

**MINNETONKA PLANNING COMMISSION
MINUTES**

APRIL 14, 2005

1. CALL TO ORDER

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

2. ROLL CALL

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

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 31, 2005

Allendorf moved, second by Dahl, to approve the March 31, 2005, meeting minutes as submitted.

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

5. REPORT FROM STAFF

Olson briefed the commission on land use applications considered by the city council at its meeting of April 11, 2005:

- Adopted a resolution approving a conditional use permit to sell flowering plants and gardening supplies from April 8 to October 31, 2005 at 4801 County Road 101 for Cub Foods.
- Adopted a resolution approving an ordinance eliminating the time limits for nurseries and transient sales.

Olson reviewed the discussion that took place at the April 4, 2005 study session regarding the Glen Lake Development. The city council, planning commission, and economic development authority reviewed a concept plan to redevelop north and south sides of Excelsior Boulevard, including the Glenhaven Shopping Center area. Several townhomes and four-story to five-story condominium buildings mixed with commercial uses were included in the concept plan.

Councilmember's were overall supportive, but had some reservations concerning whether the project was feasible. Staff was directed to complete a market research study to consider the need for a grocery store in the area; the practicality of residential housing being located over a restaurant; if the area could accommodate more commercial use than the proposal includes; and the impact of the substation on potential development. Olson stressed that the proposal is at the concept plan stage.

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.

Bonoff 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 with parking setback variances for building additions at 11300 47th Street West for the Roth Corporation (87058.05a)

Approve the site and building plans, with a parking setback variance, for building additions at 11300 47th Street West. Approval is based on the following findings:

- 1) Apart from the parking setback variance, the proposal meets all site and building plan standards.
- 2) The proposal would meet the required standards for a variance, because:
 - a. The proof-of-parking area would extend from an existing parking lot. This is reasonable.
 - b. The proof-of-parking area would not be closer to surrounding buildings than the existing parking lot.
 - c. As proof-of-parking, the area may never be constructed.
 - d. If constructed in the future, the variance would result in five parking stalls located within five feet of a property line. These stalls would not alter the essential character of an established industrial park.

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 28, 2005.
 - Grading plan date-stamped March 17, 2005.
 - Landscaping plan date-stamped February 28, 2005.
 - Building elevations date-stamped February 28, 2005.

- 2) Before issuance of a building permit, complete the following work:
 - a. Install temporary rock driveways, erosion control, and tree protection fencing for staff review and approval.

 - b. Submit final site, grading, drainage, landscaping, utility and erosion control plans for staff review and approval.
 - (1) Final plans must provide for rate control on site by restricting the pipe size in the storm sewer.
 - (2) Final plans must include a sump catch basin installed at the most downstream location.
 - (3) Final grading plan must be adjusted to minimize disturbance to the critical root zones of the trees located to the north and west of the proposed addition.
 - (4) Final landscaping plan must have a minimum value of 2% of the total project value.

 - c. Submit an illumination plan for staff approval

 - d. Submit a letter of credit or cash escrow for 150% of the estimated cost or 125% of a bid cost to comply with grading requirements and restore the site.

 - e. Submit a letter of credit or cash escrow for 150% of the estimated cost or 125% of a bid cost of all required landscaping

- f. If required, submit copies of the watershed district permit. The city may require revisions to the approved plans to meet the district's requirements.
 - g. Submit a construction management plan for staff approval.
 - h. Pay all required hook-up fees
- 4) Provide automatic fire sprinklers in the addition and existing building or as required by the Fire Marshall.
 - 5) During construction, protect all existing trees on the north, east, and west property lines.
 - 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) The property owner is responsible for replacing any required landscaping that dies.
 - 8) Yearly inspection and maintenance of the sump catch basin is required.
 - 9) 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.
 - 10) Approval does not include the signs shown on the drawings. Separate permits are required from staff.
 - 11) Spaces shown as proof-of-parking may not be paved, unless approved by the city upon showing of a demonstrated need for these spaces.
 - 12) Construction must begin by December 31, 2005, unless the planning commission grants a time extension.
- B. Preliminary plat, with lot width at the right-of-way variance, to divide 17224 Lake St. Extension into two lots for Gene Stageberg (90059.05a)**

