

**MINNETONKA PLANNING COMMISSION  
MINUTES**

**AUGUST 11, 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, Frisque, 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 David Abel.

**3. APPROVAL OF AGENDA:** The agenda was approved as submitted with modifications listed in the change memo dated August 11, 2005.

**4. APPROVAL OF MINUTES:** July 28, 2005

*Allendorf moved, second by Dahl, to approve the July 28, 2005 meeting minutes as submitted.*

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

**5. REPORT FROM STAFF**

Olson briefed the commission on matters discussed at the joint study session by the city council, economic development authority, and planning commission held August 1, 2005:

- Reviewed a plan for 200 new housing units, 25,000 square feet of renovated retail, and 41,000 square feet of new retail.
- Includes the Glenhaven Shopping Center property, all the property on the south side of Excelsior Boulevard, between the substation and Stewart Lane and the Steeno property, on the south side of Stewart Lane, next to the lake.
- The redevelopment plan generally received a positive reaction from the city council.
- The city has issued a permit for a grocery store.

- Tentative hearing on liquor/coffee shop addition is scheduled for September 8, 2005.
- The developer is currently trying to acquire key properties on the south side of Excelsior Boulevard.
- The applicant hopes to have a plan reviewed by the planning commission this fall.

Olson briefed the commission on a land use application considered by the city council at its meeting of August 8, 2005:

- Approved a two-lot subdivision on Northridge Road and Plymouth Road for Joey and Kristi Jankord with the planning commission's recommendation.

Olson invited the commissioners to a public hearing regarding the Shady Oak Road improvement project, from Excelsior Boulevard to Highway 7, scheduled for August 23, 2005 at 7:30 p.m. in the Minnetonka Community Room. There will be an informal open house at 6:30 p.m.

Olson announced that the next planning commission meeting will be August 25, 2005.

**6. REPORT FROM PLANNING COMMISSION MEMBERS: None**

**7. PUBLIC HEARINGS: CONSENT AGENDA**

Item 7B was withdrawn by request of the applicant.

***Cheleen moved, second by Bonoff, to approve Items 7A, a side yard setback variance to build a detached garage at 3133 Shores Blvd for Rob VandenBroecke (05051.05a), and 7C, a lot area variance to rebuild a house at 3340 Chippewa Road for Clark Kent Homes (05054.05a), as listed on the consent agenda as recommended in the respective staff reports as follows:***

**A. Side yard setback variance to build a detached garage at 3133 Shores Blvd for Rob VandenBroecke (05051.05a)**

Adopt the resolution on pages A1–A3 of the staff report, which approves a side yard setback variance from 7 feet to 2 feet to construct a 24 feet x 20 feet garage at 3133 Shores Boulevard. This resolution is based on the following findings:

- 1) There is a unique hardship to the property caused by:

- a. The 50-foot lot width.
  - b. The location of the white pine tree limits the buildable area on the site.
- 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 detached garage would have the same side yard setback as the existing home.
  - c. The proposed addition 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 installation and maintenance of erosion control and tree protection fencing, subject to review by the city's environmental resources coordinator.
- 3) The building material and color of the garage must match the existing home.
- 4) The entire drip line of the white pine tree is landscaped in wood chips to help promote the trees health.
- 5) 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.

**B. Side yard setback variance for an addition to the home at 3617 Farmington Road for Mike Burgoyne (05052.05a)**

Was indefinitely postponed by the applicant.

**C. Lot area variance to rebuild a house at 3340 Chippewa Road for Clark Kent Homes (05054.05a)**

Adopt the resolution on pages A1–A3 of the staff report, which approves a lot area variance from 22,000 square feet to 11,250 square feet at 3340 Chippewa Road. This resolution is based on the following findings:

- 1) There is unique hardship to the property caused by:
  - a. The existing size of the lot which is 11,250 square feet.
- 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 new home would meet all required setbacks.
  - c. The proposed addition 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 installation and maintenance of erosion control and tree protection fencing, subject to review by the city's environmental resources coordinator.
- 3) 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.

