship to the property caused by the roadway realignment, the location of sewer and water lines through the middle of the site, and the required roadway setbacks on all sides.
    - (2) The variance would meet the intent of the ordinance because the building would be located 70 feet from the paved surface of Highway 7 and as a corporate bank, the number of parking spaces required by code would not be needed.

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

- a. Subject to staff approval, the site must be developed and maintained in substantial conformance with the following plans, unless modified by the conditions below:
  - Site plan date stamped October 5, 2004.
  - Grading plan dated June 10, 2004.
  - Landscaping plan dated June 14, 2004.
  - Building elevations dated June 14, 2004.
- b. Before starting any site work or obtaining a grading permit, complete the following work:
  - (1) The installation and maintenance of a temporary rock driveways, erosion control, tree protection and wetland protection fencing must be installed, subject to review by the city's environment resources coordinator.

- (2) Submit final site, grading, drainage, utility and erosion control plans for staff approval.
  - (3) Submit a letter of credit or cash escrow for 150% of the estimated cost to comply with grading permit requirements and restore the site.
  - (4) If required, submit copies of the watershed district permit. The city may require revisions to the approved plans to meet the district's requirements.
  - (5) Submit a construction management plan for staff approval.
- c. The following must be submitted to the city before the city issues a building permit:
- (1) A final landscape and irrigation plan for staff approval. The landscape plan must include additional plantings along the frontage road to provide additional screening from the residential property to the north and west.
  - (2) A letter of credit or cash escrow for 150% of the estimated cost of all required landscaping
  - (3) An illumination plan for staff approval. The lighting must not exceed .5 foot-candles at the lot line along the frontage road. The light source cannot be visible from adjacent properties. The illumination plan must meet all zoning ordinance requirements.
  - (4) All required hook-up fees
  - (5) The property owner is responsible for replacing any required landscaping that dies.
  - (6) 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.

- (7) Approval does not include the signs shown on the drawings. Separate permits are required from staff. All signage must meet the sign ordinance.
  - (8) Spaces shown as proof-of-parking may not be paved, unless approved by the city upon showing of a demonstrated need for these spaces.
  - (9) The building must be built with an automatic fire sprinkler system.
  - (10) Construction must begin by December 31, 2005, unless the planning commission grants a time extension.
- d. A fire hydrant must be installed close to the main entrance.
  - e. No certificate of occupancy will be issued until the parking lot is paved including the curbing.

***Preliminary Plat***

- 5) *Recommend that the city council give preliminary approval to the HIGHWOOD DRIVE ADDITION, date stamped October 28, 2004. Approval is based on the finding that the plat meets the required standards and ordinances. Approval is subject to the following conditions:*
  - a. Complete the following before final plat approval:
    - (1) Show the following on the final plat:
      - a) 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 liens.
      - b) Utility easements over existing or proposed public utilities, as determined by the city engineer.
      - c) Drainage and utility easements over wetlands, floodplains, and storm water ponds, as determined by the city engineer.

- b. The following items must be submitted to the city before the city releases the final plat:
  - (1) An electronic CAD file of the final plat in microstation or DXF.
  - (2) The developer must submit the signed Improvement Agreement as drafted by the city.
  - (3) Title evidence that is acceptable to the city attorney. Title evidence must be current within thirty days before release of the final plat.
  - (4) Provide restrictive covenants to be recorded against 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 easement must be attached to the easement deed.

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

#### ***Right-of-way Vacation***

- 6) *Recommend that the city council hold the public hearing and adopt the resolution vacating the public right-of-way, subject to retaining drainage and utility easements over the right-of-way to be vacated.*

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

- B. Preliminary plat to divide the properties at 13709 and 13717 Inverness Road into three lots for Stephen Longman and Eric Barstad (86153.04a)**

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.

Periolat asked if Lot 3 could be divided in the future. She asked if the back part of the lot could conceivably accommodate two residences. Teague agreed that there would be enough land area for two lots. However, the lots would not have adequate frontage on a public street. If a division of the property would be proposed, it would need several variances and create a lot behind a lot.

Chair Hart asked if the ponding area would be considered a wetland. Teague believed it would be considered a drainage area, not a wetland.

Stephen Longman, 9401 Preston Place, co-applicant, was present to answer questions.

