

**MINNETONKA PLANNING COMMISSION
MINUTES**

SEPTEMBER 8, 2005

1. CALL TO ORDER

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

2. ROLL CALL

Commissioners Allendorf, Bonoff, Cheleen, Dahl, Frisque, and Hart were present. Commissioner Britain arrived at 6:50 pm.

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 provided in the change memo dated September 8, 2005.

4. APPROVAL OF MINUTES: August 25, 2005

Cheleen moved, second by Allendorf, to approve the August 25, 2005, meeting minutes as submitted.

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

5. REPORT FROM STAFF

Olson announced that the next planning commission meeting will be held September 22, 2005.

6. REPORT FROM PLANNING COMMISSION MEMBERS: None

7. PUBLIC HEARINGS: CONSENT AGENDA

Item B, preliminary plat at 4701 Highland Road, was removed from the consent agenda for discussion and separate action.

Allendorf moved, second by Dahl, to approve Items A and C listed on the consent agenda as recommended in the respective staff reports, including the additional variance to Item A as submitted in the change memo dated September 8, 2005, as follows:

A. Variances to build a garage and home addition at 4511 Crawford Road for Sharon Hanna (05047.05a)

Adopted the resolution on pages A1–A3 of the staff report which approves an aggregate side yard setback variance from 30 feet to 14 feet; a side yard setback variance from 10 feet to 4 feet; and a front yard setback variance from 35 to 30 feet to construct a garage and home addition at 5411 Crawford Road. This resolution is based on the following findings:

- 1) There is unique hardship to the property caused by:
 - a. The narrow width of the lot, which is 84 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 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 addition must match the existing home.
- 4) 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.

C. Variances to allow a wall sign on the Cloud 9 condominiums at 5621 Smetana Drive for Leroy Signs Inc. (00033.05a)

Adopted the resolution on pages A1–A3 of the staff report which approves the copy and graphic sign size variance from 36 square feet to 63 square feet and

the variance to allow a wall sign in a high density residential district. This resolution is based on the following findings:

- 1) There is a unique hardship to the property caused by:
 - a. The location of the high density residential building is relation to the I-1, B-2, & B-3 districts that surround the building.
 - b. The Londonderry Drive overpass and large trees at the intersection that block the view of the existing monument sign on the east of the building.
- 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 sign would not alter neighborhood character.
 - c. The proposed sign is reasonably sized for the large size of the building.

Staff approval is based on the following conditions:

- 1) Submit proof of having recorded this resolution with Hennepin County before the city issues a sign permit.
- 2) 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, Cheleen, Dahl, Frisque, and Hart voted yes. Britain was absent for this action. Motion carried and Items A and C on the consent agenda were approved as submitted.

8. PUBLIC HEARINGS

A. Preliminary plat for a two-lot subdivision at 4701 Highland Road for Eric Bull (05062.05a)

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

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

Eric Bull, 401 Groveland Avenue, Minneapolis, attorney for the homeowner, agreed with the planning commission's recommendation. He was present for questions.

The public hearing was opened.

Susan Masko, 4683 Chantrey Place, spoke on behalf of herself and her husband. They were concerned with the loss of trees and a traffic safety hazard caused by adding access onto the curved and sloped road.

Chair Hart explained that the proposal meets all ordinance requirements. Trees within 20 feet of the driveway and the structure would be allowed to be removed. Trees removed outside of that area would be required to be replaced. Engineering staff will review safety of the driveway access.

No additional testimony was submitted and the hearing was closed.

Bonoff moved, second by Cheleen, to recommend that the city council approve the preliminary plat of WILSON-CHALL date-stamped August 30, 2005 with modifications made by the change memo dated September 8, 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) A ten-foot wide drainage and utility easement next to the Highland Road right-of-way and 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. 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 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) Restrictive covenants to be recorded against the individual lots with the plat. The covenants must include the conditions that have not been met as of the release of the plat. These covenants must first be submitted for the city attorney's approval.
- These documents must be recorded with the final plat, and a drawing of any easement must be attached to the easement deed.
- c. Any other requirements included with final plat approval.
- 3) The following must be submitted to the city before the city issues a building permit:
- a. A grading and tree preservation plan, subject to the planning director's approval. The city may require adjustments in the house pad location to maximize tree preservation. The sewer and water services must be shown to minimize impact to any 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. Cash escrow, in an amount determined by the environmental resources coordinator, to ensure adequate erosion control throughout the course of construction.
 - d. 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.
- 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) 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
- 7) The driveway on Lot 1 must access Highland Road in a location to be determined by the city engineer.

