

**MINNETONKA PLANNING COMMISSION
MINUTES**

FEBRUARY 10, 2005

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 explained that four-vote items required a majority of the commissioners present to pass a motion. Item 8B, front yard setback variance to remodel the home at 3926 Vandan Road for Kenneth Heim (04080.04a), requires five votes to pass a motion. The applicant has the option of postponing action until the next meeting.

- 4. APPROVAL OF MINUTES:** January 20, 2005

Allendorf moved, second by Bonoff, to approve the January 20, 2005, meeting minutes as submitted.

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

5. REPORT FROM STAFF

Olson provided an overview of the study session held Monday, January 31, 2005. Tom Goodman, an attorney who represented residents opposed to development projects, provided insights to his group's perspective. He urged the city to find the real reasons behind residents' opposition to a project. Mr. Goodman found that residents become angry and persistent when they feel that the city does not understand their position. His advice was to make residents feel that they are being heard.

The main event of the study session involved discussion of the Interstate 169 and Minnetonka Boulevard redevelopment project. The project would address two long-term goals the city has had for the area. The first is to provide a

“gateway” into the city and the second is to emphasize the creek and open space areas. A creek corridor study will take place over the next six months to nine months. The desire is to open public access to the creek. The residents present were overall supportive of the project, but had concerns with the height of the condominiums and the traffic. The new public park was a positive. Coordinating redevelopment of the property south of the area was discussed. The developer was encouraged by the meeting and plans to conduct a traffic study, hold a neighborhood meeting, and submit a formal application. Chair Hart commented that the meeting was productive. She looks forward to learning the results of the traffic study in regard to Minnetonka Boulevard remaining two lanes or being widened to four lanes.

6. REPORT FROM PLANNING COMMISSION MEMBERS: None

7. PUBLIC HEARINGS: CONSENT AGENDA: None

8. PUBLIC HEARINGS

A. Preliminary plat for a two-lot subdivision at 3564 Shady Oak Road for Shane Homes, Inc. (04085.04a)

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.

Gallop asked if a zero-lot line variance would be needed since the street would not be built right away. Teague responded that no variance would be required because there would be a sufficient amount of right-of-way.

Gallop questioned what would happen if the street would never be constructed. Teague explained that the right-of-way would still exist, whether the street would be paved or not.

Gallop asked if the building behind the home is currently inhabited. Teague explained that the building is an accessory structure, it is not currently inhabited, and it would remain with the property and the existing home.

Maes requested the location of the conservation easement be pointed out. Teague obliged. He confirmed that the conservation easement is a condition of approval of the preliminary plat.

Bonoff asked if the easement would prohibit the creation of a third lot. Teague stated that a third lot could exist between the proposed residence and the existing residence.

Bonoff inquired when the street would be constructed. Teague stated that it would be paved if and when the property to the north develops. Teague further stated that the property owner has no imminent plans.

The public hearing was opened.

Rick Chasin, 3703 Plymouth Road, stated that:

- He was concerned that the lack of street frontage would cause a safety issue. In the event of a large fire, he questioned how the fire vehicles would access the home and the location of the nearest hydrant.
- Residents are not aware of the potential for subdividing three lots on the adjacent property.
- He favored a “master plan” rather than “piece meal” changes for the area.
- The future homes would be larger and more expensive than the existing homes. The proposal would cause significant economic and environmental changes to the area. A project of this size needs a comprehensive plan.
- The city should notify residents of the scope of the future plans that have not been done before now because of the significant impact to the area.
- A delay should be given to review the variance and to allow time to prepare a master development plan to include all adjacent properties of the site. It would address the style and construction of future residences.

Chair Hart explained that the planning commission’s jurisdiction includes the current plan, not future potential development for the surrounding properties. No variance is needed for the subdivision. Chair Hart explained that the surrounding area information was included as information only. It would not be mailed to residents.

