

**MINNETONKA PLANNING COMMISSION
MINUTES**

MARCH 31, 2005

1. CALL TO ORDER

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

2. ROLL CALL

Commissioners Allendorf, Britain, Cheleen, Dahl, Periolat, and Hart were present. Bonoff was 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.

4. APPROVAL OF MINUTES: March 10, 2005

Cheleen moved, second by Dahl, to approve the March 10, 2005, meeting minutes as submitted.

Cheleen, Dahl, and Hart voted yes. Bonoff was absent. Allendorf, Britain, and Periolat abstained. Motion carried.

5. REPORT FROM STAFF

Olson briefed the commission on land use applications considered by the city council at its meeting of March 7, 2005:

- Adopted a resolution approving a conditional use permit for a flower and bedding plant stand at the southwest corner of the Westwind Plaza parking lot, 4795 County Road No 101, for Sever's Farmers Markets with the commission's recommendation.
- Overturned the planning commission's denial of a front yard setback variance to remodel the home at 3926 Vandan Road for Kenneth Heim. Councilmembers found an undue hardship existed due to the zero to four feet of right-of-way in front of the home; an eight-foot elevation change from the street to the house; and the existing garage door is just six feet tall, with bedrooms above, which would make it difficult to add on.

- Adopted a resolution approving a lot division to re-divide the properties at 13 Westwood Road and 15 Westwood Road into two buildable lots for Lance Rosenberg. The applicant agreed to place a conservation easement to preserve trees along the road. The issue to discuss in the future is when it is appropriate to use conservation easements. Voluntarily implementing a conservation easement is acceptable, but it may not be acceptable for the city to require a conservation easement in that circumstance. Requiring specific reasons for the use of a conservation easement in staff reports may be implemented in the future.

Olson mentioned that the next planning commission meeting will be in two weeks, April 14, 2005.

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 Periolat, to approve the items listed on the consent agenda as recommended in the respective staff reports as follows:

A. Site and building plan review for a garage and warehouse addition at 11401 Excelsior Boulevard for Glacier Properties LLC (95057.05a)

Approve the site and building plans for Glacier Properties for a 3,358-square-foot garage addition and a 180-square-foot storage addition to the existing building. Approval is subject to the following conditions:

- 1) 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 February 2, 2005.
 - Grading plan date stamped February 2, 2005.
 - Landscaping plan date stamped February 2, 2005.
 - Building elevations date stamped February 2, 2005.
- 2) The following must be submitted to the city before the city issues a building permit:

- a. A final landscape and irrigation plan for staff approval. The plan must include additional pine tree plantings along the west side of the south lot line.
 - b. A letter of credit or cash escrow for 150% of the estimated cost of all required landscaping
- 3) The entire site must be swept once a week to prevent the dirt from getting into the streets and storm sewer. If dirt is still getting into the street and storm sewer, in addition to sweeping the site, the city may require the property owner must install an on-site system that would clean dirt from the trucks before leaving the site. The system would be subject to review and approval of staff before implemented.
 - 4) The property owner is responsible for replacing any required landscaping that dies.
 - 5) 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.
 - 6) The parking and drive aisles must be paved as shown on the site plan.
 - 7) Construction must begin by December 31, 2006, unless the planning commission grants a time extension.

B. Preliminary plat to divide the existing property into two lots at 12802 Sheffield Curve for Michael Weinard (05002.05a)

Recommend that the city council give preliminary approval to the Weinard Addition, date stamped March 14, 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) Dedicate additional seven-foot-wide right-of-way along Plymouth Road.
 - (2) At least ten-foot-wide drainage and utility easements next to public street rights-of-way.
 - (3) A 15-foot wide drainage and utility easements along the west property line of Lot 2.
 - (4) A seven-foot wide drainage and utility easements along all other lot lines.
 - b. Pay the city a park dedication fee of \$2,375.
- 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 on a CD disk.
 - 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) 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 documents must be recorded with the final plat, and a drawing of any easement must be attached to the easement deed.
 - f. 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 review and 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.

