

**MINNETONKA PLANNING COMMISSION
MINUTES**

OCTOBER 27, 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. Britain was absent.

Staff members present: Planning Director Geoff Olson, Principal Planner Cary Teague, Planner Susan Thomas, Natural Resources Manager Jo Colleran, Planning Intern David Abel, and Planning Volunteer Tim Stendahl.

3. APPROVAL OF AGENDA: The agenda was approved as submitted with additions included in the change memo dated October 27, 2005.

4. APPROVAL OF MINUTES: October 6, 2005

Allendorf moved, second by Dahl, to approve the October 6, 2005, meeting minutes as submitted.

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

5. REPORT FROM STAFF

Olson briefed the commission on land use applications considered by the city council at its meeting of October 24, 2005:

- Approved a contract to hire a consultant to assist the city with a visioning process for the Minnehaha Creek Corridor. The process would be similar to the watershed district's current project. The study would focus on land use and the appearance of the area along Minnetonka Boulevard. It would extend from the headwaters down to State Highway Number 169.
- Approved a lot division to divide an existing lot into two lots at 14708 Woodhaven Road for Scott Willis.
- Approved a preliminary plat, with a variance, for a two-lot subdivision at 4848 Valley Road for Steven and Mary Leatherman.

- Approved a conditional use permit for floodplain and wetland buffer areas and a floodplain alteration permit to construct a trail from the civic center campus to Jidana Park for the City of Minnetonka.

Olson reported that the next planning commission meeting will be held November 17, 2005.

6. REPORT FROM PLANNING COMMISSION MEMBERS: None

7. PUBLIC HEARINGS: CONSENT AGENDA

No items were removed from the consent agenda for discussion or separate action.

Dahl moved, second by Cheleen, to approve the items listed on the consent agenda as recommended in the respective staff reports as follows:

A. Amendment of the master development plan, and final site and building plans for an addition and parking lot reconfiguration of the Wendy's Restaurant at 4912 County Road 101 for Wendy's International (90042.05a)

Recommend the city council adopt the ordinance on pages A1–A4 of the staff report, which amends the Seven-Hi Shopping Center master development plan to add a new vestibule, walk-in cooler/freezer, and a second drive-up window to the existing Wendy's Restaurant.

Approval is based on the following findings:

- 1) The proposal meets the intent of the existing Seven-Hi shopping Center master development plan.
- 2) The proposed addition and parking lot reconfiguration meet all site and building plan standards.

Approval is subject to the following conditions:

- 1) Construction and development must be in substantial conformance with the following plans unless modified by the conditions below:
 - Site Plan dated stamped August 31, 2005
 - Building Elevations date stamped August 31, 2005

- Floor plans date stamped August 31, 2005

The above plans are hereby adopted as the “Wendy’s” portion of the master development plan and as final site and building plans.

- 2) Before starting any site work or obtaining a building permit, submit a construction management plan for staff approval.
- 3) Building materials and colors must compliment the existing development.
- 4) 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.
- 5) Approval does not include the signs shown on the drawings. Separate sign permits must be submitted for staff review and approval. Any proposed sign must meet the conditions outlined in the Seven-Hi sign covenants.
- 6) The Seven-Hi parking lot must be restriped consistent with the final striping plan dated October 16, 2000, if the city concludes there is a demonstrated need for these spaces.
- 7) Construction must begin by December 31, 2006, unless the planning commission grants a time extension.

B. Front yard setback variance for an addition to the home at 14521 Moonlight Hill Road for Evergreen Design and Build, Inc. (05077.05a)

Adopt the resolution on pages A1–A3 of the staff report, which approves a front yard setback variance from 35 feet to 20 feet to construct an addition to the home at 14521 Moonlight Hill Road. This resolution is based on the following findings:

- 1) There is unique hardship to the property caused by:
 - a. The location of the existing home and the angle of the front property line.
 - b. The 20-foot right-of-way on Moonlight Hill Road in front of the home.

