

**MINNETONKA PLANNING COMMISSION
MINUTES**

FEBRUARY 16, 2006

1. CALL TO ORDER

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

2. ROLL CALL

Commissioners Adams, Brandt, 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 Resource Manager Jo Colleran, and Planning Intern David Abel.

- 3. APPROVAL OF AGENDA:** The agenda was approved as submitted with additions and modifications provided in the change memo dated February 16, 2006.

- 4. APPROVAL OF MINUTES:** January 26, 2006

Cheleen moved, second by Dahl, to approve the January 26, 2006, meeting minutes as submitted.

Brandt, Cheleen, Dahl, Frisque, and Hart voted yes. Adams 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 February 6, 2006:

- Adopted a resolution approving items concerning a residential care facility at 4735 Clear Spring Road for Community Involvement Programs (88017.05a).
- Adopted a resolution approving a conditional use permit, with height variance, to replace an existing communications antenna on the Tonkawood Water Tower at 16001 Lake Street Extension for the City of Minnetonka (96001.05a).

Olson announced that the next planning commission meeting will be held March 2, 2006.

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

A. Site and building plan review to build a duplex at 14711 Minnetonka Drive for Curt Fretham (05101.05a)

Approve the site and building plans to build a duplex at 14711 Minnetonka Drive, 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 December 29, 2005.
 - Landscaping plan date stamped December 29, 2005.
 - Building elevations date stamped December 23, 2005.
- 2) The following must be submitted to the city before the city issues a building permit:
 - a. The installation and maintenance of temporary rock driveways, erosion control, tree protection, and wetland protection fencing for each lot must be installed, subject to review by the city's natural resources manager.
 - b. Submit final site, grading, drainage, utility, and erosion control plans for staff approval.
 - c. Minimum low floor elevation must be at least 939.00.
 - d. The driveway must be located outside of the 25-foot buffer and easement area from the wetland. The driveway must have a minimum elevation of 938.00.

- e. If required, submit copies of the watershed district permit. The city may require revisions to the approved plans to meet the district's requirements.
 - f. All required hook-up fees.
 - g. Conservation easement and buffer must be established over the area 25 feet out from the wetland. The easement, including a drawing of the easement, must be reviewed and approved by the city attorney. The easements and drawing must be recorded with the county.
- 3) The property owner is responsible for replacing any required landscaping that dies.
 - 4) Provide declaration and restrictive covenants over all mitigated wetland areas per the WCA, for review by the city's natural resources manager.
 - 5) Two new sewer and water services will have to be installed.
 - 6) Private utility easements must be established over the sewer and water services, if the property is further subdivided.
 - 7) Construction must begin by December 31, 2007, unless the planning commission grants a time extension.

B. Conditional use permit for an existing, detached garage at 2915 Fairchild Avenue for Branko Babcic (02066.06a)

Recommend that the city council adopt the resolution on pages A1–A5 of the staff report, which approves the proposed conditional use permit. This resolution is based on the finding that the garage meets all conditional use permit and site and building plan review standards. Approval is subject to the following conditions:

- 1) Record this resolution with the county before final building inspection.
- 2) No additional curb cuts, to specifically access the garage, are allowed.
- 3) The building cannot be used for commercial activities.

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

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

8. PUBLIC HEARINGS

A. Items concerning three, two-story office condominiums at 16200 Highway 7 for Bremcon, Inc./DaVern, Inc. (86092.05a)

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 where the proof-of-parking would be located. Teague obliged. The proof-of-parking would provide 16 additional spaces. The east part of the site would not be included in the conservation easement.

In response to Frisque's question, Teague confirmed that the drainage pond would be in the same location as the previous plan.

Chair Hart asked if there was an illustration demonstrating the height of the building compared to the hill. Teague stated that the applicant did not provide such a drawing.

Michael Gair, the applicant's project planner, explained the elevations of the proposal. Chair Hart asked if the hill would remain. Mr. Gair stated that the building pad area would have a foot or two shaved off. There would be no recognizable change in the elevation. There would be no grading outside of the previously approved grading limits.

Mr. Gair requested clarification of the following conditions recommended by staff prior to city council review: storm water pond facilities, the type of trash enclosure

required, and what would be considered significant in regard to an increase in the noise level. In regard to the preliminary plat, he stated that both the applicant's and the city's engineers would meet to discuss the scope of the project, which might require more definition. He had not had enough time to review the letter from the Minnesota Department of Transportation. Although his concerns were not significant, he wanted them and his request for further dialogue on the record.

The public hearing was opened.