- b. A temporary rock driveway, erosion control, and tree protection fencing must be installed, subject to staff review and approval.
 - c. A copy of the recorded plat and any easement or covenants required to be recorded.
 - e. A hookup fee for sanitary sewer and water.
 - f. A letter from the surveyor stating that boundary and lot stakes have been installed as required by ordinance. If the grading for proposed streets has not been completed, the planning director may approve a time extension to this requirement.
- 5) During construction, the streets must be kept free of debris and sediment, and the tree protection fencing and erosion control fencing must be maintained.
- 6) Trees must be planted to compensate for significant trees removed from each site that would be outside of the building pad and driveway area. The trees must be primarily species native to the area. They must be at least 2 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.
- 7) The existing storm sewer pipe is considered a private system. Maintenance of the pipe is the property owner's responsibility.
- 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.

C. Revision of a conditional use permit to extend the time to sell flowering plants and gardening supplies at 4801 County Road 101 for Cub Foods (88012.05a)

Recommend that the city council adopt the resolution on pages A1–A4 of the staff report. This resolution revises a conditional use permit for a flowering plant and gardening supply stand in the Cub Foods parking lot for William Ewald of Cub Foods. Approval is based on the finding that the proposal meets the required conditional use permit standards (the conditions underlined have been

added and the struck out conditions have been removed) and is subject to the following conditions:

1. Record the resolution with Hennepin County.
 2. The City Council may reasonably add or revise conditions to address any future unforeseen problems.
 3. The location of the nursery must be along the north edge of the Cub Foods parking lot.
 4. The hours of operation will be from 9:00 a.m. to 8:00 p.m. Monday through Friday, and 8:00 a.m. to 6:00 p.m. on Saturday and Sunday. The operation shall be limited to an annual period beginning in April and ending October 31.
 5. The water supply for the greenhouse and nursery materials will not be from a fire hydrant.
 6. The temporary greenhouse must consist of flame retardant materials.
 7. No smoking is allowed within the greenhouse and no smoking signs must be posted.
 8. ~~This conditional use permit will expire on June 15.~~
 8. The nursery shall not include a public address system.
 9. This approval does not approve any signs at the site. A sign permit application must be submitted for staff review and approval. Any proposed sign must meet the requirements outlined in city code.
 10. 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.
 11. The applicant must agree to the above conditions in writing.
- D. Ordinance dropping the time limits on conditional use permits for nurseries and transient sales (05013.05a)**

Recommend that the city council adopt the ordinance on pages A1–A5 of the staff report.

E. Conditional use permit for telecommunications antennas and ground equipment at 5604 Hathaway Lane for T-Mobile, USA (97067.05a)

Recommend that the city council adopt the resolution on pages A1–A3 of the staff report, which approves the proposed conditional use permit. This resolution is based on the following findings:

- 1) The city code recognizes telecommunications facilities as valuable public resources.
- 2) The proposal meets all of the conditional use permit standards.

Approval is subject to the following conditions:

- 1) Record this resolution with the county before the city issues a building permit.
- 2) The site must be developed and maintained in substantial conformance with the plans dated March 2, 2005.
- 3) The exterior surface of the antennas must be painted to match the existing water tower.
- 4) The building addition must match the existing building.
- 5) The evergreen plantings on the west side of the building must be replaced.
- 6) The city council may reasonably add or revise conditions to address any future unforeseen problems.
- 7) The applicant must agree to the above conditions in writing.