- 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 addition would line up with the existing homes to the east.
 - 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 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. Front yard setback variance for a detached garage at 13330 North Street for Mike and Lisa Ostenson (05079.05a)

Adopt the resolution on pages A1–A3 of the staff report, which approves the proposed variance. 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 property appears to be a lot without frontage. If the lot were technically a lot without frontage, a 10-foot setback would apply to the garage and no setback variance would be needed. This is a unique circumstance not common to every similarly zoned property.
- 2) The variance would be consistent with the spirit and intent of this ordinance for the following reasons:

- a. The variance would result in just a 40 square-foot point intrusion into the required setback.
- b. Shifting that garage to the north would impact windows and doors in the existing building. Shifting it to the east would result in more grading and move the building closer to the wetland/stormwater area.
- c. The proposed garage would have a much greater front yard setback than the existing garage directly to the south.
- d. The proposed garage would be located over 95 feet from the closest neighboring building. It would have no negative impact on the surrounding area or the essential character of the 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) The installation and maintenance of a temporary rock driveway, erosion control, tree protection and wetland protection fencing must be installed, 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.

D. Side yard setback variance and a front yard setback variance to relocate a pylon sign at 15510 Highway 7 for Border Foods (Taco Bell) (05083.05a)

Adopt the resolution on pages A1–A3 of the staff report, which approves the proposed variances from 10 feet to 7 feet and 10 feet to 8 feet, to construct a pylon sign for Taco Bell at 15110 State Highway 7. This resolution is based on the following findings:

- 1) There is a unique hardship to the property caused by:
 - a. The construction of the Highway 7 frontage road.

- 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.

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 sign permit for the project covered by this variance or approved a time extension.

E. Sign plan review for a second identification sign at 18605 Old Excelsior Blvd for Sunrise Assisted Living (03069.05b)

Approve the proposed sign plan for Sunrise Assisted Living at 18605 Old Excelsior Boulevard. Approval is based on the following findings:

- 1) The plan meets the intent of city code; allowing for reasonable identification, while maintaining a high aesthetic standard.
- 2) The proposed sign would be constructed in lieu of a wall mounted sign. The identification sign is smaller than the allowed wall sign.
- 3) The proposed sign would help emergency response vehicles and visitors identify the entrance for Sunrise Assisted Living Complex.

Approval is subject to the following conditions.

- 1) Issuance of a sign permit.
- 2) The second monument sign would replace the wall sign.
- 3) The sign is limited to 35 square feet in size.

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

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

8. PUBLIC HEARINGS

A. Items concerning a four-story, senior housing building at 5431 and 5439 Williston Road for MSC Concrete, Inc., represented by Mike Suess (04037.05a)

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.

Bonoff asked if staff considered making a change to the comprehensive guide plan. Teague answered in the negative.

Allendorf asked for clarification of staff's position regarding if the underground storm water storage tank would cause landscape maintenance problems. Teague explained that maintenance of the underground storage tank over a landscape buffer would be difficult and minimize growth potential of the landscaping. He provided an example of an underground storage tank located under a parking lot that provided easier access.

Cheleen questioned how the applicant would be held accountable for repairs needed to the underground tank. Teague responded that the property owner would be responsible for the tank.

Cheleen asked what the height of the proposed building would be compared to the surrounding homes. Teague explained that the proposed building would appear to be similar in height because the site would be graded lower than the property on the north.

Chair Hart clarified that the building would appear to be three stories tall from the street. Teague confirmed.

Bonoff asked which trees would be removed. Colleran indicated that tree removal would occur in the south central and south west areas.

Bonoff noted that the size of the building would be a dramatic change from the residential area to the commercial use.

Dan Kelly, attorney representing MS Concrete, Inc., the applicant, thanked Teague and Olson for their good work on the project. He stated that:

- There is a need for this type of senior housing with services.
- Twenty percent of the units would meet affordable housing standards.
- It would not be assisted living. It would be senior housing with services, which meets different criteria defined by state law.
- Planned unit development zoning allows for an increase in density to provide affordable housing.
- The building would be built into the ground to minimize the appearance of its size. He provided graphics.
- The proposal would be an excellent transition from the commercial area to the residential area.