***Allendorf, Bonoff, Britain, Cheleen, Dahl, Frisque, and Hart voted yes.  
Motion carried and Items 7A and 7C on the consent agenda were approved  
as submitted.***

## **8. PUBLIC HEARINGS**

### **A. Preliminary plat for a three-lot subdivision at 18517 Ridgewood Road for Rod Peterson (05041.05a)**

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.

Chair Hart asked if there were variances proposed when the original neighborhood feedback form was sent out. Teague answered in the affirmative. The revised plan was included in the public hearing notice. The revised plan requires no variances and saves additional trees.

Charlie Melcher, Quality Site Design, 2600 Holiday North, Plymouth, applicant, worked with staff to save trees. The revised plan is much better than the original. He agrees with staff's recommendation. He is familiar with the demolition process and construction management plan. One down tree would be removed. The existing house is vacant and would be demolished. Standard water main services would be used on a cul-de-sac paved with curb and gutter. He was happy to work with staff.

Chair Hart asked how much grading and fill would be needed. Mr. Melcher explained that the house pads would be built up. The rear of the homes would be at the current grade with walk-outs.

Britain asked if the applicant met with the neighbors to address the negative comments. Mr. Melcher stated that a neighborhood meeting was not done. The proposal is a standard subdivision that meets all ordinance requirements. The applicant has done what he can to make the project the best it can be.

Chair Hart noted that most of the comments were based on the first plan, which required variances and would have required more tree loss. Teague confirmed that the neighborhood comments were received before the revised plan was sent out. One additional comment is provided in the change memo.

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

Chair Hart reviewed the primary issue. She felt that Teague made a good case that the proposal is reasonable, since it is a standard R-1 preliminary plat. The lots are half an acre or three quarters of an acre in size.

Bonoff assured that residents' comments are taken seriously. Since the plan now meets all ordinance requirements, she supports it.

Allendorf asked how many trees would need to be planted to replace lost ones. Teague explained that the number would be determined when individual building permits had been submitted for each lot. Trees taken outside of the building pad

area would be required to be replaced. Allendorf noted the concern of some neighbors for trees to be replaced.

***Dahl moved, second by Frisque, to recommend that the city council give preliminary approval to Ridgewood Heights plat, date-stamped July 29, 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) The frontage at the right-of-way for Lot 2 must be revised to be at least 65 feet.
    - (3) A drainage and utility easement must be established over the 907.4 elevation.
  - b. Pay the city a park dedication fee of \$4,750.
  - c. If the developer is petitioning the city to construct the public improvements, the city council must order the improvements.
- 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) 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.

- (3) Conservation/buffer easement 25 feet from the edge of the delineated wetland and a drawing of the easement for the approval of the city attorney. The easements and drawings must be recorded with the final plat.

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

- c. Any other requirements included with final plat approval.
  - d. Payment for traffic signs and installation, as required by the city engineer.
  - e. If the developer is constructing 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.
- 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.
    - b. A copy of the recorded plat and any 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. Minimum low floor elevation must be 909.4.
- 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) 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.
  - 7) The following must be completed before the city issues a grading permit or any site work is started.
    - a. Final grading, drainage and erosion control plans must be submitted for the city engineer's approval. If the developer is building the streets and utilities, the developer must submit final street and utility plans for the city engineer's approval.
    - b. 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.
    - c. All trees to be preserved must be fenced and erosion control measures installed for the planning director's approval.
    - d. A construction management plan must be submitted for the planning director's approval.

- e. If required, submit evidence of the watershed district approval. The city may require revisions to the preliminary plat to meet the district's requirements.

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

Chair Hart stated that the city council is tentatively scheduled to review the item at its August 22, 2005 meeting.

**B. Conditional use permit and a site and building plan review for a parking ramp at the southwest corner of the I-394/Hopkins Crossroad Intersection for the Metro Transit Parking Ramp (05033.05a)**

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 asked about the grade change from the road to the site. He asked if the parking lot would be lower and less visible. Thomas confirmed that there would be a grade change.

Bonoff asked if the roof would be green and what material would be used. Thomas stated that the roof would not be green and asked the architect to explain the illustration.

Joe Edwards, project manager for Metro Transit, introduced himself and Patrick Bougie, the lead architect for the project. He stated that the facility would have three parking levels and be located on the existing parking lot and Minnesota Department of Transportation right-of-way. The purpose of the facility would be to provide additional commuter parking within the Interstate 394 corridor and increase transportation services to the city of Minnetonka.