Recommend that the city council give preliminary approval to the Gene Stageberg plat date stamped March 8, 2005 with the lot width at the right-of-way variance from 80 to 0 feet. Approval is based on the following findings:

- 1) The proposal meets the required standards and ordinances for a preliminary plat.
- 2) The proposal meets the required standards for a lot width at the right-of-way variance in Section 300.10, Subdivision 5(h)(2)(b).
- 3) The property cannot be platted into three lots and meet minimum city code requirements.

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. Execution of the public trail easement along the west lot line.
- 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) A private driveway easement between the street right-of-way and Parcel B. The easement must state the maintenance responsibilities of each owner. The easement must be 34 feet wide. The minimum driveway width must be as required by the fire marshal.
- (3) A private utility easement between the street right-of-way and Parcel B.
- (4) Provide restrictive covenants to be recorded against the individual lots with the plat. The covenants must include the conditions that have not been met as of the release of the plat. These covenants must first be submitted for the city attorney's approval.
- (5) Submit a document, in recordable form acceptable to the city attorney, agreeing to deed the property right for further subdivision of the front lot to the city of Minnetonka.

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. 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, tree protection and wetland protection fencing for each lot must be installed, subject to review and approval of the city's environmental resources coordinator.
 - c. A copy of the recorded plat and any easement or covenants required to be recorded.
 - d. A hookup fee for sanitary sewer and water.

- e. A letter from the surveyor stating that boundary and lot stakes have been installed as required by ordinance. If the grading for proposed streets has not been completed, the planning director may approve a time extension to this requirement.
- 4) During construction, the streets must be kept free of debris and sediment, and the tree protection fencing, and erosion control fencing must be maintained.
- 5) Trees must be planted to compensate for significant trees removed from each site that would be outside of the building pad and driveway area. The trees must be primarily species native to the area. They must be at least 2 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 Parcel B. A driveway setback of at least seven feet must be maintained from the side lot lines. The city may approve a time extension if weather prevents paving of the drive.
- 7) Provide a driveway turnaround for Parcel B before the houses are occupied.
- 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, Cheleen, Dahl, Periolat, and Hart voted yes. 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.

8. PUBLIC HEARINGS

A. Rear yard setback variance for a deck, sunroom, and bedroom addition at 16608 Prospect Place for John Kasid (05015.05a)

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 and change memo.

Ms. Kasid introduced herself and her husband John Kasid, 16608 Prospect Place, applicants. She stated that she has enjoyed living in the city for 13 years. She enjoyed the natural surroundings that surround her residence. She was happy to plant vegetation where the buckthorn was removed. She requested that the existing driveway be allowed to remain.

Chair Hart explained that the applicant could withdraw the application and resubmit it after discussing the driveway with staff or commissioners could vote on staff's recommendation as it was. Mr. Kasid decided on action moving forward.

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

Chair Hart recognized that the applicants had done everything the city had requested by removing items and agreeing to staff's conditions of approval.

Allendorf heard Ms. Kasid offer to replace the buckthorn with vegetation. He asked how the city could take her up on her offer. Colleran agreed that the applicant would work with city staff to determine what plantings would be most appropriate with the existing vegetation. Allendorf confirmed with Chair Hart that the replacement of vegetation is a condition of approval.

Periolat was disturbed that the owner had encroached on city property to such an extent and removed vegetation from a public park area. It showed a disregard for community property. So many times, other applications had been denied in order to uphold the ordinance standards. She favored allowing them to continue to use the driveway, but the commission has denied proposals where the applicant believed inaccurate information received from the seller of the property. It is the responsibility of the owner to obtain an accurate survey, know the boundaries, and know city ordinances. She understood that the recommendation was a package, but she acknowledged that other applicants had been denied much larger things in order to follow the letter of the law.

Britain agreed with Periolat's comments. He felt the survey dated 1957 was the real culprit. City staff used the survey in 2000 to approve a permit. He felt there was no malice or intent committed by the applicant to do harm. He felt some leeway was appropriate.