Chair Hart clarified that the city ordinance does not require affordable housing units in a planned unit development. The ordinance strongly recommends affordable housing units. Mr. Kelly agreed.

Bill Marshall, architect and planner for the applicant, complemented Mr. Kelly for his comments and staff for the excellent report and carefully considered commentary. He stated that:

- The need for senior's based housing in the area is obvious.
- The Glen Lake redevelopment area is a naturally occurring senior area. He pointed out senior housing in the area. The proposal is appropriate with the type of housing in the area.
- The Beacon Hills facility has five stories.
- The facility would provide a high level of care and social interaction instead of more medically oriented models.
- The proposal would meet the city's height requirement.
- The entrance would be located on the second level and provide a view of trees and flowers.
- The site has over 50 percent green space.
- Retaining walls would be in the interior of the site. There would be soft, rolling landscaping planted along Williston Road.
- He reviewed modifications made to the original site plan.
- While this building would be larger than the Sunrise site, the visible mass of the building would be similar to Sunrise.

Allendorf asked where visitors would park if the five stalls were full. Mr. Marshall stated that there would be direct access to underground parking.

Mr. Kelly stated that the revised plan eliminates the need for the east and west variances. The need for the north variance would be eliminated. The south variance is justified by the affordable housing component.

Bonoff asked if the applicant considered a smaller building. The width is 250 feet. Mr. Kelly explained the economic feasibility aspect of the project to support the affordable housing component. Sunrise has 64 units, but no affordable housing component. The width of the building was increased in order to save a group of oak trees.

In response to Bonoff's request, Colleran stated that most of the site would be altered to accommodate the project. The environmental goal is to fit the project with the existing landscape. To the applicant's credit, the site plan was modified to reduce tree loss.

Allendorf noted that the south part of the building would be located where most of the trees are now. Colleran explained that the trees on the east that would be saved are large, oak trees. The trees that would be removed are of less quality.

Dahl asked how the height and floor area ratio of the building is calculated. Teague explained. The distance from the front elevation at ground level to the top of the building would be 35 feet. The finished floor area of the building is divided by the lot size to calculate floor area ratio.

Cheleen was concerned that there would not be enough parking. Clarion Hills stated that 45 percent of its residents have vehicles. He calculated that there would be approximately 15 extra stalls. Mr. Kelly noted that the proposal meets parking requirements. That issue could be addressed further.

Frisque asked if other areas were considered for the location of the tank. Mr. Kelly stated that he did not believe that maintenance of the tank would be a problem. It would be the responsibility of the applicant.

Chair Hart asked for clarification of the variances. Teague explained that the latest proposal eliminated the east and west variances. The north and south variances are still needed.

Mike Suess, 197 Willoughby Way West, applicant, provided correspondence from a tank cleaning company that stated that the tank would be cleaned and

maintained with a 300-foot hose. Teague stated that engineering staff had concerns with a vehicle driving on the landscaping and berm to access the tank.

The public hearing was opened.

Bob Streff, 5407 Williston Road, stated that before the drainage was corrected five to six years ago, the north side of his lot would be underwater every time it rained heavily. He was concerned with the water holding tank. His property would be lower. Mr. Marshall stated that the proposed grading plan would improve the neighbor's drainage.

Gwen Smith, 14801 Cherry Lane, felt it would be a dangerous proposal. She stated that:

- Williston Road has a steep grade. The slope is too steep to walk to Glen Lake.
- Williston Road is very busy. It is one of the only accesses across State Highway Number 7.
- The area is a single-family neighborhood. None of the multiple housing sites are visible.
- The residents are strongly opposed to the proposal.

Sharon Gibbins, 5402 Williston Road, pointed out the location of her residence. Her neighbors objected to the project, but were too busy to attend the meeting. She stated that:

- There would be no back-up parking. It would not be possible to park on Williston Road.
- The building's mass and height is too large.
- The oaks to be preserved are too close to the building and would be killed.
- This would set a precedent for more multiple family housing north on Williston.
- There could be market saturation.
- She questioned the experience of the property managers of the proposal.