Bonoff asked if the applicant was planning on living in any of the homes. Mr. Longman answered in the negative. He planned on selling the lots to a builder.

Chair Hart asked if the builder would have to build in conformance with the plan included in the application. Teague answered in the affirmative. A different plan would also have to be reviewed by the planning commission and approved by the city council.

Chair Hart complimented staff on working with the applicant to save trees.

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

Chair Hart reviewed the primary issues.

***Britain moved, second by Bonoff, to recommend that the city council give preliminary approval to the INVERNESS MILLS plat, date stamped October 25, 2004. Approval is based on the finding that the plat meets the required standards and ordinances. 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 electronic CAD file of the final plat in microstation or DXF.
    - b. 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 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 easement must be attached to the easement deed.
- c. 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. The homes on Lots 1 and 2 must be in substantial compliance with the proposed preliminary plat date stamped October 25, 2004.
    - b. There may be no grading within 15 feet of the northernmost 34-inch Oak on Lot 2.
    - c. A grading and tree preservation plan for each lot, subject to staff approval. The plans must be in substantial compliance with agreed

- building areas as required with the final plat. The sewer and water services must be shown to minimize impact to the significant trees.
- d. 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.
  - e. A copy of the recorded plat and any easement or covenants required to be recorded.
  - f. A hookup fee for sanitary sewer and water.
  - g. 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) The abandoned utility services on Lot 3 must be disconnected at the main.
  - 5) The existing drainage and utility easement located on proposed Lot 2 must be vacated.
  - 6) During construction, the streets must be kept free of debris and sediment, and the tree protection fencing, and erosion control fencing must be maintained.
  - 7) 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 ½ 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.
  - 8) 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, Maes, Periolat, and Hart voted yes. Gallop was absent. Motion carried.***

**C. Front yard setback variance for a new home at 2845 Plymouth Road for Curt Fretham (02011.04a)**

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

Sobota reported. He recommended approval of the application based on the findings and subject to the conditions listed in the staff report.

Chair Hart recognized that the proposal would decrease the nonconformity significantly.

Allendorf swore he saw a house north of the site, but did not see it on any of the graphics. Sobota stated that the aerial photography was done in 2002, before that residence was constructed. The existing residence's location and proposed residence's location were pointed out on the map.

Curt Fretham, 12716 Cedar Lake Road, applicant, stated that he is not sure what to do with the existing house. The driveway connects to Cedar Lake Road. Hennepin County wants the residence moved back, so if he remodeled the residence he may have to tear it down to move it. He tried to come up with a solution, but the site has roads on three sides. He was willing to answer questions.

Chair Hart asked if the address would remain Plymouth Road or change to Cedar Lake Road, since the access is and would be on Cedar Lake Road. Mr. Fretham favored changing it to Cedar Lake Road to decrease confusion.

Mr. Fretham stated that he originally wanted to locate the driveway off of Plymouth Road, but Hennepin County would not grant access.

Allendorf understood that the proposed residence would share a driveway with the existing residence. He asked if the existing shared driveway could turn left to enter the garage rather than traveling to the west and creating more paved surface. Mr. Fretham explained that the topography of the site would only allow for a tuck under style garage and he wanted to locate the garage between the corner with increased traffic noise and the residence.

The public hearing was opened.

Carla Lambert, 9722 Minnetonka Boulevard, arrived late. She was informed that her application had been approved.

No additional testimony was submitted and the hearing was closed.

Chair Hart felt that the proposal would make the situation a little better. She reviewed the primary issue. She felt that staff met the hardship requirements.

***Maes moved, second by Periolat, to adopt the resolution on pages A1–A3 of the staff report, which approves the proposed variance from 40 feet to 30 feet at 2845 Plymouth Road. 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 location of the lot on two major roads and the shared driveway on the east side of the parcel, which limit the buildable area on the lot.
- 2) The variance would meet the intent of the ordinance since:
  - a. The proposed home would be setback 32 feet further away from Plymouth Road 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 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, Britain, Maes, Periolat, and Hart voted yes. Gallop was absent. Motion carried.***

9. ADJOURNMENT

*Maes moved, second by Britain, to adjourn the meeting at 8:00 p.m. Motion carried unanimously.*

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