

**MINNETONKA PLANNING COMMISSION
MINUTES**

DECEMBER 16, 2004

1. CALL TO ORDER

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

2. ROLL CALL

Commissioners Allendorf, Bonoff, Britain, Gallop, and Maes were present. Periolat and Hart 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 removal of Item 8A, a sideyard setback variance for an attached garage at 10901 Oak Knoll Terrace South for Absolute Home Solutions (04081.04a). It was postponed until the January 6, 2004 planning commission meeting.

Due to the absence of two commissioners, majority vote items would require three votes to pass a motion.

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

Allendorf moved, second by Bonoff, to approve the December 2, 2004, meeting minutes as submitted.

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

5. REPORT FROM STAFF

Olson announced that commissioners will have a joint meeting with the city council, the economic development authority, and the developer regarding a concept plan for the area of Minnetonka Boulevard just west of State Highway 169. The developer, Scott Bader, is proposing to develop the area west of the Waterstone Apartments. It is tentatively scheduled to be held on January 10, 2004, at 6:30 p.m., in the Boards and Commissions Room.

- 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.

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

A. Front yard setback variance for additions to the home at 15124 Victor Lane for Kryzer Builders (04082.04a)

Adopt the resolution on pages A1–A3 of the staff report, which approves the proposed variance. This resolution is based on the following findings:

- 1) The hardship is caused by the 30-foot right of way in front of the home.
- 2) The proposal would not alter the essential character of the neighborhood.
- 3) The addition would not be located closer to the street than the existing home or the adjacent homes on Victor Lane.

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 and 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, Gallop, and Maes voted yes. Periolat and Hart were absent. Motion carried and the item on the consent agenda was approved as submitted.

8. PUBLIC HEARINGS

A. Sideyard setback variance for an attached garage at 10901 Oak Knoll Terrace South for Absolute Home Solutions (04081.04a)

Was removed from the agenda.

B. Preliminary plat, with variances, to divide 1927 Essex Road into four lots for Drake Lorence (04051.04a)

Acting Chair Maes 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.

Bonoff noted a complaint from the property owner to the north concerned with the safety issue of having a street adjacent to her property line. Teague confirmed for Bonoff that an outlot would provide a buffer between the property owner's lot and the street. Teague added that a condition included in the change memo would require one side of the street be posted "no parking" if parking became a problem.

Britain asked staff to explain the benefit of the drive being a public street rather than a private drive and if staff had considered locating the driveway on the south side. Teague stated that the location of the driveway was chosen to save significant trees. A public street provides better access for emergency vehicles. There was no benefit to allow a private drive for that number of residences.

Allendorf favored including tree maintenance as a condition of approval, but recalled that the city council may have previously found it inappropriate. Colleran explained that the intent of the condition was meant to require the removal of diseased or deceased trees, rather than require tree trimming. Colleran agreed that the city council had previously decided not to require property owners to trim trees. Colleran stated that staff would clarify the wording.

Gallop questioned the size of the footprints of Lots One and Two and if some ingenuity had gone into placement of the footprints. It appeared to Gallop that the footprints were squared away, right on top of each other. Teague stated that the footprint was included in the original proposal. The buildable area shifted to the north to save the trees on the south lot line. The wetland setbacks and tree preservation effort limited the footprint area. Gallop thought off-setting the residences slightly would make them more appealing.

Jeff Martineau, who represented Drake Lawrence, the applicant, stated that:

- The plan took protection of the trees and natural terrain into consideration.
- The proposal was a summary of many talks between staff, him, and the owners.
- The site needed a great deal of creativity so that the residences would not appear to overpower each other.
- He agreed to the outlot.
- Small, high quality, entrance monuments may be used to introduce the small group of houses.
- The plan is good and he is committed to doing the development "right."

Acting Chair Maes appreciated the effort made to save trees and enhance the site's aesthetics.

In response to Gallop's question, Mr. Martineau explained the constraints of building on the site. The boxes on the plan are not equal to the types of houses that would be constructed. Overly large homes would not fit. Even though the residences would be close, the wetlands would create an open feel. The building pad square footages are somewhat restricted. Lot One would have 7,700 square feet of buildable area. Lot Two would have 1,372 square feet of buildable area and the third lot would have 10,000 square feet of buildable area. He anticipated the homes would be two-story residences.

Allendorf asked if setback requirements would be met. Teague explained that the planned unit development ordinance requires a minimum setback of 10 feet to the lot line or 20 feet between homes. The proposal would meet that requirement.

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

Acting Chair Maes reviewed the primary issues.

Bonoff preferred the planned unit development approach to include conservation easements to save trees and preserve the wetland. The benefits justify the lot width variance.

Allendorf agreed with Bonoff. His only concern was the reduced pavement width and whether parking may restrict emergency vehicle access. His concern had been addressed and he felt it would be a nice development.

Gallop supported the use of the planned unit development for the proposal to maximize the use of the property and save its natural features. He noted that the drives would be long and allow for more on-site parking.

Britain concurred with the other commissioners. He struggled a little with whether it should remain a public or private drive, but he felt it would benefit the property owners to have a public drive. It would be a positive project.

Acting Chair Maes appreciated that the existing house would remain to provide more housing diversity and character.

Gallop moved, second by Britain, to recommend that the city council approve the preliminary plat, with variances, to divide 1927 Essex Road into four lots for Drake Lorence (04051.04a):

Rezoning

- 1) *Recommend that the city council adopt the ordinance on pages A1–A3 of the staff report, which approves the proposed rezoning from R-1 to PUD with a master development plan for 1927 Essex Road. 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 result in development of a PUD plat that would save more significant trees than a plat meeting R-1 standards.