No additional testimony was submitted and the hearing was closed.

Mr. Kelly provided the background of International Care Management Services, the company that would manage the proposed facility.

Chair Hart asked Mr. Kelly to explain how the project would be uniquely competitive with similar facilities. Mr. Kelly stated that services would be offered on an al-a-cart basis to assist with household chores and social activities. Rent would be controlled and would be unique to the market. He provided a copy of a study to the city that showed a demand for the proposed housing in the city.

Mr. Kelly stated that a traffic study concluded that Williston Road could handle the estimated increase in traffic. The south access was removed because of traffic safety.

In response to Chair Hart's question, Mr. Kelly stated that the affordable housing unit price would start at \$800 a month plus social services. Mr. Sues stated that rent for market based units would range from \$2,300 to \$3,700 per month with services. The prices are similar to the current market.

Cheleen asked about assurances that affordable units would remain within the affordable housing guidelines. Mr. Kelly stated that a covenant would run with the land that would assure that the affordable housing would remain. City Attorney Desyl Peterson and the economic development authority reviewed the covenant.

Chair Hart confirmed with Mr. Kelly that the covenant would sunset in 30 years as a result of state statutes.

Chair Hart reviewed the primary issues.

Allendorf acknowledged the applicant's willingness to work with staff, reduction in the number of units, and changes made to save valuable trees. He suggested staff identify what would be an appropriate sized building. The developer deserves to know what would work for the site. Teague did have that discussion with the applicant. Staff felt higher density on this site would be appropriate; however, a project that would preserve more trees and be smaller than 250 feet in width would provide a better transition into the single family area.

Allendorf was troubled with clearing of the site, a variance, lack of guest parking, and a visitor not being able to access underground parking due to the security system. He appreciated the architect's effort to bury the building 20 feet, but felt it would be overkill. The proposal would be a proper use, but it would overwhelm the site.

Bonoff appreciated the affordable housing component of the project and the creative approach to lower the building. She opposed the size of the building and felt that the character of the neighborhood would be substantially altered. She

was surprised by the high rent and questioned the need for luxury units in that area.

Dahl concurred with Allendorf and Bonoff. The concept was good, but the height of the building would not fit with the site.

In response to Chair Hart's question, Teague said that Sunrise units are within the price range for the proposed senior housing, if not higher.

Cheleen was torn. The concept and location next to Glen Lake is a positive aspect. He was concerned with the width of the building and it took a lot of effort to make it fit with the site. He reluctantly agreed that it would be inappropriate.

Frisque agreed with Cheleen. It would be a good location, but the buildable lot area would not sustain the size of the building.

Chair Hart strongly supported the concept. She was not concerned with saturation of this type of housing. She agreed that the building would be too large for the reasons listed in the staff report. She appreciated the applicant working with staff and the economic feasibility of the project.

Dahl moved, second by Allendorf, to recommend that the city council deny the following requests for a four-story, 77-unit senior housing development at 5431 and 5439 Williston Road for MSC Concrete, Inc: a comprehensive guide plan amendment from low-density residential to institutional; a rezoning from R-1, low-density residential, to PUD, planned unit development; a preliminary plat to combine the two lots; a conditional use permit to allow a nursing or convalescent home in a PUD with a setback variance from 50 feet to 26 feet; and site and building plan review with a parking stall variance from 79 stalls to 60 stalls, and parking and drive-aisle setback variances from 25 feet to 7 feet from the north lot line, from 25 feet to 24 feet from the east lot line, and from 20 feet to 15 feet from the west lot line. Denial is based on the following findings:

- 1) The proposal does not meet the guide plan review criteria for an amendment to the guide plan.
- 2) The proposal does not meet the conditions of a conditional use permit.
- 3) The proposal does not meet the site and building plan criteria.