Steve Clausen, 16515 Bywood Lane, questioned if variances were approved in 1998 for the previously approved building. Mr. Clausen stated that if the previous plan did not include variances, there should not be variances now. Teague stated that the previous plan and the current plan do not include variances.

Mr. Clausen asked if a lot line would be closer to the edge than it would normally. Teague explained that the applicant's initial application in the fall included setback variances, but the current plan had been changed.

Mr. Clausen commented that the building site of the proposed plan would be a little larger than the previously proposed plan. Chair Hart agreed and pointed out that the current plan would have less steep slope encroachment.

Mr. Clausen asked how much fill would be removed. Chair Hart pointed out the grading area. Teague suggested that the applicant provide that information.

Mr. Clausen had heard that in 1998 the fill removed from the proposed site would be used to build a Cub Foods in another area. Chair Hart explained that some soil would be removed from the steep slope for the building pad. Mr. Clausen understood. Chair Hart explained that the current hill would remain.

Mr. Clausen asked if the city could straighten Tonkawood Road and construct a right turn lane. Chair Hart stated that the city included the easement to make that a possibility in the future. Mr. Clausen suggested that incorporating the realignment into the proposed project would be beneficial.

Greg Johnson, 16151 Highwood Drive, questioned the distance from the green grading limit line to the property line. He clarified with Chair Hart the accesses. Mr. Johnson asked if the neighborhood would have input into the landscape plan. Chair Hart confirmed with Colleran that staff would work with the applicant and the owners of the properties adjacent to the back lot line. Part of the issue is how much of the building would be visible.

Mr. Gair stated that the rear of the building would be 27 feet above grade. Mr. Johnson's house would be lower than the hill. The existing plant materials are fairly lean.

Colleran explained the location of the berm, the grading area, the storm sewer line, and the drainage pattern. Two feet of the top of the berm would be removed. A double row of six-foot evergreen trees would be planted.

Mr. Gair stated that he is willing to work with the neighbors. He referred to the compliance table and explained that the proposal would far exceed the setback requirements. Hard surface coverage would equal 23 percent. The ordinance would allow 70 percent. Chair Hart agreed that the floor to area ratio would also be very low because the buildings would only be two stories. The proposal is considered a relatively low impact development.

Tim Kokesh, 16413 Canterbury Drive, questioned the locations of the entrance and exit of the site. Chair Hart stated that there would be a right-in and a right-out on Highway 7 only. There would be no access to Highwood Drive or Tonkawood Road. Mr. Kokesh was concerned that the temporary access onto Tonkawood Road would be long-term. Teague explained that the Minnesota Department of Transportation would allow a right-in and a right-out on Highway 7 in 1998, subject to the city closing certain direct accesses to Highway 7 further down. The only access would be from Highway 7.

Mr. Kokesh was concerned about potential noise from the project and Highway 7. He questioned how the noise would be reduced if it becomes an issue. The project goes against the city's policy of open, green space. The city should have acquired the site because it is wooded, open space and a noise buffer for homes. Chair Hart explained that the property is guided for an office use and zoned as a planned unit development. The proposal fits the ordinance requirements without a variance. The money allocated for the green space project did not cover half of the high-priority properties. Olson related that the city wished to purchase the property, but funds were not available.

Teague explained that noise readings would be taken before and after construction. The buildings would block sound from the highway to provide noise buffering.

Vicky Kemp, 16091 Highwood Drive, asked who would be responsible for maintaining the site if the buildings would not be sold. Chair Hart assumed that

the property owner would be responsible for maintenance of the site. Once sold, there would be an association that would collect dues to maintain the property.

John Kilkelly, 4616 Oxford Place, asked that the highest point of the property be pointed out. Residences in the area vary in elevation. He was concerned with the loss of the buffer. He requested an elevation plan be provided. Chair Hart agreed that was an excellent request. She recommended that the presenters provide an elevation plan when the city council reviews the proposal. Chair Hart identified the highest point to be on the west side of the property. Mr. Gair indicated the highest area at 996 feet. There would be a 40-foot drop.

No additional testimony was submitted and the hearing was closed.

Chair Hart reviewed the primary issue.

Cheleen felt the proposal contained good aspects and compromises. He noted that there is no significant change from the previous plan and no variance would be needed. He agreed that the three buildings would provide a better noise buffer than what currently exists, but that they would be tall. The entrance and exit onto Highway 7 would be a safety issue, but the best solution. The buildings would be high, but it would be a trade-off to prevent the removal of the hill.