Mr. Edwards explained that the grade change would partially obscure the north end of the ramp from County Road 73. The applicant's primary concern was the requirement for a letter of credit or cash escrow for the grading, site restoration, and landscaping. The applicant is working with staff to come to an agreement. The project would be funded with Minnesota Department of Transportation Trunk Bond Money and Federal Transportation Administration funds which would not allow for a letter of credit or cash escrow.

Mr. Bougie explained that there would be no roof. The area that looked green is a railing. The top floor would be open.

Chaleen was curious if a plan exists to construct light rail in the Interstate 394 corridor. Edwards was not aware of any plan.

Chaleen asked if there would be electronic monitoring for security. Mr. Edwards stated that there would be security monitoring in the elevator areas and would at least be wired for additional cameras to be installed. The additional cameras may have to be delayed until further funding is obtained.

Frisque questioned lighting of the facility and bus service hours. Mr. Edwards was unsure specifically. Initially, the bus hours would generally be the same. Service would be increased as necessary to meet customer needs. The lighting would meet code requirements.

Dahl asked what would happen to service during construction and if there are peak use hours. He noticed about 200 empty spaces on the north and the south lot was full. Mr. Edwards explained that the south lot would be completely closed. Current customers would be notified and referred to the north lot. All busses serve both lots. There is no overnight parking. A study done in 2003 predicts the necessity of the ramp for the future.

Chair Hart confirmed that the applicant knew that the requirements for letters of credit and lawn sprinklers were still in the staff recommendation. Mr. Edwards understood.

The public hearing was opened.

Bill Sternad, 12800 Marion Drive West, stated that he is a mechanical engineer. He spoke to the Metro Transit Commission for years regarding a better parking facility he created. He asked for the projected cost of the design, the number of parking stalls, and if federal tax dollars would be used for funding. Chair Hart stated that the cost of the project is not part of the planning commission's discussion. Thomas explained that approximately 566 stalls would be added.

Mr. Sternad questioned who would be responsible for the maintenance and safety of the ramp. He was in a parking ramp in Maple Grove and motorists were "hot rodding" around the ramp. There are numerous unprotected areas in the ramps.

Mr. Edwards stated that there would be no routine patrol, but it would be available in the event of an emergency. Metropolitan Transit would maintain the property. It would enter into a contract with the Minnesota Department of Transportation to ensure maintenance.

Mr. Sternad commented that bus shelters are in terrible need of repair. Frisque asked if the relationship between the Minnetonka Police and the parking ramp would be similar to the Minnetonka Police patrol of the Ridgedale parking lot. Olson answered in the affirmative. No special patrol would be designated. It would be a drive by similar to that of other businesses.

Dennis Larson, 1512 Wilshire Drive, reviewed a letter he sent to the city. He stated:

- The northwest park and ride lot is generally only half full and the south lot is usually full.
- The intersection of the south frontage road and County Road 73 cannot support the increase in traffic.
- He calculated that the proposal would allow 2,098 vehicle trips per day. It would double the number of trips.
- This is one of the highest accident prone intersections in the city. He requested an accident study be done.
- This would increase crime in the neighborhood. His house was broken into once.
- He questioned security measures used to prevent vehicles from being broken into.
- The future guide plan allows for offices in the area.
- Traffic would increase when the County Road 73 and Minnetonka Boulevard intersection is widened.
- The added traffic from the park and ride would make it less likely for the redevelopment of Wilshire Drive, because the traffic capacity of the intersection would already be maximized.
- Since the north lot is usually half full, the park and ride ramp should be located on the north side. The footprint of the south lot would be too small. The north lot is surrounded by commercial business, not residential houses.
- The buses could change the route to locate the ramp on the north lot.
- The permit application does not have valid reasons to locate the lot on the south lot.

- Less than six people attended the community meeting, so it does not have merit.
- Security for patrons of the ramp was a concern.
- He questioned if there would be a charge to use the ramp.
- The parking lots are not full.