Mr. Chasin stated that his main point was that the report deals with future development and the plat with the cul-de-sac and street were done in preparation for future development. Chair Hart stated that many more trees would be lost if

the cul-de-sac would be located on the proposal site, but it could be done. Staff and the applicant worked to save the trees. Mr. Chasin requested assurance that when another subdivision is proposed in the future, that the neighbors would be given enough notification to hold a neighborhood meeting.

Teague explained that the proposed residence would be required to have a sprinkler system and the plan was revised to add the right of way and eliminate the need for a variance.

In response to Gallop's request, Mr. Chasin pointed out the location of his residence.

Roger Van Hoven, 3718 Huntingdon Drive, pointed out his residence on the map. He asked how many of the surrounding properties could be subdivided and the potential number of homes that could be built in the area. Teague reviewed the potential for development of surrounding properties. The city council denied a previous application to create a lot behind a lot with a substandard width. The lots might have the buildable area, but they do not have adequate street frontage. The lots in the current proposal have enough room to include a street. It seemed fair to split the difference between the two properties.

Mr. Van Hoven favored the city creating an overall plan for the overall area instead of singling out one or two property owners for their benefit. He thought most of the people in the area do not want to see lots behind lots. It would ruin the character of the neighborhood. Chair Hart clarified that the application is not a city plan. The owner of the property submitted the application. The city reviews submitted applications. It does not have the jurisdiction to create its own plan.

Mary Chasin, 3703 Plymouth Road, agreed with Mr. Van Hoven. The issue is future development being done either in a piece meal fashion or in a comprehensive way. The city should take a broader, more comprehensive look at the potential for development of this area. A lot of neighbors would like to discuss what to do with their own property. The common good has to be considered.

Maes applauded planning for the common good. She asked if the conservation easement would prohibit a future road to the other lots. Teague answered in the affirmative. The conservation easement, lack of land, and wetland would prevent a road being constructed. Maes appreciated the neighbors' concerns.

No additional testimony was submitted and the hearing was closed.

Chair Hart reviewed the primary issue.

Bonoff appreciated staff looking at the broader perspective in proposing a common road with the lot to the north. It would have been short sighted to approve the application since it would be adjacent to development in the future. She believed it would serve everyone well and be much less disruptive than two separate developments done within ordinance requirements.

Gallop concurred with Bonoff. He was concerned that a common street would never be built, but overall he supported staff's recommendation. It is important to take in the neighbors' comments. The neighbors made very good points.

Maes supported staff's recommendation and their due diligence in examining ramifications for the future. She encouraged the neighbors to work with the developer. It would be a different project if variances were needed.

Allendorf noted the 40 significant trees being saved by having the shared driveway. He asked how the developer would be held accountable for the preservation of the trees. He understood that it would be in the developer's best interest to preserve the trees, but he preferred a guarantee. Teague stated that the driveway plan would be submitted with the building permit application. Staking and fencing of the trees would be required and inspected by staff before grading occurred.

Maes moved, second by Allendorf, to recommend that the city council give preliminary approval to the Hedlund Shady Acres, date-stamped January 21, 2005. 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.
 - (3) A ten-foot drainage and utility easement must be shown along the west lot line of Lot 2.

- (4) A drainage and utility easement must be shown over the 964.5 elevation on Lot 2.
 - (5) A dedication of seven feet of right-of-way along Shady Oak Road.
 - 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 on a CD disk.
 - 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) Conservation easements over trees to be protected south of the existing home, and a drawing of the easements for the approval of the city attorney. The easements and drawings must be recorded with the final plat.
 - (3) A private driveway easement between the street right-of-way and Lot 2. The easement must state the maintenance responsibilities of each owner. The minimum driveway width must be as required by the fire marshal.
 - (4) A private utility easement across Lot 1 to provide services to Lot 2.
 - (5) Submit a special assessment waiver, in recordable form acceptable to the city attorney, agreeing to pay 100% of the cost to construct the public street. The total cost not to exceed 125% of the city's current estimate (\$219,388 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 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. A grading and tree preservation plan for the new lot, subject to staff approval. Plans must include the construction of the driveway. 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.
 - b. A copy of the recorded plat and any easement or covenants required to be recorded.
 - c. A hookup fee for sanitary sewer and water.
 - d. 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.
 - e. A driveway turn around must be provided on the new lot to prevent backing out onto Shady Oak Road.
 - f. The new home must be built with a sprinkler system subject to review and approval of the fire marshal.
 - g. Minimum low floor elevation for the new home on Lot 2 is 966.5.
 - 4) During construction, the streets must be kept free of debris and sediment, and the tree protection 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 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.
- 6) Before the city makes a final inspection of the house, the drive must be paved from the street to the house on Lot 2. 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, Gallop, Maes, and Hart voted yes. Britain and Periolat were absent. Motion carried.