Frisque agreed with Cheleen that the accesses are a safety issue. She appreciated the neighbors' comments that the proposal is better than the previous one in December. She appreciated the noise concern.

Chair Hart appreciated the developer working with the neighbors and the city to refine the proposal. She felt the buildings would look very nice and fit in with the area.

Frisque moved, second by Brandt, to recommend that the city council approve the following items concerning three, two-story office condominiums at 16200 Highway 7 for Bremcon, Inc./DaVern, Inc. (86092.05a) with the condition provided in the change memo dated February 16, 2006:

MASTER DEVELOPMENT PLAN AMENDMENT

- 1) *Recommend that the city council adopt the ordinance on pages A1–A5a of the staff report. This ordinance approves an amendment to the master development plan at 16200 State Highway 7 for Bremcon, Inc./DaVern, Inc. Approval is based on the following findings:*

- a. The proposal is consistent with the previously approved office building plan for this site.
- b. Access to and from the site is reasonable, and consistent with the previously approved plan.
- c. The proposal would have a lesser impact on the steep slope area than the previously approved plan.
- d. The existing and proposed landscaping would provide adequate screening from the adjacent single-family homes.

The project is subject to the following conditions:

- 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 January 19, 2006.
 - Grading plan date stamped January 19, 2006.
 - Landscaping plan date stamped January 19, 2006.
 - Utility plan date stamped January 19, 2006.
 - Building elevations date stamped August 17, 2005.
- b. Before starting any site work or obtaining a grading permit, complete the following work:
 - (1) The installation and maintenance of temporary rock driveways, erosion control, tree protection, and wetland protection fencing for each lot must be installed, subject to review by the city's natural resources manager.
 - (2) Submit final site, grading, drainage, utility and erosion control plans for staff approval. Stormwater calculations for the pond and downstream storm sewer must also be submitted. Final plans are subject to staff approval.
 - (3) If downstream storm sewer improvements are needed, the developer is responsible for the costs, including any easements that may be required. If downstream

improvements are needed, they must be completed prior to issuance of a grading permit.

- (4) Verification if a wetland exists where the stormwater pond is proposed.
 - (5) A wetland certificate of no-loss or exemption form must be completed and mailed to the appropriate parties.
 - (6) Submit a letter of credit or cash escrow for 150% of the estimated cost to comply with grading permit requirements and restore the site.
 - (7) If required, submit copies of the watershed district permit. The city may require revisions to the approved plans to meet the district's requirements.
 - (8) Submit a construction management plan for staff approval.
 - (9) All utilities routed through steep slope areas must be directional bored or installed by other methods approved by the city engineer to minimize tree loss.
- 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. The applicant must work with staff and the neighbors to provide adequate screening while minimizing root disturbance to existing trees. Planting on adjacent properties may be required.
 - (2) A letter of credit or cash escrow for 150% of the estimated cost of all required landscaping.
 - (3) An illumination plan for staff approval. The maximum height of the parking lot lights shall be 16 feet.
 - (4) All required hook-up fees.
 - (5) Record this ordinance with the county.

- (6) A detailed HVAC and trash/recycling enclosure plans, subject to staff approval.
 - (7) Submit evidence of MnDOT approval of the driveway access permit off Highway 7. The city may require revisions to the plan to meet MnDOT's requirements.
- d. The property owner and/or office-owners' association 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. Spaces shown as proof-of-parking may not be paved, unless approved by the city upon showing of a demonstrated need for these spaces. If proof-of-parking is required, additional screening of the new parking lot may be required if city staff deems it necessary.
 - h. Provide declaration and restrictive covenants over all mitigated wetland areas per the WCA, for review by the city's natural resources manager.
 - i. Conservation easement over the significant trees on the west side of the property, and a drawing of the easement for the approval of the city attorney. The easement and drawing must be recorded with the county.
 - j. A west bound right turn lane must be added to Highway 7 to access the site.
 - k. Submittal of pre and post noise measurements to determine noise impacts. If significant increase is determined, additional landscaping may be required.

- I. Construction must begin by December 31, 2007, unless the planning commission grants a time extension.

The above plans are hereby adopted as the master development plan and as final site and building plans.