Chair Hart clarified that buses stop at both lots, so a change to the bus routes would not change where patrons parked. People park where it is convenient. Chair Hart referred to a study that indicated that constructing the ramp on the south lot would have the least impact on traffic. Chair Hart stated that open parking lots do not require routine patrols. The traffic study was done before the intersection of Minnetonka Boulevard and County Road 73 was closed. Chair Hart asked how traffic flow of the buses would be patterned. Mr. Edwards explained that customers would enter and exit off the frontage road. There would be no west bound traffic across the bus area as there is now. It would be east bound only. Metro Transit and staff worked to create the best traffic flow. Staff and the traffic study concurred with the proposal.

Mr. Edwards stated that no charges are proposed. The goal is to increase use of transit.

Jim Couling, 11619 Live Oak Drive, represented himself and the 240 households of the Sherwood Forest Neighborhood Association. He stated that:

- He rode the bus before and it only stopped at the south lot, but that was not his concern. He concurred that neighborhood cut-through traffic would not increase significantly. The big concern is the current problem with getting in and out of the neighborhood during rush hour. Right now it is dangerous. There is no gap in traffic and the vehicles come over a hill with limited visibility.
- He did not oppose the ramp, but safety issues have not been adequately addressed.
- A “no turn on red” sign should be placed on Hopkins Crossroad for eastbound traffic on the south frontage road.
- The safety issue is more important than an inconvenience. The ramp would add traffic. Lowering the speed limit would help.

Bonoff agreed with Mr. Couling that there is a big safety issue getting onto the road. Bonoff asked if the city council discussed the history of accidents in the area. Olson did not recall a specific discussion. It is a busy intersection. The traffic study did agree that a “no turn on red” sign should be considered to cause gaps. The city council could consider it.

Allendorf suggested that accident records be available for the council meeting. Chair Hart concurred.

Britain asked if Mr. Couling was suggesting that the park and ride be located on the north side. Mr. Couling answered in the negative. He was concerned with the current safety access issues. He supported the park and ride ramp.

Jim Branch, 14 Westwood Circle, thought the mailing should have included his neighborhood. Chair Hart explained the notification policy.

No additional testimony was submitted the public hearing was closed.

Chair Hart reviewed the primary issues.

Britain supported the project and location; however, he did not agree that a ramp on the north lot would obstruct the view of businesses. He agreed that the south lot would be more convenient for patrons, which is illustrated by the current use.

Cheleen supported the project. He believed that most of the traffic accidents are caused by the close proximity of traffic signals. He agreed with Mr. Couling. Access is nearly impossible and dangerous at rush hour. He supported the city council addressing the traffic safety issue.

Chair Hart thought that the circulation of traffic to the frontage road may improve the safety at the intersection. She supported the city council addressing the traffic issue between Cedar Lake Road and Interstate 394. She supported the proposal and mass transit. Traffic will continue to increase.

Dahl asked who is responsible for addressing the traffic gap problem on County Road 73. Olson explained that County Road 73 is a county road, so Hennepin County, the Minnesota Department of Transportation, and the city all have jurisdiction.

***Britain moved, second by Cheleen, to encourage the city council to review the traffic access problems onto County Road 73 and recommend that the city council approve the following items for a parking ramp at the southwest corner of the I-394/Hopkins Crossroad intersection for the Metro Transit Parking Ramp:***

*CONDITIONAL USE PERMIT*

- 1) *Recommend that the city council adopt the resolution on pages A1–A4 of the staff report, which approves a conditional use permit for a parking ramp at the southwest corner of the I-394/Hopkins Crossroad Intersection. Approval is based on the finding that the proposal meets conditional use permit standards and is subject to the following conditions:*
  - a. Record this resolution with the county before the city issues a building permit.
  - b. The city council may reasonably add or revise conditions to address any future unforeseen problems.
  - c. 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.
  - d. The applicant must agree to the above conditions in writing.

*SITE AND BUILDING PLAN*

- 2) *Recommend that the city council approve the site and building plan. Approval is based on the following findings:*
  - 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 May 19, 2005
    - Grading date-stamped May 19, 2005
    - Landscaping date-stamped August 3, 2005
    - Building elevations date-stamped August 3, 2005
  - b. Before starting any site work or obtaining a grading permit, complete the following work:
    - (1) Installation of temporary rock driveways, erosion control and tree protection fencing for review by environmental staff. The driveway and fencing must be maintained throughout the course of construction.