Chair Hart stated that a written request to appeal the planning commission's decision must be given to the planning director within ten days.

B. Front yard setback variance to remodel the home at 3926 Vandan Road for Kenneth Heim (04080.04a)

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.

Kenneth Heim, 3926 Vandan Road, applicant, asked if commissioners had a concern with the variance, since five votes were required and only five commissioners were present.

Gallop had real concerns with a 15-foot front yard variance. He suggested the applicant consider tabling the item until the next meeting.

Allendorf had difficulty with the setback and what it would do to the alignment of the houses on Vandan Road.

Mr. Heim requested the review of his application be postponed.

Allendorf noted that the city council is required to act on the item by March 15, 2005. Teague clarified that the planning commission is required to act on the item by March 10, 2005.

Allendorf moved, second by Gallop, to table item 8B, a front yard setback variance to remodel the home at 3926 Vandan Road for Kenneth Heim (04080.04a), until the February 24, 2005 planning commission meeting.

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

C. Items concerning 5735 and 5801 Baker Road, for Minnetonka Transportation, Inc. (04088.04a)

- 1) Rezoning R-1 Residential to I-1, Industrial;**
- 2) Site plan review for parking lot expansion; and**
- 3) Parking setback variance.**

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

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

Allendorf felt the new landscape plan addressed concerns expressed by a resident. He questioned how the south entry would change. Right now it is quite ugly. Thomas explained that some pavement would be removed to reduce its width and landscaping would be added.

Allendorf questioned what type of material would be used for the gates. Thomas stated that the last plan utilized cyclone fencing with opaque slats. She suggested the applicant provide verification.

Allendorf asked if the sugar maple could be saved. Colleran stated that the tree he referred to is not structurally sound. The trunk is cracked.

Gallop asked for the number and type of plantings described in the latest landscaping plan. Colleran described the trees and shrubbery proposed. Colleran spoke to the landscape architect that afternoon and encouraged more trees be planted to screen Baker Road. The landscape architect seemed agreeable.

Gallop asked if a condition of approval would require the applicant to adhere to staff's landscaping recommendation. Thomas explained that a condition of approval would require the applicant to adhere to the submitted landscape plan with additional plantings as required by staff.

Bonoff asked how tall the trees would be when planted. Colleran estimated that the deciduous trees would be 2 ½ inches in diameter, normally 11 feet to 12 feet tall. The evergreens would be 6 feet to 8 feet in height.

Bonoff asked if the existing north driveway would remain as it is. Thomas stated that it would be reconstructed. A permit from Hennepin County would need to be obtained before grading could begin.

Chuck Robinson, owner of both properties and Minnetonka Transportation, Incorporated, applicant, was present to answer questions.

Allendorf asked what material the gate would be made from. Mr. Robinson stated that it had not been determined yet. It would have a gate and the fence would have slats to provide screening.

Allendorf felt a wide cyclone fence without slats would not provide screening. Mr. Robinson stated that his contractor was considering a chain link fence the last time he spoke with him. The type of gate that rolls back and is slated is being considered. At this time, a gate was not planned for the north entrance by the road, but possibly further back another 30 feet, so it would completely seal off the equipment and minibuses. A gate 30 feet back on the north entrance would allow access for the building tenants.