- 4) There is no hardship to justify the building setback variance or the drive-aisle setback variances. The hardship is created by the applicant's desire to build such a large building on the site.
- 5) The mass of the building is too large for this site and not consistent with the single-family homes to the west and north.
- 6) The floor area ratio would be 90.5%, compared to 65% of the recently approved Sunrise senior housing facility that was located on the same size parcel of land.
- 7) The grading of the site to accommodate the proposed building would remove 43 of the 91 significant trees.
- 8) The effectiveness of the screening proposed along Williston Road would be limited due to its location above the underground stormwater retention tank.
- 9) The depth of the underground stormwater retention tank and steep grades in the area would make inspection and maintenance of the tank difficult.

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

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

B. Items concerning the proposed Minnetonka Highlands plat at 5516 Glenavon Avenue for Floyd Calhoun (05020.05a)

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.

Floyd Calhoun, 7825 Washington Avenue South, Edina, applicant, introduced himself and complimented staff for working with him to save more trees while keeping the project within ordinance requirements. He was available for questions.

Steve Johnston, 510 First Avenue North, Minneapolis, engineer for project, stated that the cul-de-sac right of way would be slightly smaller than what staff would like. He stated that:

- Providing the 50-foot setback would push the buildings back from the road and closer to the trees. He would be happy to work out a snow storage easement.
- The proposal contains 2 rain gardens. He reviewed the drainage pattern.
- A permit has been received from Hennepin County to allow a pipe to be installed for water run off. A polyethylene pipe would have to be used for directional boring instead of concrete.
- A neighborhood meeting was held. Three residents attended. The project seemed to be well received.

Teague stated that engineering could review the polyethylene pipe prior to the city council's review of the application.

Chair Hart asked if the width of the cul-de-sac is a vehicle turning safety issue. Teague agreed that plow drivers have had difficulty maneuvering in reduced size cul-de-sacs. The trade off of having the standard sized cul-de-sac bulb outweighed the encroachment into the steep slope.

Mr. Johnston clarified that the proposal would not want the pavement changed at all, but it would decrease the amount of right of way. Teague stated that engineering was also concerned with adequate room for snow storage.

Chair Hart acknowledged that staff's recommendation included engineering's recommendation for the right of way, but the applicant could work with engineering prior to the city council meeting to review options.

Bonoff asked if a conservation easement would be acceptable to the applicant. Mr. Johnston would be willing to put the trees in a conservation easement. He had not seen the language. Some conservation easements are much more restrictive than others. Some would not allow removal of dead fall of trees. While not opposed to saving major trees, he would have to give some landscape discretion to the property owners.

Colleran explained the standard template for conservation easements. The overall goal is to prevent grading and tree removal of significant trees. It would allow removal of dead or structurally unsound trees and removal of invasive species. Mr. Johnston did not have an objection to those standards.

The public hearing was opened.

Rich Spielberg, 5428 Glenavon Avenue, supported the applicant's request for the 43-foot cul-de-sac. He suggested creating a swale to redirect water toward his backyard. He requested a traffic mirror and hidden driveway signs be installed due to the high rate of speed cut through traffic travels at in the area. There are terrible pot holes on Glenavon Avenue. Easing or widening the curb would help. He indicated he was neutral to the proposal on his neighborhood feedback form, but he was now leaning towards supporting it. The new homes would improve the home values in the area.

Chair Hart acknowledged that the proposal would improve the current drainage problems. The traffic issues could be discussed with engineering staff.

Mr. Spielberg is an avid bicyclist and feared for his safety and the safety of pedestrians traveling near the curve. Chair Hart invited Mr. Spielberg to discuss the plans for the streets in the area with engineering staff.

Mr. Spielberg would like to create continuity between his back yard and the proposed adjacent lot's back yard. Chair Hart suggested he work with Mr. Johnston and Mr. Spielberg.

No additional testimony was submitted and the hearing was closed.