- (2) Submit final site, grading, drainage, utility and erosion control plans for staff review and approval.
  - (3) Final plans must include a fire access drive on the west side of the ramp as required by the fire marshal.
  - (4) Submit copies of all required watershed district permits. The city may require revisions to the approved plans to meet the district's requirements.
  - (5) Submit copies of all required county permits. The city may require revision to the approved plans to meet the county's requirements.
  - (6) Submit copies of all required MnDOT permits. The city may require revisions to the approved plans to meet MnDOT requirements.
  - (7) Submit a letter of credit or cash escrow for 150% of an estimated cost or 125% of a bid cost to comply with grading permit requirements and restore the site.
  - (8) Submit a construction management plan for staff approval.
- c. The following must be submitted to the city before the city issues a building permit:
- (1) A final landscape and irrigation plan for staff approval
  - (2) A letter of credit or cash escrow for 150% of an estimated cost or 125% of a bid cost for all required landscaping
  - (3) An illumination plan for staff approval
  - (4) All required hook-up fees
- d. Metro Transit is responsible for replacing any required landscaping that dies.
- e. 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.

- f. Approval does not include the signs shown on the drawings. Separate permits are required from staff.
- g. Construction must begin by December 31, 2006, unless the planning commission grants a time extension.

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

**C. Variances to build a new house and maintain an existing garage at 18 Westwood Circle for Lutz Construction, on behalf of property owner Humberto Alarcon (01058.04a)**

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

Thomas reported. She recommended approval of the buildable area and front yard setback variance for the new house. She recommended that the planning commission deny the front setback variance for the existing garage and, rather, approve a front yard setback variance from 35 feet to 27 feet for a new, detached, 24-foot by 24-foot garage. Approvals are based on the findings and subject to the conditions listed in the staff report.

Bonoff asked if the builder and homeowner agreed with staff's recommended garage location. Thomas stated that the builder agreed, but she was unable to reach the property owner for comment.

Bonoff asked why staff supported the front setback variance for the house. Thomas explained that staff generally supports small point-intrusions for entry areas. If the area were unenclosed, a 30-foot setback would be allowed.

Allendorf asked if the off-set of the garage was done to prevent the necessity of a rear yard floodplain variance. Thomas answered in the affirmative.

Chair Hart noted that the front edge of the garage matched the front edge of the foyer. Thomas agreed and explained that staff placed the garage in that position to maximize setback from the road. The garage would be at the required floodplain setback.

Chaleen questioned if the point intrusion was created because of the split entry style of the house. Thomas agreed.

Chair Hart noted that a garage could be placed in another location if it met setback and size ordinance requirements. Thomas concurred.

Allendorf understood that there was no other option for the garage location without causing the need for a rear setback variance. Chair Hart explained how it could be tilted and slid closer to the residence. A smaller garage could be built and provide more flexibility for the location.

Humberto Alarcon, 12030 53<sup>rd</sup> Avenue North, Plymouth, property owner, objected to replacing the garage. He explained the history of the site. He stated:

- His plan was approved two years ago.
- A new garage would jeopardize the wetland.
- His garage is only 22 feet deep. Staff's recommendation for 24 feet deep would place the garage closer to the wetland. He asked staff to review the past decision.
- The lot is large.
- The city wants the lot to be a park and a swimming pool for the kids. The city does not want a house built there.

Chair Hart explained that the total area of the proposed garage would be smaller. The proposed 24-foot by 24-foot garage would be smaller than the existing 22-foot by 34-foot garage.

Mr. Alarcon asked what has changed to cause the problem. Chair Hart explained that the wetland location and the floodplain setback requirement have changed which has increased the buildable area of the lot.