Periolat understood that a permit was applied for and the structure was not built in accordance with the permit's specifications. Chair Hart confirmed with Sobota that the deck was built larger than the permit allowed. Sobota explained that the walkway was not included in the permit approval. The permit allowed for a 10-foot by 14-foot deck. The deck is 12 feet by 14 feet in size. The bedroom and the sunroom were built in accordance with the permit.

Allendorf questioned if the commission could, hypothetically, recommend approval of the variances and removal of the driveway. Chair Hart stated that staff's recommendation includes a condition that would require the portion of the driveway located on city property be removed.

Bonoff recognized that the property has always been out of compliance. Removing one of the decks was a considerable amount of work and expense. She felt the applicant's actions showed a sense of responsibility and accountability. She understood Periolat's point of view. She supported staff's recommendation.

Britain moved, second by Dahl, to adopt the resolution on pages A1–A3 of the staff report and the modification provided in the change memo dated April 14, 2005, which approves rear yard setback variance from 20 feet to 3 feet at 16608 Prospect Place. This resolution 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.
 - b. The irregular size and shape of the lot.
- 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 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.

- 2) The portion of the driveway and retaining wall on city property is removed by July 1, 2005.
- 3) Tree protection is installed to protect trees when driveway is removed.
- 4) The applicant must replant trees on the city property, subject to review and approval of staff. The applicant must work with the city's Environmental Resources Coordinator in replacing these trees. Trees must be planted before November 1, 2005.
- 5) This variance will end on December 31, 2006, unless the city has approved a time extension.
- 6) The hand rail opening on the deck must be enclosed to meet the uniform building code by June 1, 2005.

Allendorf, Bonoff, Britain, Cheleen, Dahl, and Hart voted yes. Periolat voted no. 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.

B. Proposal to divide the property at 1908 Linner Road into six lots for CoPar Development, LLC (05014.05a)

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 and change memo.

Periolat asked where the boundary for the new conservation easement would start. Teague showed the location. She asked if the option in the change memo would be closer to the cul-de-sac. Teague confirmed her understanding.

Britain lives in the neighborhood. He asked if staff saw a potential traffic hazard by adding two homes with separate drives. Teague acknowledged that the local street is well traveled, but engineering did not see a problem with two homes directly accessing Linner Road.

Bonoff asked if in addition to a planned unit development, the front 3 lots would still be zoned as an R-1 district. Teague explained that the site would all be zoned planned unit development. The front lots would not have the depth of a

standard R-1 lot. The reason for that is to allow the cul-de-sac to be shifted to the east in order to save trees in the slope area. The lots would be around 17,000 square feet each. It would still be a planned unit development, but the side yard setbacks would be required to be 15 feet, rather than 10 feet.

Dahl asked if the cul-de-sac would shift to the right in option 3. Teague explained that the cul-de-sac would stay in the same location. The side lot lines would be shifted instead. The lot sizes would all be around 17,000 square feet with the change. Option 3 would require no additional variance.

Chair Hart stated that the downside to option 3 is that the conservation easement would not save the trees on Lot 1. Olson clarified that the same variance would be required for Lot 3.

Allendorf asked if one of the neighbors' concerns was that the houses would look like tract type houses, all lined up. Teague answered in the affirmative. The house on Lot 3 would be shifted to the west and the spacing between the homes would be increased from 20 feet to 30 feet.

Perolat asked if staff supported option 3. Teague stated that staff supports the applicant's proposal, or option 2 because of the benefit of saving 12 additional trees adjacent to the forest. The benefit of the 12 trees outweighed having the residences being located closer together.

Olson clarified that the house on Lot 3 would be shifted to the west in both the plan that staff is recommending and option 3. Allendorf thanked Olson for pointing that out. Lot 3 would have the residence further back.

Bonoff asked if there were plans to include a sidewalk on Linner Road. Teague answered in the negative.