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

Chair Hart stated that an appeal of the planning commission's decision must be made in writing to the planning director within 10 days. Item 7A, site and building

plan review for a garage and warehouse addition at 11401 Excelsior Boulevard for Glacier Properties LLC (95057.05a), is a final decision. Items 7B, preliminary plat to divide the existing property into two lots at 12802 Sheffield Curve for Michael Weinard (05002.05a); 7C, revision of a conditional use permit to extend the time to sell flowering plants and gardening supplies at 4801 County Road 101 for Cub Foods (88012.05a); 7D, ordinance dropping the time limits on conditional use permits for nurseries and transient sales (05013.05a); and 7E, conditional use permit for telecommunications antennas and ground equipment at 5604 Hathaway Lane for T-Mobile, USA (97067.05a), are tentatively scheduled to be heard by the city council at its April 11, 2005 meeting.

8. PUBLIC HEARINGS

A. Variances for a living room and garage addition at 5008 Shady Oak Road for Nicholas Michalski (05008.05a)

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.

Allendorf asked how the applicant would address run off on the south side of the addition. Sobota explained that the proposal's roof line would be different than the existing roof line. The water would drain off the roof and onto the driveway and back yard instead of to the south. The condition was included to cover potential unforeseen future drainage problems.

Chair Hart asked if gutters would be required. Sobota confirmed that rain gutters would be required on the north side of the addition. If drainage is not sufficiently directed away from the south lot line, rain gutters may be a remedy.

Chair Hart invited the applicant to speak. Nicholas Michalski, 5008 Shady Oak Road, applicant, was pleased with staff's presentation and had nothing to add.

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

Chair Hart agreed with the conditions added by the change memo that addressed comments received from the neighbors. She reviewed the primary issues. She supported the proposal, but acknowledged that it would increase the nonconformance of the site. It is a very unique situation. The lake behind and

Shady Oak Road in front of the lot, the lot's configuration, and the house's placement on the lot all contribute to create a hardship.

Britain moved, second by Periolat, to adopt the resolution on pages A1–A4 of the staff report, which approves the side yard setback variances from 10 feet to 0 feet and from 10 feet to 3 feet, the aggregate side yard setback variance from 30 feet to 3 feet, and the front yard setback variance from 50 feet to 17 feet with the modifications provided in the change memo dated March 31, 2005. Approval is based on the following findings:

- 1) There is a unique hardship to the property caused by:
 - a. The location of the existing home on the property line.
 - b. The irregular size and shape of the lot.
 - c. The narrow width of the lot.
 - d. The location of the lot adjacent to Shady Oak Lake and Shady Oak Road, each of which requires increased setbacks.
- 2) The variance would meet the intent of the ordinance since:
 - a. The variance request is for a reasonable use of the property.
 - b. The proposed garage addition is a minimally sized two-stall garage that is in character with the surrounding homes.
 - c. An addition of any size would require a variance.
 - d. The proposal would not alter neighborhood character

Staff approval is based on the following conditions:

- 1) Submit proof of having recorded this resolution with Hennepin County before the city issues a building permit.
- 2) The applicant receives written permission from adjacent property owners for access to their property during construction.
- 3) The building must comply with all building code requirements, including all requirements for fire protection.

- 4) The installation and maintenance of erosion control and tree protection fencing, subject to review by the city's environmental resources coordinator.
- 5) Gutters must be installed along the north side of the addition to direct drainage away from the north lot line. The overhang and gutter on the north side of the home cannot encroach onto the adjacent property.
- 6) The street remains free of sediment and debris.
- 7) This variance will end on December 31, 2006, unless the city has issued a building permit for the project covered by this variance or approved a time extension.
- 8) Drainage from the garage addition must be directed away from the south lot line.

Allendorf, Britain, Cheleen, Dahl, Periolat, and Hart voted yes. Bonoff was absent. Motion carried.

Chair Hart stated that an appeal of the planning commission's decision must be made in writing to the planning director within 10 days.

9. ADJOURNMENT

Periolat moved, second by Allendorf, to adjourn the meeting at 6:52 p.m. Motion carried unanimously.

By: _____
Lois T. Mason
Planning Secretary