Allendorf, Bonoff, Cheleen, Dahl, Frisque, and Hart voted yes. Britain was absent for this action. Motion carried.

B. Items concerning an addition to the Glen Haven shopping center at 14400 Excelsior Boulevard for Glen Haven Center LLC, represented by Tom Wartman (05065.05a):

- 1. Site and building plan review, with a setback variance; and a**
- 2. Conditional use permit for outdoor seating.**

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

Teague reported. He recommended approval of the project based on the findings and subject to the conditions listed in the staff report.

Tom Wartman, applicant, supported staff's recommendation. He had no comments.

The public hearing was opened.

Joan Hiller, 5638 Glen Avenue, stated that the proposal is a good idea, but she was concerned with the larger plan. She wanted more information regarding the larger plan. Chair Hart explained that the larger plan is not on the agenda. Approval of the addition would not imply approval of a larger project. A separate notice and public hearing would be held for additional plans. Ms. Hiller stated, "In that case, go for it."

Olson invited interested citizens to visit the city's website under *Hot Topics* to see the concept plan for a larger proposed project for the area.

No additional testimony was submitted and the hearing was closed.

Chair Hart pointed out a necessary correction to the recommendation regarding the construction date deadline of 2006 rather than 2005. Teague agreed.

Allendorf asked how motorists who park in the proof of parking area would enter the shopping center. Mr. Wartman pointed out the most convenient entrance. He explained that as the larger concept plan is developed, the parking would be adjusted to add spaces in additional areas. The complete plan would modify the location of proof of parking.

Allendorf confirmed with staff that if the proof of parking spaces were needed, then staff would work with the developer to make it convenient for people to enter the building.

Dahl moved, second by Allendorf, to approve the site and building plans with the parking lot setback variance from 20 feet to 14 feet with a change to the construction start date to December 2006 instead of 2005, for an addition to the Glen Haven Center at 14400 Excelsior Boulevard. Approval is based on the following findings:

- 1) The proposal would meet the required standards and ordinances for a site and building plan approval.
- 2) The proposal would meet the required standards for a variance, because:
 - a. There is a unique hardship to the property caused by the angle of the front lot line to the building.
 - b. The variance would meet the intent of the ordinance because the variance is for a minor point intrusion into the setback.

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 August 4, 2005.
 - Grading plan date stamped August 4, 2005
 - Building elevations date stamped August 4, 2005.

- 2) Before starting any site work or obtaining a grading permit, complete the following work:
 - a. The installation and maintenance of erosion control and tree protection, subject to review by the city's environmental resources coordinator.
 - b. Submit final site, grading, drainage, utility, and erosion control plans for staff approval.
 - c. Submit a letter of credit or cash escrow for 150% of the estimated cost to comply with grading permit requirements and restore the site.
 - d. If required, submit copies of the watershed district permit. The city may require revisions to the approved plans to meet the district's requirements.
 - e. Submit a construction management plan for staff approval.

- 3) 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. Landscaping must be at least 2% of the value of the project, or the applicant may calculate the value of the existing landscaping, and if it exceeds 2% for the value of the existing building and proposed addition, no additional landscaping would be required.
 - b. The applicant must sign a waiver of assessment for construction of the right turn lane. City staff will determine if the right turn lane is needed based on problems caused by the new parking lot. The

property owner would also have the option to close the entrance off Excelsior Boulevard rather than build the turn lane.

- c. Dedication of a 10-foot right-of-way easement for the possible right turn lane.
- 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) Approval does not include the signs shown on the drawings. Separate permits are required from staff.
- 7) A new 4-foot sump catch basin must be installed per the approval of the city engineer, and must be inspected and cleaned yearly.
- 8) Spaces shown as proof-of-parking may not be paved, unless approved by the city upon showing of a demonstrated need for these spaces.
- 9) 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.
Motions carried.**

Dahl moved, second by Allendorf, to recommend that the city council adopt the resolution on pages A1–A5 of the staff report, which approves the proposed conditional use permit for the outdoor eating area at 14400 Excelsior Boulevard. Approval is based on the finding that the proposal meets the required conditional use permit standards and is subject to the following conditions:

- 1) Record this resolution with the county before the city issues a building permit.
- 2) The outdoor eating area must be physically separated from the adjacent walkway.

- 3) The city council may reasonably add or revise conditions to address any future unforeseen problems.
- 4) 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.
- 5) The applicant must agree to the above conditions in writing.