Chair Hart reviewed that staff's recommendation would recommend approval of a planned unit development that would move the residence on lot 3 closer to the cul-de-sac and would have access from Linner Ridge. A variance is required on that lot from 35 feet to 25 feet. Lots 1 and 2 would access Linner Road.

Tom Hanson, of Copar Development, applicant, preferred option three to staff's recommendation. His second choice would be staff's recommendation, but he would do either.

Periolat asked why he preferred option three. Mr. Hanson felt it would preserve the feel of the community. Offsetting the residence on Lot 3 would provide enough of a break. Option 3 would work, if that is what the public prefers.

Periolat pointed out that plan one could be done without any variances. She asked what the developer's perspective was when creating the other options. Mr. Hanson went through a similar application process with staff, for a project on Groveland School Road, which implemented a planned unit development. He was satisfied with the end result and supported the concept. Conceptually, it made sense.

Allendorf noted that the developer could develop six lots in accordance with R-1 standards.

The public hearing was opened.

Mike Yade, 15111 Linner Ridge, stated that he has resided in his home 22 years. He has always known that a development would occur on the proposed site, but he thought it should have five homes. He felt that the lots would be too small and close together. He feared it would look like a tract home situation. Most of the homes in the area are larger than ½ an acre. What is being proposed is inconsistent with the neighborhood. Mr. Yade favored a more creative name. The name would create more confusion for mail delivery and providing directions. He was concerned with construction road conflicts.

Chair Hart noted that the smaller lots would be allowed in a planned unit development as a trade off for saving 57 additional trees and protecting 2.9 acres with a conservation easement. The site could be developed into six lots, meet all ordinance requirements for its current R-1 zoning, not be reviewed by the planning commission or city council, and be developed without the conservation easement and preservation of 57 trees. Mr. Yade felt that common sense and aesthetics should be taken into consideration.

Joselyn Anderson introduced herself and her husband, Jason, 1901 Linner Road. She stated her concerns:

- The property is just under 4.8 acres. Six homes would be located on less than 2 acres, since 2.9 acres would be in the conservation easement.
- The 3 homes would be "jammed" on Linner Road; very close to the road.

Mr. Anderson stated that they were concerned with using the planned unit development in this situation. The intended purpose must meet eight conditions. The proposal did not meet the eight conditions except for protection of the environment and more efficient use of land. He stated:

- Trees in the front of the property would be removed.
- A traffic hazard would be made worse by vehicles backing onto Linner Road.
- It would not meet the 5-acre requirement.
- Homes on Linner Road should have turn-arounds.

Teague explained that a planned unit development would be used to encourage the eight conditions; they are not requirements. The ordinance stated that a planned unit development should be five acres in size unless it can demonstrate the existence of one of the following: unusual physical features of the property itself or of the surrounding neighborhood or if it would preserve a feature of benefit to the community. In this project, the feature of benefit to be preserved would be the 57 trees and the physical feature of the site is the slopes that justify the site not equaling 5 acres.

Mr. Anderson stated that most of the trees that would be saved would not be in the public view. Chair Hart agreed and said that that does not mean that they are not valuable for the total environment.

Ms. Anderson thought option one would not work because the steep slopes would prevent building. Chair Hart explained that there is a 6-lot plat of the site that meets the R-1 steep slope requirements. The developer could build the 6 houses and remove 57 more trees.

In response to Ms. Anderson's question, Teague stated that the setback requirements to Linner Road are the same for a planned unit development and an R-1 district. Chair Hart noted that staff's recommendation would locate the homes as close to Linner Road as existing homes.

Ms. Anderson thought that a planned unit development would allow the residence to be located closer to Linner Road. Teague agreed that a planned unit development would allow a residence to be located ten feet closer to an interior street. But, the planned unit development requires a standard 35-foot setback from any road that is not included in the planned unit development. So, the Linner Road requirement is the same as the R-1 requirement.

Ms. Anderson requested the commissioners discuss the safety issues on Linner Road and find out how many registered concerns have been received from neighbors. There is a grave safety issue. People speed and the proposed residences would back out onto Linner Road. She requested the houses be setback far enough to have a turn around.