PRELIMINARY PLAT

- 2) *Recommend that the city council give preliminary approval to the Tonkawoods Office Park plat, date stamped January 19, 2006. Approval is based on the finding that the plat meets the required standards and ordinances. 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.
 - (b) Utility easements over existing or proposed public utilities, as determined by the city engineer.
 - (c) Drainage and utility easements over wetlands, floodplains, and public storm water ponds, as determined by the city engineer.
 - (2) 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 electronic CAD file of the final plat in microstation or DXF on a CD disk.
 - (2) 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 easement over the significant trees on the west side of the property, and a drawing of the easement for the approval of the city attorney. The easement and drawing must be recorded with the final plat.
- (c) Documents establishing an office-owners' association. The association must be responsible for maintaining any common areas, common drives, the required drainage pond and any other required drainage improvements approved by the city. Maintenance will include, but not be limited to, the periodic removal of sedimentation at the base of the pond and any adjacent drainage ditches, keeping a vegetative cover within the ditches and pond, and removing any blockage of the swale or culvert that may impede the drainage of the site, as approved with the building permits. Document must also include a stipulation of no medical offices.
- (d) Common access easements for each lot.
- (e) 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.

- (3) Any other requirements included with final plat approval.
 - c. During construction, the streets must be kept free of debris and sediment, and the tree protection fencing, and erosion control fencing must be maintained.
 - d. 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.

- e. 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.

Adams, Brandt, Cheleen, Dahl, Frisque, and Hart voted yes. Britain was absent. Motion carried.

Chair Hart stated that it is tentatively scheduled to be reviewed by the city council on February 27, 2006.

B. Preliminary plat with variances for Lewis Addition plat at 15616 Highwood Drive (92030.06a)

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.

In response to Dahl's question, Teague explained that any new lot is required to have 80 feet of frontage on a public street. The back lot has no frontage. City ordinance requires the lot width to be 110 feet at the required setback. The proposed lot would be 106 feet wide at the setback.

The applicant chose not to make a presentation.

The public hearing was opened.

Tom Little, 15658 Highwood Drive, was concerned with the proposal having no street frontage. It would change the character of the neighborhood. By adding a house, it would increase the density and change the look of the neighborhood. The rationale for having street frontage is valid. He questioned if the house could be moved further back into the lot. The lot is very long and the houses, as proposed, would be very close together. He questioned where the driveway would be located. It appeared very close to the lot line. He was concerned with the loss of 100-year old trees.

Colleran agreed with Mr. Little that large, white, pine trees live in the southwest corner of the lot. Colleran had met with the property owner and worked with him

to shift the drive to avoid more trees. The homeowner wanted to remove a tree at the southwest corner of the home because it overhangs the house. Ms. Colleran explained the city's tree removal ordinance.

Chair Hart asked what the distance from the driveway to the property line would be. Teague answered 10 feet. The code requires 7 feet.

Chair Hart asked if the house could be moved back. Colleran explained that the proposed house pad area would be flat, so there would be minimal grading. Moving the house back into the slope would increase grading. Staff favored keeping the house away from the north drainage and utility easement area.

Chair Hart observed other lots without frontage in the neighborhood. The proposal would not change the character of the neighborhood because there are several lots behind lots already in the area.

No additional testimony was submitted and the hearing was closed.

Brandt asked if more than one tree would be removed to accommodate the driveway. Colleran confirmed that one tree would be removed and others would be trimmed.

Chair Hart reviewed the primary issues.

Dahl had the same concerns as Mr. Little. He was concerned with the proximity between the houses. He preferred moving the house back. Other than that, he supported the proposal.

Dahl moved, second by Adams, to recommend that the city council give preliminary approval to the Lewis Addition, date stamped January 4, 2006, with a lot width at the right-of-way variance from 80 feet to 0 feet and a lot width at the setback variance from 110 feet to 106 feet. Approval is based on the following findings:

- 1) The proposal meets the required standards and ordinances for a preliminary plat.
- 2) The proposal meets the required standards for a lot width at the right-of-way variance in Section 300.10, Subdivision 5(h)(2)(b).

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) Provide a 10-foot drainage and utility easement along the west lot line to cover the existing storm sewer.
 - (3) Utility easements over existing or proposed public utilities, as determined by the city engineer. This would include a verification of the location of the storm sewer along the west lot line. The easement over it may need to be larger depending on its location.
 - (4) Drainage and utility easements over wetlands, floodplains, and public storm water ponds, 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) Provide a 34-foot private driveway easement between the street right-of-way and Lot 2 that is acceptable to the city attorney. This easement shall be located along the west lot line of Lot 1. The easement shall state the maintenance responsibilities of each owner. The minimum driveway width shall be as required by the fire marshal.

- (3) A private utility easement across Lot 1 to provide services to Lot 2.
- (4) Conservation easement and buffer must be established over the area 25 feet out from the wetland or the 966 elevation. The easement, including a drawing of the easement, must be reviewed and approved by the city attorney. The easements and drawing must be recorded with the county.
- (5) 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.