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

C. Items concerning a two-story commercial building at 3432 County Road No. 101 for Jonathan Lindsay (05063.05a)

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

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

Bonoff asked about tenant comments. Thomas had reviewed the plans with several tenants, but they did not provide a formal comment.

Jay Lindsay, 8700 West 36th Street, St. Louis Park, applicant, stated that he knows the tenants and they are excited about the new plan because it would bring more traffic to the center and would allow for full turns onto County Road 101 from the new drive after the County Road 101 project completes the median.

Cheleen asked about closing the alley in the back of the shopping center. Mr. Lindsay explained that the alley would be closed and deliveries would be made in the front. A large buffer of trees and additional green space would be added. Dumpsters would remain in the same location.

Mr. Lindsay was positive about the project and felt it would meet the city's objective to beautify the area.

Bonoff appreciated staff's excellent presentation and Mr. Lindsay's effort to add green space and trees.

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

Dahl moved, second by Britain, to recommend the city council approve the following items for a two-story building and a coffee shop at 3432 County Road 101 as recommended by staff and as amended in the change memo dated September 8, 2005:

SITE AND BUILDING PLANS, WITH VARIANCES

Approval of the site and building plans, with variances, is based on the following findings:

- 1) The proposal meets general site and building plan standards.
- 2) The proposal would meet the required standards for a variance, because:
 - a. SETBACKS
 - (1) The property has a width of 100 feet. This results in a buildable area just 30 feet wide. This is a unique situation not common to every B-2 zoned property in the city.
 - (2) The proposed setbacks are reasonable. The only encroachments into required setbacks would be toward existing right-of-way and parking lots. The proposal would meet all setbacks from the residential properties to the west.
 - b. DRIVE-AISLE WIDTH
 - (1) The proposed drive-aisle width on the east side of the building is reasonable. The aisle would meet the requirement for a "low-turnover" use. The spaces on the east side would be available to both retail customers and office clients.
 - c. PARKING SPACES
 - (1) The proposed number of parking stalls is reasonable. A parking study conducted for the proposal concluded that the shared parking arrangement and number of parking stalls would be adequate to support the needs of the proposed development.

- d. The proposed setbacks and parking variances would not alter the essential character of the area. Rather, they would reflect existing development.

Approval of the site and building plans, with variances, 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 July 28, 2005.
 - Grading plan date stamped July 28, 2005.
 - Landscaping plan date stamped July 28, 2005.
 - Illumination plan date stamped July 28, 2005.
 - Building elevations date stamped July 28, 2005.
- 2) Before starting any site work or issuance of a building permit:
 - a. Submit the following items for staff review and approval:
 - (1) Final site, grading, drainage, and utility plans.
 - (a) A 4-foot sump catch basin must be added as required by the city engineer.
 - (b) A fire hydrant must be added as required by the fire marshal.
 - (2) Final landscaping, irrigation, and erosion control plans. Landscaping must meet the minimum value requirements outlined in city code.
 - (3) A construction management plan.
 - b. Submit a letter of credit or cash escrow for 150% of an estimated cost or 125% of a bid cost to comply with grading and erosion control requirements and restore the site.
 - c. Submit a letter of credit or cash escrow for 150% of an estimated cost or 125% of a bid cost to comply with landscaping requirements.

- d. Submit a copy of the watershed district permit. The city may require revisions to the approved plans to meet the district's requirements.
 - e. Submit a copy of county access permit.
 - f. Install a temporary rock driveway and erosion control fencing, subject to inspection by environmental staff. The driveway and fencing must be maintained throughout the course of construction.
 - g. All required hook-up fees
- 3) Coordinate driveway relocation with county road construction.
 - 4) Snow must be removed from the property. It may not be stored on the site.
 - 5) The property owner is responsible for replacing any required landscaping that dies.
 - 6) 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.
 - 7) Approval does not include any signs shown on the drawings. Separate permits are required from staff.
 - 8) Spaces shown as proof-of-parking may not be paved, unless approved by the city upon showing of a demonstrated need for these spaces.
 - 9) The building must be sprinklered as required by the fire marshal.
 - 10) Construction must begin by December 31, 2006, unless the planning commission grants a time extension.
 - 11) The basement must remain as storage space only. It may not be converted to any other use.