Deb Beerbomb, 1934 Linner Road, next to the park, was concerned with construction traffic parking on Linner Road. Only one vehicle was allowed to travel down the street at a time because of the narrow road. She supported the installation of a sidewalk.

Chair Hart asked if the lots would be large enough to have a turn-around. Mr. Hanson stated that an off-street parking area would be created for contractors and construction traffic.

Tony Eiden, builder, stated that there would be enough room to back out of the garage and turn around. The back out would be the same black top surface as the driveway. He agreed to make that a condition for Lots 1 and 2. Chair Hart appreciated that.

Cheleen questioned if it would be more aesthetically pleasing to make the lots wider and use a different type of turn around.

Ms. Anderson suggested that all three homes be moved back to meet the front setback of Lot 3. It would match the neighborhood better and alleviate the tract appearance concern. Teague explained that the current lot line extends almost to the curb of Linner Road. The plat would be required to add an additional 16.5 feet of right-of-way. The setback would be calculated from the new lot line. It would essentially be 50 feet back from the curb.

Ms. Anderson stated that she still favored the houses being further set back because the existing houses in the neighborhood are not set that close to the road. She requested the commissioners visit the site. The city has done a good job so far in preserving the nature and character of the city. She did not want a precedent set in their neighborhood in violation of the character of the neighborhood.

No additional testimony was submitted and the hearing was closed.

Britain felt the turn around would be critical. It is a busy road and it would not be safe to back into it. Teague agreed that the commission could recommend that a condition requiring a turn around be added to staff's recommendation.

Britain experienced hazardous conditions first hand when bicycling on Linner Road and definitely supported installation of a sidewalk.

Allendorf did not think that option 3 would solve the neighbors' issues. The trade off to save the trees would be well worth it. He supported ordinances currently in place, but he would not support a larger front setback on Linner Road than required by code.

Cheleen initially asked about wider lots with the thinking that it would make the inclusion of a turn around for each lot easier. If the builder and staff agree that the trees could be saved, leave the lots the way they are proposed, and include turn arounds, he was all for it.

Periolat requested to see a map showing the size of the proposed lots compared to neighborhood lots. Teague directed her to a map located in the packet. He reviewed the lot sizes.

In response to Periolat's question, Teague explained that construction parking would be prohibited on Linner Ridge and Linner Road. The cul-de-sac would be rough graded and used for construction parking during construction of the residences. Teague confirmed that staff and the developer have agreed on the location of the conservation easement line.

Britain clarified that the conservation easement would prevent the owner from cutting down trees in it. Otherwise, the property owner would be able to cut the trees down.

Periolat felt the proposal is a good one. It is a trade off. The developer would be able to create six lots without the benefit of preserving the trees. Size wise, it is in keeping with the neighborhood. She appreciated the developer's willingness to work with the city.

Allendorf thanked the neighbors for bringing up the solution of turn arounds to address the safety hazard and the willingness of the builder to make it a condition of approval. It would be a safer project because the neighbors brought up that concern.

Chair Hart reviewed the primary issues.

Britain moved, second by Allendorf, to recommend that the city council adopt the resolution approving the following items to divide the property at

1908 Linner Road into six lots for CoPar Development, LLC with the condition that Lots 1 and 2 be required to have an adequate turn around and the modification listed in the change memo dated April 15, 2005:

**REZONING/MASTER DEVELOPMENT PLAN
 WITH FRONT YARD SETBACK VARIANCE**

- 1) Recommend that the city council adopt the ordinance on pages A1–A4 of the staff report. This ordinance approves a rezoning with master development plan and front yard setback variance from 35 to 25 feet to the south lot line for Lot 3, for 1908 Linner 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 save more significant trees than a plat meeting R-1 standards.