Cheleen moved, second by Frisque, to approve the following items for the Minnetonka Highlands plat at 5516 Glenavon Avenue for Floyd Calhoun:

REZONING/MASTER DEVELOPMENT PLAN

- 1) *Recommend that the city council adopt the ordinance on pages A1–A4 of the staff report. This ordinance approves a rezoning from R-1, low-density residential to PUD, planned unit development for Minnetonka Highlands at 5516 Glenavon Avenue. 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 and a steep slope area 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 August 30, 2005
 - Grading and Drainage Plan, date stamped August 30, 2005
 - Utility Plan, date stamped August 30, 2005
 - Street Plan, date stamped August 30, 2005
 - Site Plan, date stamped August 30, 2005
 - Tree Preservation Plan, date stamped August 30, 2005
 - Landscape Plan, date stamped August 30, 2005

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

PRELIMINARY PLAT

- 2) *Recommend that the city council give preliminary approval to the Minnetonka Highlands plat, date stamped August 30, 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 rights-of-way 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 wetlands, floodplains, and storm water ponds, as determined by the city engineer.
 - (d) The radius of the right-of-way for the cul-de-sac must be increased to 50 feet.
 - (2) Pay the city a park dedication fee of \$7,125.00.
 - (3) 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) Payment for traffic signs and installation, as required by the city engineer.
 - (3) An electronic CAD file of the final plat in microstation or DXF on a CD disk.
 - (4) 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 must be 150 percent of the estimated cost of the improvements or 125 percent of the cost if based on actual bids.
 - (5) 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 steep slopes and oak trees, with a drawing of the easements for the approval of the city attorney. The easements and drawings must be recorded with the final plat.
- (c) Documents establishing a homeowners' association. The association must be responsible for maintaining any common areas, the required retaining walls and plantings within the rain garden and any other required drainage improvements approved by the city.
- (d) Provide restrictive covenants to be recorded against the individual lots with the plat. The covenants must include the conditions that have not been met as of the release of the plat. These covenants must first be submitted for the city attorney's approval.

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

- (6) All delinquent taxes must be paid in full.
 - (7) Any other requirements included with final plat approval.
- c. The following must be completed before the city issues a grading permit or any site work is started.
- (1) 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. The final plans must include the following:
 - (a) An 8-inch water main must be looped to connect to North Street.
 - (b) Water service size and type must be shown on the plans.
 - (c) A fire hydrant must be located in the right-of-way adjacent to the northeast corner of proposed Lot 3.

- (d) Catch basins at the intersection must be 4-foot sumps.
 - (e) All storm sewer in public right-of-way must be concrete.
 - (f) The pavement for the cul-de-sac must have a 40-foot radius.
 - (g) The width of the pavement for the straight portion of the street must be 26 feet.
 - (h) Species to be planted within the rain gardens shall be subject to review and approval of staff.
- (2) A letter of credit or cash escrow for 150 percent 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.
- (3) All trees to be preserved must be fenced and erosion control measures installed for the planning director's approval.
- (4) A construction management plan must be submitted for the planning director's approval.
- (5) Submit evidence of the watershed district approval. The city may require revisions to the preliminary plat to meet the district's requirements.
- c. 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 the planning director's approval. The plans must be in substantial compliance with the building pads shown on the preliminary plat and must preserve trees designated for preservation at the time of preliminary plat 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.

- (2) 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.
 - (3) A copy of the recorded plat and any easement or covenants required to be recorded.
 - (4) A hookup fee for sanitary 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.
 - (6) Minimum low floor elevation must be 2 feet above the 100-year stormwater elevation.
- d. During construction, the streets must be kept free of debris and sediment, and the tree protection fencing, and erosion control fencing must be maintained.
 - e. 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.
 - f. A county permit is required for the storm sewer work.
 - g. 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, Cheleen, Dahl, Frisque, and Hart voted yes. Britain was absent. Motion carried.

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

C. Lot division, with variances, to divide the existing property into two lots at 15809 Sunset Road for Michael Ladoucer (05071.05a)

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

Thomas reported. She recommended denial of the application based on the findings listed in the staff report.