Mr. Alarcon did not understand. Chair Hart asked Thomas to review the history. Thomas complied. She stated that in 2002, variances to construct a home were approved. The garage was not required to be removed because there was no place to move the garage due to the location of the wetland and the required floodplain setback. The wetland has since been delineated and the floodplain setback ordinance has changed. The buildable area of the lot has increased. Fewer variances are needed for the residence. Given the increase in buildable area, staff felt it is reasonable to move the garage into the buildable area. There was no variance requested or processed in 2002 for the garage. It was an existing structure and there was no opportunity to decrease the nonconformity. A

building permit had been approved for the garage in 1995, but the records do not include a site plan.

Bonoff understood the rationale for not requiring the garage to be moved in 2002, and for requiring it now since there is enough buildable area for the garage to be constructed within ordinance requirements.

Mr. Alarcon stated that the city had approved the garage last time. Chair Hart corrected that the garage was not discussed in 2002.

Mr. Alarcon stated that a condition required the doors and shingles to be changed. He felt there was misinformation. He was there.

Thomas explained that there was discussion regarding the garage and a condition was included that the garage would have to be resided and reshingled to match the proposed residence. Chair Hart confirmed with Thomas that the location of the garage was not addressed in 2002 because its nonconformity could not have been decreased at the time.

Mr. Alarcon stated that he spent a lot of money to build the garage. The plan was approved by an inspector named Jerry. A lady at the city council meeting stated that new shingles had to be put on the garage. He asked if the wetland had changed. Chair Hart explained that the wetland location changed because of the delineation and the floodplain area also changed to create more buildable area on the site.

Allendorf appreciated the information, but suggested that the testimony was redundant and that the meeting move on.

Jeff Litzau, applicant and representative from Lutz Construction, agreed with staff's recommendation for the garage location. He had tried to explain that to Mr. Alarcon.

Britain asked if the existing garage could be moved back. Mr. Litzau recommended it be demolished, since the garage is not in good shape.

Chair Hart called for a 10 minute recess.

The public hearing was opened.

Greg Mlodozyniez, 20 Westwood Circle, stated:

- One of the stalls is being rented out.
- The grass is too tall.
- He is happy with staff's recommendation.
- He is not opposed to construction of a house.
- The property owner had his chance before and did nothing.
- He was glad the house would be in line with his house. He favored the garage being in line as well.
- He was concerned with the house design and its affect on drainage and run-off.

Chair Hart explained that the engineering department would review the drainage issues during the building permit process.

Thomas explained that a condition of approval includes requiring soil tests be submitted before approval of the building permit.

Mr. Branch supported staff's recommendation. He requested that a condition be added that would require a paved driveway. Thomas stated that new houses and associated garages are required to have paved driveways and that this would be reviewed at the time of the building permit.

No additional testimony was submitted and the hearing was closed.

Allendorf clarified to the builder and the owner that the new garage could be reoriented parallel to the house.

***Bonoff moved, second by Britain, to take the following action on the variances with the modification listed in the change memo dated August 11, 2005 to build a new house and maintain an existing garage at Westwood Circle for Lutz Construction, on behalf of property owner Humberto Alarcon:***

- 1) *Adopt the resolution on pages A1–A4 of the staff report with modifications listed in the change memo dated August 11, 2005, which approves: (1) a buildable area variance from the required 40-foot by 40-foot requirement; (2) a front yard setback variance from 35 feet to 26 feet for a new house; and(3) a front yard setback variance from 35 feet to 27 feet for a new garage at 18 Westwood Circle. These variances are 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 property has over 3,500 square feet of buildable area, as required by code. However, this buildable area is oddly configured. It is pinched between the large 100-year flood area on the property and the front property line.
- b. The variance would be consistent with the spirit and intent of this ordinance for the following reasons:
- (1) The property has a 40-foot by an average 35-foot rectangle within its buildable area. This area is just 75 square feet less than the required 40-foot by 40-foot square. This is a minor deviation from the code requirement and is reasonable.
  - (2) The livable space of the proposed house would meet the required 35-foot setback. Just 88 square feet of an entry area would encroach into the required setback. This is a point intrusion.
  - (3) The variances would not alter the essential character of the neighborhood:
    - (a) The property is a legal lot of record within a residential neighborhood. Until 2001 there was a house on the property.
    - (b) The proposed home would line up with the adjacent south.
    - (c) The garage would line up with the proposed home.
  - (4) A 24-foot by 24-foot garage is a reasonable use on a single-family residential property.
  - (5) The variance for the new garage would reduce an existing non-conformity.