The rezoning is subject to the following conditions:

- a. The site must be developed and maintained in substantial conformance with the following plans, unless modified by the conditions below:
 - Preliminary Plat, date stamped April 7, 2005
 - Grading and Drainage Plan, dated April 7, 2005
 - Utility Plan, dated April 7, 2005
 - Street Plan, dated April 7, 2005
 - Conservation Easement Map, April 7, 2005

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

- b. The following setbacks are required for each lot:

	Lot 1	Lot 2	Lot 3	Lot 4	Lot 5	Lot 6
Front yard						
Linner Road	35 feet	35 feet	35 feet	-	-	-
Linner Ridge	-	-	25 feet	-	-	-
New street	-	-	35 feet	25 feet	25 feet	25 feet
Side yard						

North side	45 feet	10 feet	10 feet	-	10 feet	10 feet
South side	10 feet	10 feet	-	-	10 feet	15 feet
East side	-	-	-	10 feet	-	
West side	-	-	-	10 feet	-	
Rear yard	32 feet	32 feet	-	Established by conservation easement	Established by conservation easement	Established by conservation easement

PRELIMINARY PLAT

- 2) *Recommend that the City Council give preliminary approval to the Linner Woods plat, date stamped March 14, 2005. Approval is based on the following findings:*
- a. The proposal meets the required standards and ordinances for a preliminary plat.
 - b. The proposal meets the required standards and ordinances for a planned unit development.

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 right-of-ways and at least seven-foot-wide drainage and utility easements along all other lot lines.
 - (b) Utility easements over existing or proposed public utilities, as determined by the city engineer.
 - (c) Drainage and utility easements over storm water ponds, as determined by the city.
 - (d) The right-of-way for the cul-de-sac must be reduced 40 feet wide at the entrance of Linner Ridge, and the radius must also be reduced to 45 feet.

- 2) Pay the city a park dedication fee of \$11,875, minus the value of the trail easement.
 - 3) Submit evidence of watershed district approval. The city may require revisions to the preliminary plat to meet the district's requirements.
 - 4) 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) An electronic CAD file of the final plat in micro-station or DXF.
 - (3) If the developer is constructing any public improvements, the developer must submit a signed agreement with 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 must be 150% of the estimated cost of the improvements or 125% of the cost if based on actual bids.
 - (4) 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 areas identified on the preliminary plat, and a drawing of the easements for the approval of the city attorney. The easements and drawing must be recorded with the final plat.

- (c) Provide restrictive covenants to be recorded against the individual lots with the plat. The covenants must include the conditions below that have not been met as of the release of the plat. These covenants must first be submitted for the city attorney's approval.

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

- c. The following must be completed before the city issues a grading permit or any site work is started:
 - (1) A construction management plan must be submitted for staff approval. The plan must include installation and maintenance of a temporary rock driveway, erosion control, and tree protection fencing for each lot. The plan is subject to review by the city's environmental resources coordinator.
 - (2) The items listed in the construction management plan must be installed and inspected by the city's environmental resources coordinator.
 - (3) Final grading, drainage, and erosion control plans must be submitted for staff approval. If the developer is building the streets and utilities, the developer must submit final street and utility plans for staff approval. Controlled roof drainage may be required for Lots 1, 4, 5 and 6. Roof runoff infiltration trenches or other methods approved by staff would be required to control drainage away from the steep slopes.
 - (4) 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, road, and grading have been completed according to the plans approved by the city.
 - (5) Construction vehicles must not park on Linner Road or Linner Ridge during construction.

- (6) The existing debris and dead trees along the north lot line must be removed.
- 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. Controlled roof drainage may be required for Lots 1, 4, 5 and 6. Roof runoff infiltration trenches or other methods approved by staff would be required to control drainage away from the steep slopes.
 - (2) The installation and maintenance of a temporary rock driveway, erosion control, and tree 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 easements, covenants, and any other homeowners' document required to be recorded for the development.
 - (4) All required hookup fees for 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.
- e. All structures must meet the setback requirements of the PUD.
- f. The driveway for Lot 3 must be off Linner Ridge and the front of the home must face the new cul-de-sac.
- g. The garage on Lot 1 must be located on the south side of the home.
- h. The floor area ratio and hard surface coverage each may not exceed 50% of the site area.
- i. The conservation easements must be maintained in accordance with a conservation plan approved by the City.