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

Chair Hart reviewed the primary issues. The proposal would decrease the non-conformity of the site.

Gallop moved, second by Maes, to recommend that the city council approve the following items concerning 5735 and 5801 Baker Road with modification provided in the change memo dated February 10, 2005, for Minnetonka Transportation, Inc. (04088.04a):

REZONING

- 1) *Recommend that the city council adopt the ordinance on pages A1–A2 of the staff report, which approves the proposed rezoning. 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.

SITE PLAN REVIEW

- 2) *Approve the site plan for a parking lot expansion at 5735 Baker Road, 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 January 28, 2005.
 - Grading plan date-stamped January 28, 2005.
 - Storm water Pollution Prevention plan date-stamped January 28, 2005.
 - Landscape plan dated February 10, 2005, with additional plantings as required by environmental staff.
 - Revised Landscaping plan dated February 3, 2005.
 - Illumination plan date-stamped January 28, 2005.
 - b. Before starting any site work or obtaining a grading permit, complete the following work:
 - (1) A temporary rock driveway, erosion control, tree protection and wetland protection fencing for each lot must be installed, subject to review by the city's environment resources coordinator.
 - (2) Submit the following for staff review and approval:
 - (a) Final site, grading, drainage, utility, landscape, irrigation, and erosion control plans.
 - (b) Engineering details for the retaining wall.

- (c) Access port details for the underground storm water storage.
 - (d) A letter of credit or cash escrow for 150% of the estimated cost to comply with grading permit requirements and restore the site.
 - (e) A construction management plan for staff approval.
 - (f) A letter of credit or cash escrow for 150% of the estimated cost of all required landscaping
 - (g) Copies of required county access, grading, and discharge permits.
 - (h) Copy of required MnDot drainage permit.
- c. The property is at 5735 and 5801 Baker Road must be combined. Evidence of this combination must be provided to the city.
- d. As illustrated on Exhibit A24 of this report:
- (1) all pavement that cross the south property line must be removed; and
 - (2) all pavement that encroaches into the required setback from the west property line must be removed.
 - (3) remove any other areas of existing pavement that cross the properties' lines.
- e. The shoulder between the driveways must be paved.
- f. B6-12 curbing must be installed in the new parking area.
- g. Landscaping must have a minimum value of 2% of the total cost of the project.
- h. The property owner is responsible for replacing any required landscaping that dies.

- i. Construction must begin by December 31, 2006, unless the planning commission grants a time extension.
- j. Prior to council action, submit a registered survey of the properties.

PARKING SETBACK VARIANCE

- 3) *Adopt the resolution on pages A3–A6 of the staff report, which approves parking lot setback variances from 20 feet to 5 feet and from 20 feet to 0 feet for an existing parking lot at 5801 Baker Road. Approval is based on the following findings:*
 - a. Strict enforcement would cause undue hardship because of the following circumstances that are unique to this property:
 - (1) The setback variances are reasonable. The existing parking lot is over 80 feet from the traveled portions of area rights-of-way.
 - (2) The location of the property is unique. The industrial property is isolated; unlike other industrial sites, it is not surrounded by similarly zoned properties.
 - b. The variance would be consistent with the spirit and intent of this ordinance for the following reasons:
 - (1) The setback variances meet the intent parking setback requirements. The existing parking lot is over 80 feet from the traveled portions of area rights-of-way.
 - (2) The variances would have little visual impact on the surrounding area; they would not allow for lesser setbacks than already exist on the site.
 - (3) By removing areas of pavement, the property owner would be reducing the existing non-conformities.

Approval is subject to the following conditions:

- a. Submit proof of having recorded this resolution with Hennepin County.

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

Chair Hart stated that a written request to appeal the planning commission's decision must be given to the planning director within ten days.

9. ADJOURNMENT

Maes moved, second by Bonoff, to adjourn the meeting at 7:45 p.m. Motion carried unanimously.

By: _____

Lois T. Mason
Planning Secretary