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 of the preliminary plat:
 - Preliminary Plat, date stamped November 8, 2004
 - Grading & Drainage Plan, date stamped November 3, 2004

- . Utility Plan, date stamped November 3, 2004
- . Street Plan, date stamped November 3, 2004
- . Tree Plan, date stamped November 3, 2004

The above plans are hereby adopted as the master development plan.

Preliminary Plat

2) *Recommend that the city council give preliminary approval to the Essex Road Plat for Drake Lorence, date stamped November 8, 2004, with lot width at the setback variances from 90 to 69 feet for Lot 1 and from 90 to 58 feet for Lot 2. Approval is based on the following findings:*

- a. Except for the variance(s), the proposal meets the required standards and ordinance for a preliminary plat.
- b. The proposal meets the required standards for a variance, because:
 - (1) There is a unique hardship to the property caused by the location of the existing home, and mature trees on the site.
 - (2) The variance would meet the intent of the ordinance because the applicant could create for lots on the property without any variances.

Approval is subject to the following conditions:

- a. Complete the following before final plat approval:
 - (1) Show the following on the final plat:
 - (a) Utility easements over existing or proposed public utilities, as determined by the city engineer.
 - (b) Drainage and utility easements over wetlands, floodplains, and storm water ponds, as determined by the city engineer.
 - (c) The 20-foot wide easement on Lot 2 should be eliminated.

- (d) The easement over the ponding area must cover the entire pond.
 - (e) An Outlot must be established over the trees located north of the proposed street. The right-of-way may be reduced to 40 feet.
- (2) Pay the city a park dedication fee of \$7,125.00.
 - (3) If the developer is petitioning the city to construct the public improvements, the city council must order the improvements.
- b. The following items must be submitted to the city before the city releases the final plat:
- (1) An engineering/utility inspection fee.
 - (2) Payment for traffic signs and installation, as required by the city engineer.
 - (3) An electronic CAD file of the final plat in microstation or DXF on a CD disk.
 - (4) If the developer is construction 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 of must be 150% of the estimated cost of the improvements or 125% of the cost if based on actual bids.
 - (5) The following documents for the city attorney's approval:
 - (a) Title evidence that is acceptable to the city attorney. Title evidence must be current within thirty days before release of the final plat.
 - (b) Conservation easements over the wetlands, wetland buffers and trees to be permanently protected must

be submitted along with drawings of the easements. The easements and drawings must be recorded with the final plat. A 50-foot buffer and easement must be established over the southerly wetland. A 25-foot buffer and easement must be established over the other two wetlands. The tree conservation easement must be revised as shown on page A13 of the staff report.

- (c) Private easements must be established over the following:
 - i) The sewer line that extends over Lot 2, providing connection to the home on Lot 1.
 - ii) The water line over Lot 2 that provides service to Lot 1.
 - iii) The sewer and water lines that cross Lot 4 to serve Lot 3.
- (d) 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, tree maintenance, 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.
- (e) Provide declaration and restrictive covenants over all mitigated wetland areas per the WCA, for review by the city's environmental resources coordinator.
- (f) 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.

- (6) Any other requirements included with final plat approval.
- c. The following must be completed before the city issues a grading permit or any site work is started.
 - (1) Final grading, drainage, erosion control and utility plans must be submitted for staff approval. The plans must include the following revisions:
 - (a) No grading may occur below the existing 938 elevation.
 - (b) There may be no retaining wall within 25 feet of the easterly wetland.
 - (c) The storm sewer outlet on Lot 4 must be extended from the pond toward the west lot line, and then south to the south property line and toe of the slope on the park property to the south. Specific location shall be subject to approval of staff, and must minimize tree loss in the area.
 - (d) A sump catch basin must be added in the street.
 - (e) The rim of catch basins must be a minimum of 1-foot above the 100-year elevation of the pond.
 - (f) The pond must be revised to provide wet storage for water quality.
 - (g) Drainage calculations must be submitted for 1, 10 and 100-year storm events.
 - (h) Lots 1 and 2 must be custom graded at the time of a building permit.

If the develop is building the streets and utilities, the developer must submit final street and utility plans 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. The city will not release the letter of credit or cash escrow until the developer submits as-built drawings and a letter certifying that the utilities, driveway and grading have been completed according to the plans approved by the city.
 - (3) All trees to be preserved must be fenced and erosion control measures installed for staff approval.
 - (4) A construction management plan but be submitted for staff approval.
 - (5) If required, submit evidence of the watershed district approval. The city may require revisions to the preliminary plat to meet the district's requirements.
- d. The following must be submitted to the city before the city issues a building permit:
- (1) 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.
 - (2) 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.
 - (3) A copy of the recorded plat and any easement or covenants required to be recorded.
 - (4) Hookup fees for sanitary sewer and water.
 - (5) 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.

- (6) Minimum low floor elevation is 937.8.
- (7) Each home must be setback 20 feet from the 935.8 contour.
- e. During construction, the streets must be kept free of debris and sediment, and the tree protection fencing, and erosion control fencing must be maintained.
- f. 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.
- g. 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.
- h. Should parking become a problem due to the narrow street width, one side must be posted for no parking.

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

Acting Chair Maes stated that the city council is tentatively scheduled to review the item at its January 3, 2004 meeting.

9. ADJOURNMENT

*Britain moved, second by Allendorf, to adjourn the meeting at 7:05 p.m.
Motion carried unanimously.*

By: _____
Lois T. Mason
Planning Secretary