- j. During construction, the streets must be kept free of debris and sediment, and the tree protection fencing, and erosion control fencing must be maintained.
- k. All existing structures must be removed from the site.
- l. Trees must be planted to compensate for significant trees removed from each site that would be outside of the building pad and driveway area. The trees must be primarily species native to the area. They must be at least 2 1/2 inches in diameter for deciduous trees and 6 feet tall for coniferous trees. The property owner or original developer must replace the required trees if they die within one year after installation.
- m. 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, Cheleen, Dahl, Periolat, and Hart voted yes.
Motion carried.***

Chair Hart stated that the item is tentatively scheduled to be reviewed by the city council on April 25, 2005.

C. Preliminary plat, with a lot width at the right-of-way variance, at 209 Park Lane South for Peter J. Bren & Son, Inc. (05007.05a)

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

Teague reported. He recommended denial of the application based on the findings listed in the staff report.

Peter Bren, representing the property owner, Mr. Walker, stated that the division would be in character with the neighborhood. Mr. Bren noted that the city had previously approved 11905 Ridgemount Avenue, a lot behind a lot located behind the applicant's lot, in 1996. Mayor Anderson voted in favor of that subdivision. That house has significantly lowered the applicant's property value and view. The proposal would allow some monetary compensation for his property value being lowered.

Mr. Bren stated that the proposal should not be considered a precedent. A precedent has already been established. The lot on the north should also be allowed to subdivide. He was disappointed with staff's recommendation. He saw how much effort was made to work with the developer on Linner Road. He approached staff with the assumption that it would be workable.

Mr. Bren felt that some of the neighbors who provided comments were not informed and unjust. Mr. Walker intends to live at the site. It will not distract from the character of the neighborhood at all.

Randy Walker, 209 Park Lane South, stated that he got the idea to subdivide his property from city staff. He was advised by the city that he could subdivide the property into two lots when his house burned. He wants to build a house there. The Oak Knoll subdivision was there when he lived there. One hundred year old oak trees were cut down to build a shopping area. That was done to bring more taxes in and make money.

The public hearing was opened.

Jim West, 1201 Ridgemount, questioned how the houses behind him were approved. Their driveways are too long for Minnesota winters. He felt the proposal would cause a conflict with the neighbor on the north. The area is being redeveloped with \$500,000 houses. The proposal would not make sense for the area. If he had an acre lot, he would be complaining like heck if he could not subdivide it, but there is a lot of swamp land near the site.

No additional testimony was submitted and the hearing was closed.

Chair Hart noted that the Linner Road plat could have been subdivided in accordance with R-1 ordinance requirements. This property could not be subdivided without variances. It is not a comparable situation.

Britain was curious how narrow the houses would have to be to fit on the rectangular lots. Chair Hart estimated that two lots, each 75 feet wide would be created if the property would be divided. Teague agreed that a variance would be needed for the width of the lots. Side setbacks would reduce the buildable area to 45 foot wide area.

Allendorf questioned Mr. Bren's comment regarding the impact of the Ugorets Marsh development. He did not see its relevance. Chair Hart saw no relevance.

Periolat lives in the area and walks by it frequently. The neighborhood has long sight lines. The proposal would not be in character with the neighborhood. The burned remains of the existing house were hard to look at.

Dahl asked if a public street could be built. Teague answered in the negative. There would not be adequate area to provide for a right-of-way and two lots.

Chaleen commented that the previous property split approved on Lake Street Extension is very different because of its surrounding open space. The property would adequately accommodate one residence.

Chair Hart reviewed the primary issues.

Allendorf moved, second by Bonoff, to recommend that the city council deny preliminary approval to the plat, with variance. This denial is based on the following findings:

- 1) The proposal is not consistent with neighborhood character.
- 2) The proposal is not consistent with the City's open space preservation policies.
- 3) Approval of the proposed plat may set a precedent for future lot divisions and/or lot division requests with variances on Park Lane South and Oberlin Road.

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

9. ADJOURNMENT

Periolat moved, second by Dahl, to adjourn the meeting at 8:35 p.m. Motion carried unanimously.

By: _____
Lois T. Mason
Planning Secretary