Mike Ladoucer, 15809 Sunset Road, thanked staff for their help with the project and appreciated commissioners who visited the site. He stated that:

- His property and the adjacent properties had no ponding or standing water after two severe downpours this year.
- He modified the plan to save trees and decreased the building pad size of the potential two-story residence.
- The smaller house would fit the characteristics of the neighborhood.

The public hearing was opened.

Steve Hum, 15803 Lexington Avenue, stated that his property is south of the proposed site. During both severe storms this year, there was quite a bit of water flowing through his property. He had six inches to eight inches of water ponding on his property. Anything done on Mr. Ladoucer's property affects drainage on his lot. Therefore, he opposed the lot split. If the drainage ravine is not impeded, he did not have an issue.

No additional testimony was submitted and the hearing was closed.

Chair Hart reviewed the primary issues.

Frisque asked Thomas to explain the importance of a 22-foot right of way. Thomas explained that the 80 feet of frontage sets a consistent frontage for the residences.

Allendorf was not against lots behind lots, but he was concerned that this lot split would create another nonconforming lot. He was also concerned with drainage.

Chair Hart concurred with Allendorf. The current lot is nonconforming and the new lot would be nonconforming. She also respected the drainage issue. Locating a house in the middle of the ravine would dramatically impact the drainage pattern.

Allendorf moved, second by Bonoff, to recommend that the city council deny the proposed lot division at 15809 Sunset Road for Michael Ladoucer. Denial is based on the following findings:

- 1) The proposed lot division does not meet the required standards and ordinances for a lot division.
- 2) The existing lot is non-conforming. The proposed division would, therefore, result in two, non-conforming lots.
- 3) The variances required as part of the lot division do not meet the three tests against which all variances must be judged.
- 4) The proposed lot division would result in the loss of trees and may negatively impact the steep slope.
- 5) The ravine and associated drainage pattern on proposed Parcel 2 are a potential problem for any future house on the property, regardless of design.

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

D. Variance to build an addition 1-foot above the 100-year stormwater elevation at 15817 Woodgate Road for Susan Forve (05078.05a)

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

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

Cheleen questioned how the residence was allowed to be constructed 1 ½ feet above the 100-year stormwater elevation originally. Olson confirmed that the construction of the residence predated the ordinance restriction. Olson confirmed with engineering staff that the elevation would be correct. The elevation is based on a long range plan.

Allendorf questioned the difference in size between the proposed addition and the square footage of the existing residence currently at the 1 ½-foot elevation. Olson referred the answer to the project architect. Allendorf felt more attention should be paid to the potential flooding of the residence.

Susan Forve, 15817 Woodgate Road South, applicant, thanked staff for working with the architect. She stated that:

- She intends to use the downstairs room as a work room. It is an integral part of the plan.
- The loan was based on the plan renovation.
- Future owners of the home would utilize the upstairs and downstairs.
- She is not currently handicapped, but does have medical conditions that may result in the need for a barrier free home. She made certain that laundry facilities could easily be moved to the main floor.
- Health concerns should be considered a justification for a variance.
- There is a legitimate aesthetic benefit of having a level floor instead of a ramp.
- The recent heavy rains have caused her no flooding on her property. The new addition would still be 35 feet from the high water mark and would still be 1 ½ feet higher than the 100-year stormwater elevation.
- Staff's recommendation states that there is no hardship, but anyone in a wheel chair would disagree that a ramp would create a hardship compared to traveling over a flat surface.
- She is requesting a variance for 6 inches, not 2 feet, below the recommended building distance above the stormwater elevation.
- Increasing the precedent of creating fully accessible housing for disabled residents in the community should be a consideration.
- The pipe that would deliver more water into her back area was never disclosed to her. She felt it seemed self serving.

John Yust, architect for applicant, thought that both of staff's options were not practical. By making the addition space a crawl space, it would also create a barrier for the walkout. Raising the addition six inches to create one stop would create a hazard for visitors. Two steps are more easily seen, but not possible. It would be arbitrary and silly to add one step in a residence set up to provide one-level, barrier free living. He would never recommend the needed ramp.