CONDITIONAL USE PERMIT

Approval of the conditional use permit is based on the following findings:

- 1) The proposal meets general and specific conditional use permit requirements.
- 2) The proposal would meet the required standards for a variance, because:
 - a. ACCESS
 - (1) It is reasonable for a service-commercial use, such as a coffee shop, to be located in a commercial area at the intersection of two well-traveled roads.
 - b. SETBACK
 - (1) The property has a width of just 100 feet. This results in a buildable area just 30 feet wide. This is a unique situation not common to every B-2 zoned property in the city.
 - (2) The proposed aisle would be located next to an existing parking lot to the south. It would have little to no impact on surrounding land uses.
 - c. STACKING
 - (1) It is unlikely that, at any one time, six vehicles would be in line at the coffee shop drive-up window.
 - (2) Peak hours for a coffee shop use are different than those for retail and offices uses. Therefore, the stacking area is unlikely to negatively impact parking on the site.
 - d. The property is located in a commercial area and is zoned and guided for commercial development. The proposed access, setback, and stacking area variances would not alter the essential character of the area.

Approval of the conditional use permit is subject to the following conditions:

- 1) Any public address systems cannot be audible from any residential parcel.
- 2) If more than four vehicles are regularly in the drive-up aisle, parking spaces nearest the drive-up aisles must be designated "Employee Only."

- 3) The city council may reasonably add or revise conditions to address any future unforeseen problems.
- 4) 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.
- 5) Before the city issues a building permit, the applicant must agree to the above conditions in writing and record this resolution with the county.

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

D. Variances to tear down and rebuild a home at 2813 McKenzie Point Road for Lecy Bros. Homes, on behalf of Larry and Betty Kochevar (05027.05a)

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

Teague reported. He recommended approval of the project based on the findings and subject to the conditions listed in the staff report.

Chair Hart confirmed with Teague that the residence would not be built in the flood plain. It would be built two feet above the flood plain.

Bonoff asked how staff calculated impervious surface area for the total lot. Teague explained. The dotted line represents 150 feet from the lake shore. The impervious surface of the entire lot is 31 percent.

The applicant chose not to comment.

The public hearing was opened.

Scott Sorenson, 2815 McKenzie Point Road, preferred the proposal be changed to increase the side yard setback adjacent to his property. He stated that:

- He wanted a five-foot setback.
- He was upset that no one called him to ask him about the proposal.
- The residences have been there for 75 years. The variances that were given were based on the agreement to move the homes back from the lake.

- The city denied a side yard setback for a residence north of the Hagen home. The owner wanted an approximate three-foot setback and the city denied it. No variance has been granted for a less than five-foot setback.
- Some day he wants to replace his house. He questioned if the city would grant similar variances for him. If the city would grant similar variances for him, he would not object to the proposed variances, but he wants it in writing.
- The proposal would be an improvement to the neighborhood. He wants the applicant to build it. Be fair to the applicant.
- There is no hardship. The planning commission agreed with him in a similar situation two years ago.
- There is no precedent. Provide him with proof if there is one.
- The neighbor on the north side of the applicant's property would agree to it, but on his side he would have a brick wall the entire length of his side yard. On the other side of his property, there is a brick wall a foot and a half from his property.
- He preferred five-foot side yard setbacks on both sides to be fair.

Teague reviewed the history of variances in the area.

Bonoff noted that Mr. Sorenson asserted that the city allowed side yard setback variances in exchange for moving the houses back. Mr. Teague did not find evidence of that in the minutes.

Teague provided five examples of residences that were granted side yard setback variances for a setback distance of less than five feet.

Dahl pointed out that some of the variances were allowed for additions to existing homes, rather than tear down and rebuilds. He wondered if a compromise could be worked out by increasing the setback because the house is so large. Teague explained that staff had suggested a narrower house, but the applicants decided to maintain the proposed width, move the house back, decrease the impervious surface by removing detached garages, and decreased the size of the garage from a three- car garage to a two-stall garage instead.

Chair Hart noted that several variances were granted for total tear down and rebuilds and several for additions. All had variances that allowed side yards to be less than five feet.

Cheleen recognized that the narrowness of the lot creates a hardship, but he asked if another option might be worked out to meet Mr. Sorenson's request for a

five-foot setback instead of a three-and-a-half-foot setback. It would only be a foot-and-a-half difference and the proposed residence would be large.

Chair Hart stated that 2809 McKenzie Point Road received variances to build a residence with a three-foot setback on one side and a four-foot setback on the other side. That set a precedent. The residence has been removed, but the new home has not yet been built. Teague stated that the previous house had been located closer to the lake.