Approval is subject to the following conditions:

- a. Before release of this resolution, submit for city attorney review and approval the following:

- (1) A conservation easement over the wetland and required wetland buffer, 16.5 feet upland from the delineated edge of the wetland.
  - (2) A hold harmless agreement. This agreement shall hold the city harmless for any future structural problems with the buildings on the site caused by proximity to the wetland and/or 100-year flood area. The hold harmless agreement must be filed with the property deed.
- b. Prior to issuance of a building permit, complete the following:
- (1) Submit for staff review and approval:
    - (a) Final grading, drainage, and erosion control plans.
    - (b) An updated soils test and soils compaction test. Any test conducted in conjunction with the 2001/2002 variance request will not be considered valid.
    - (c) Submit proof of having recorded this resolution with the county.
    - (d) Submit proof of having recorded the conservation easement and hold harmless agreement with the county.
    - (e) Pay any delinquent utility bills.
- c. A wetland buffer must be maintained 16.5 feet upland of the delineated edge of the wetland on the property.
- d. Minimum lowest floor elevation is 893.5.
- e. No fill is allowed below the 891.5 elevation.
- f. If a front yard setback variance is not approved for the existing garage, the garage must be removed within 30 days of the city's final decision on the variance request.

- g. The new garage must match the new house in design, materials, and color.
  - h. These variances will end on December 31, 2006, unless a building permit for the house has been issued or the city has approved a time extension.
- 2) *Deny a front yard setback variance from 35 feet to 15 feet for an existing garage at 18 Westwood Circle. Denial is based on the following findings:*
- a. A 24-foot by 24-foot garage is considered a standard and reasonable use on a single-family residential property. At 22-feet by 34-feet, the existing garage is oversized, exceeding the standard by 170 square feet.
  - b. The 20-foot intrusion could be minimized. The amount of the intrusion is not based on anything unique to the property. The location of the garage is a self-created circumstance.
  - c. The garage is out of character in the neighborhood. There are no detached garages located so close to the street, or in the front yard of any home in the area.

***Allendorf, Bonoff, Britain, Cheleen, Dahl, Frisque, and Hart voted yes.  
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.

**D. Conditional use permit with a setback variance for a second detached garage at 16560 Gray's Bay Boulevard for Bob Pillsbury (05056.05a)**

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.

Elizabeth Pillsbury, 4055 Sibley Avenue, Wayzata, applicant, was present with her husband, Bob. She did not have much to add except that it would be wonderful to have the garage closer to the house. The driveway can be

dangerous in the winter and they are getting older. She understood that there would be no living space.

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

Chair Hart asked if Colleran agreed with the proposal. Colleran answered in the affirmative. It would protect trees.

***Allendorf moved, second by Frisque, to recommend that the city council adopt the resolution on pages A1–A4 of the staff report. This resolution approves a conditional use permit with a side yard setback variance from 20 feet to 10 feet for construction of a 20-foot-tall detached garage at 16560 Gray's Bay Boulevard. Approval is based on the following findings:***

- 1) The proposal meets the required standards for a variance, because:
  - a. There is a unique hardship to the property caused by the location of significant trees that prevent the property owner from constructing the garage to meet the required setbacks without removal of the trees.
  - b. The variance would meet the intent of the ordinance because the garage would be well screened by existing trees on all sides, and would not be visible from Lake Minnetonka or Gray's Bay Boulevard.

The permit is subject to the following conditions:

- 1) The building materials for the garage must match the color and style of the existing home.
- 2) Tree protection/erosion control fencing must be installed and maintained throughout the construction process.
- 3) The structure may not be used for commercial activity, such as off-premise business or home occupation storage and activities.
- 4) The structure may not be converted to a residential dwelling.

- 5) If the existing lilac's between the garage and side lot line die, the property owner must replace them with some type of evergreen screening, subject to staff approval.
- 6) Before the city issues a building permit, the applicant must agree to the above conditions in writing and record this resolution with the county.
- 7) The city council may reasonably add or revise conditions to address any future unforeseen problems.

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

Chair Hart stated that the item is tentatively scheduled to be reviewed by the city council on August 22, 2005.