Ms. Forve described the house's floor plan. Mr. Yust modified the original design to be 1 ½ feet above the 100-year stormwater elevation to provide thoughtful, safe, and functional designs that would not threaten the overall importance of ordinance requirements.

Bonoff asked if there is a way to get from the main level to the lower level without steps. The residence would have to be exited and entered through an outside door to get from one floor to another. Ms. Forve would equip the first floor to meet her day to day living needs.

Allendorf calculated the addition to be slightly less than 280 square feet. He questioned the size of the existing basement. Mr. Yust estimated that it is approximately one fourth of the main house.

Cheleen asked if pouring a concrete foundation around the existing 7 ½-foot floor, to create a step out, would be a viable solution. Mr. Yust was open to consider that possibility.

The public hearing was opened.

Mr. Yust pointed out that Ms. Forve has the support of her neighbors. Chair Hart agreed that only letters of support had been received.

No testimony was submitted and the hearing was closed.

Allendorf reviewed the hardship standards. He noted that denial of the application would prevent flooding of 20 percent of the basement. The main house would still flood. The hardship is that the residence was originally constructed 1 ½ feet above flood level instead of 2 feet above flood level. That in itself is the hardship. If the variance is granted, the commission would site the original construction elevation as the hardship. From a precedent standpoint, any other residence that has 80 percent of its basement 1 ½ feet above flood level and wants to add an addition at the same level, the city would consider. The 6 inch difference does meet the standard. He would vote to approve the application.

Bonoff concurred with Allendorf and thanked him for articulating the justification for the variance.

Frisque concurred with Allendorf. The proposal would create more basement to flood, but would not create enough difference to be the difference between flooding and not flooding.

Chair Hart confirmed with Olson that the addition would be constructed closer to the stormwater area. Colleran agreed that the addition would be the first part of the residence impacted by rising water because of its proximity to the stormwater elevation. Chair Hart did not see a hardship to justify not having the space underneath the expansion be a crawl space. The main floor would still be barrier free without a variance. The main floor could be built without any stormwater variance. It was a toss-up in her mind.

Ms. Forve stated that each floor consists of approximately 1,100 square feet. Most of the house is not accessible at this point. The hallways and doorways would have to be rebuilt to be accessible. Chair Hart stated that the main floor addition could still be done without adding livable space in the basement. Ms. Forve stated that the basement would not be accessible if the main floor addition was completed without creating living space in the basement. Chair Hart stated that all of the improvements could be done to the main level with an egress level in the basement and still meet the 100-year stormwater elevation requirements. Ms. Forve stated that even though the addition would be closer to the 100-year stormwater area, it would be within ordinance requirements.

Allendorf understood Chair Hart's point that the addition would be located closer to the 100-year stormwater elevation area, not the 6-inch difference in elevation.

Bonoff understood that the main level would consist of one bedroom if it was made handicap accessible. Chair Hart did not think that the lower space would be accessible unless a lift would be installed.

Allendorf moved, second by Bonoff, to approve the variance request to build an addition 1.5 feet above the 100-year stormwater elevation at 15817 Woodgate Road. This approval is based on the following findings and restricted to the conditions that the current basement will be at the same level and smaller in size than the addition.

1. Submit proof of having recorded this resolution with the county before the city issues a building 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, and Frisque voted yes. Hart voted no. Britain was absent. Motion carried.

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

9. OTHER BUSINESS

- A. Presentation on the results of a planning project follow-up study.

Stendahl presented the results of his follow-up study.

Chair Hart thanked Stendahl and the city for following up with residents' concerns. It was good to learn that most concerns had been addressed.

Allendorf wondered if the *Sun Sailor* and *Lake Shore Weekly News* might be interested in the results of the study. He commended the excellent work on the report.

10. ADJOURNMENT

Bonoff moved, second by Cheleen, to adjourn the meeting at 9:40 p.m. Motion carried unanimously.

By: _____
Lois T. Mason
Planning Secretary