In response to Bonoff's question, Teague explained that the proposed house would be 4,600 square feet in size. The residence to the north is 3,700 square feet. The home approved for the vacant lot would be close to 3,100 square feet. Those lots, however, are smaller than the proposed site.

Cheleen stated that the proposed setbacks would be the same as the house to the north. He noted that Mr. Sorenson would be eligible for the same setbacks.

Bonoff would have opposed the previous variances if she had been on the commission then. The narrowness of the lot creates a hardship, but a smaller house would be a reasonable use and the decreased setback would impact the neighbor. She trusted the next commission to be consistent with a potential future request of Mr. Sorenson's. The city has a responsibility to uphold a precedent. She was interested in hearing from the applicant.

Roy Lecy, builder for the applicant, stated that the homeowners are elderly and want a master bathroom on the main level. The amount of impervious surface would be the same as the residence on the north, but the applicant's lot is larger in size. The setbacks and distance from the lake would also be the same as what was approved for the lot to the north. All of the lots are "tunnels," because of their narrow widths. The applicants tried to reduce the width by 2 feet, but it would not work. Most homes are 70 feet wide, not 35 feet wide. It would destroy the functionality of the floor plan. Another hardship is that the lot does not allow a basement, so the residence needs above grade floor area.

Britain stated that while he opposed the Randall variances, he recognized the established precedents and supported staff's recommendation.

Allendorf recognized that the overall square footage of the proposed residence is not a basis for consideration. The ordinance requires commissioners to look at what is characteristic for the neighborhood as well as precedents that have been established.

Mr. Sorenson stated that:

- He was not opposed to a new house, but he wanted it redesigned so that he would not have a windowless wall three feet from his property line. The other side would be less imposing.
- He knew the facts. The commission chose to believe staff rather than him. He had it in writing from every owner on the street. He presented it to the commission two years ago. Every variance presented was 100 percent incorrect. The variances were never given.
- The variances are not the issue so much. The city should not have "given it" to Jack Randall 2 years ago. The other 5 variances referred to are not variances. The city negotiated with the property owners. The homeowner removed the garage in exchange for adding a second story to the residence.
- The city should be stopping these variances rather than creating more of the problems.
- The house can easily be designed differently. If the builder can not come up with a different design, get a different builder. The residence could be moved 2 feet away from his property.
- He questioned why he had to pay the price to give the applicants what they want.
- No one added a house since 1926. Jack Randall's house already existed. The variance was to put a second story on the house. The residence on the left kept the identical footprint it had before.
- The commission does not have to allow the variance. The rules could be followed. Moving an additional 2 feet from his property line would not wreck anything.
- It would not be fair to him. He worried that the city would not give him a similar variance in the future. He feared that if he was the last one to rebuild, he would be denied a side yard variance.

No additional testimony was submitted and the hearing was closed.

Chair Hart reviewed the primary issues.

Allendorf moved, second by Cheleen, to adopt the resolution on pages A1–A4 of the staff report, which approves a flood plain setback variance from 20 feet to 12 feet for the principal structure; a flood plain setback variance from 10 feet to 9 feet for a deck/balcony; side yard setback variances from 7 feet to 4 feet and 3.5 feet for the principal structure; side yard setback

variances from 7 feet to 3 feet and 3.5 feet for the overhangs; a front yard setback variance from 73 feet to 33 feet for the principal structure; and an impervious surface variance from 30 percent to 42 percent. 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 narrow width and small size of the lot.
 - b. The small buildable area on the lot due to the narrow width, the flood plain location and the location of the structure to the south which causes the front yard setback to be 73 feet.
- 2) The variance would be consistent with the spirit and intent of this ordinance for the following reasons:
 - a. The proposal is similar to other variances granted in the neighborhood.
 - b. The applicant is proposing reasonable use of the property.
 - c. The proposed two-story home is consistent with other homes on McKenzie Point Road.

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) The new home must have a fire protection sprinkler system, subject to approval by the fire marshal.
- 4) A detailed grading plan must be submitted with the building permit. These plans are subject to review and approval by the city engineer.
- 5) A 10-foot buffer and conservation easement be established and maintained from the edge of the wetland.

- 6) 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, Britain, Cheleen, Frisque, and Hart voted yes. Bonoff and Dahl voted no. Motion carried.

9. ADJOURNMENT

Dahl moved, second by Frisque, to adjourn the meeting at 8:05 p.m. Motion carried unanimously.

By: _____
Lois T. Mason
Planning Secretary