**E. Multiple variances to tear down and rebuild the home at 2513 Bantas Point Lane for Don Christensen (05029.05a)**

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.

The applicant was not present. Teague spoke with the applicant earlier and he agreed with the conditions.

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

Chair Hart reviewed the primary issues.

***Britain moved, second by Cheleen, to adopt the resolution on pages A1–A4 of the staff report, which approves a shoreland setback variance from 35 feet to 16; a flood plain setback variance from 20 feet to 0 feet; side yard setback variances from 7 feet to 0 and 6 feet; a shoreland setback variance from 25 to 10 feet for the walkway; a lot area variance from 22,000 to 5,630 square feet; lot area variance from 22,000 square feet to 5,630 square feet; buildable area variance from 2400 square feet to 0 square feet; lot width at the required setback from 110 feet to 9 feet; lot width at the right-of-way from 80 feet to 9 feet; and lot depth variance from 125 feet to 55 feet. This resolution is based on the following findings:***

- 1) Strict enforcement would cause undue hardship because of the following circumstances that are unique to this property:
  - a. The hardship is caused by the small lot size, the odd shape of the lot, and the entire lot is located within the 100-year flood plain. No structure could be built on the site without variances. Even if this lot were not located within the flood plain, the buildable area would be limited to a 10-15 foot deep building footprint.
- 2) The variance would be consistent with the spirit and intent of this ordinance for the following reasons:
  - a. There would be no expansion of the footprint of the existing home.
  - b. The applicant is proposing reasonable use of the property.
  - c. The proposed story-1/2, 17-foot tall home would be in character with the existing neighborhood.

Approval is subject to the following conditions:

- 1) Submit proof of having recorded this resolution with the county before the City issues a building permit.
- 2) Minimum floor elevation for the home and garage must be 933.5.
- 3) A detailed grading plan must be submitted with the building permit. These plans are subject to review and approval by the city engineer.
- 4) Fill around the foundation of the home is not permitted. The crawl space below the 933.5 elevation must be designed to internally flood.
- 5) The home must be built with an automatic fire sprinkler protection system, subject to review and approval of the building official and fire marshal.
- 6) The home must meet all uniform building code requirements.
- 7) Maintain the existing 3-5 foot buffer from the water's edge.

- 8) The installation and maintenance of erosion control and tree protection fencing must be installed, subject to review by the city's environmental resources coordinator.
- 9) The driveway outside of the ramp area to the street must be paved.
- 10) 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.

***Allendorf, Bonoff, Britain, Cheleen, Dahl, Frisque, and Hart voted yes.  
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.

**F. Sign plan review to add a new sign to the existing Best Buy sign at 13513 Wayzata Boulevard for Thomas Sign and Awning Company (05058.05a)**

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. He addressed sign and lighting concerns.

In response to Chair Hart's request, Teague pointed out the location of the signs and the residences.

Cheleen asked if Best Buy currently has a light curfew. Teague answered in the negative. He believed that the current sign was lit all night. Chair Hart understood that to be true for all businesses with interior lit signs.

Gregory Davis, representative of Thomas Sign and Awning Company, 4590 118<sup>th</sup> Avenue North, Clear Water, Florida, was present to speak on behalf of Best Buy, applicant. He found himself appearing in various hearings across the country. Best Buy is excited to add the great feature. The sign would distinguish a store within the store.

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

***Dahl moved, second by Britain, to approve the proposed sign plan for the Best Buy building at 13513 Wayzata Boulevard, based on the following findings:***

- 1) Increase in wall signage is justified due to the size of the building, the distance to adjacent roadways including I-394, which requires larger letters to allow visibility.
- 2) The sign size is consistent with existing signage in the area.
- 3) The signage for the building is 5% of the wall face on which they would be located.

The approval is subject to the following conditions:

- 1) The total wall signage on the building may not exceed 340 square feet.
- 2) Signage must meet all lighting ordinance standards.

***Allendorf, Bonoff, Britain, Cheleen, Dahl, Frisque, and Hart voted yes. 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

***Frisque moved, second by Dahl, to adjourn the meeting at 9:30 p.m. Motion carried unanimously.***

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