- c. Any other requirements included with final plat approval.
- 3) The following must be completed before the city issues a building permit:
- a. City approval of a grading and tree preservation plan for each lot. 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 and driveway to maximize tree preservation. The sewer and water services must be shown to minimize impact to any significant trees.
 - b. City approval of the installation of a temporary rock driveway, erosion control, tree protection, and wetland protection fencing for each lot.
 - c. Submit a copy of the recorded plat and any easement or covenants required to be recorded.
 - d. Minimum low floor elevation must be 986.1.
 - e. Pay a hookup fee for sanitary sewer and water.

- f. The new home would have to be constructed with a sprinkler system.
 - g. Submit a letter from the surveyor stating that boundary and lot stakes have been installed as required by ordinance. If the grading for proposed streets has not been completed, the planning director may approve a time extension to this requirement.
- 4) During construction, the streets must be kept free of debris and sediment, and the tree protection fencing, and erosion control fencing must be maintained.
 - 5) Trees must be planted to compensate for significant trees removed from each site that would be outside of the building pad and driveway area. The trees must be primarily species native to the area. They must be at least 2 ½ inches in diameter for deciduous trees and 6 feet tall for coniferous trees. The property owner or original developer must replace the required trees if they die within one year after installation.
 - 6) Before the city makes a final inspection of the house, the drive must be paved from the street to the house on Lot 2. A driveway setback of at least seven feet must be maintained from the side lot lines. The city may approve a time extension if weather prevents paving of the drive.
 - 7) 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.

Adams, Brandt, Cheleen, Dahl, Frisque, and Hart voted yes. Britain was absent. Motion carried.

Chair Hart stated that it is tentatively scheduled to be reviewed by the city council on February 27, 2006.

C. Items concerning Jimmy's American Grill at 11000 Red Circle Drive for Michael J. Jennings (87075.06a)

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. She stated that the city council will review the application March 27, 2006.

Michael Jennings, applicant, was present to answer questions.

The public hearing was opened.

Chris Novak, developer of the adjacent property on the west, commented that he has been working with Mr. Jennings and he has been great to work with. Currently, the land houses a vacant 8,000-square foot restaurant facility. Chair Hart looked forward to seeing Mr. Novak's proposal.

Mr. Jennings was excited about Mr. Novak's plan. Mr. Novak modified his plans to accommodate the current proposal. Mr. Jennings stated that Mr. Novak is a good neighbor.

No additional testimony was submitted and the hearing was closed.

Chair Hart reviewed the primary issues. Chair Hart noted the importance of outdoor seating for restaurants. The plan looked nice. She was confident the parking would be worked out.

Frisque supported a restaurant opening in the area.

Cheleen commented that this was the most congenial proposal the commission has seen in six months. He applauded the property owners for working together. He asked if the property on the west would have a restaurant. Mr. Novak stated that the tentative plan is for a multi-story building with retail on the first floor, office on the second, partial office on the third, and a bank on the south side. The amount of parking would restrict restaurant use of the site.

Brandt moved, second by Adams, to recommend that the city council approve items concerning Jimmy's American Grill at 11000 Red Circle Drive for Michael J. Jennings (87075.06a) with the modifications listed in the change memo dated February 16, 2006:

- 1) *Recommend that the city council adopt the ordinance on pages A1–A5 of the staff report, which amends the existing master development plan for a restaurant at 11000 Red Circle Drive. Approval is based on the finding that the proposal would meet the required standards and ordinances for a site and building plan approval and 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:
 - Boundard and topographic survey dated October 9, 1986.
 - Grading, drainage, and utility plan dated June 25, 1987
 - Site and Parking Plan drafted by city staff and dated February 9, 2006
 - Outdoor seating plan date stamped January 13, 2006
 - Building Elevations date stamped January 13, 2006
 - Floor plans date stamped January 13, 2006
 - b. This ordinance replaces PUD agreement 87075A.
 - c. Submit the following before the city issues a building permit for any exterior work not related to the interior improvements:
 1. A parking and access easement for review and approval by the city attorney. This easement must be recorded against the 11000 Red Circle Drive property and a copy of the recorded easement returned to the city.
 2. A final landscape plan. The plan must be in substantial conformance with PUD agreement 87075A.
 - d. Before the city issues a certificate of occupancy, the parking lot must be re-stripped to comply with the parking plan drafted by city staff and dated February 9, 2006.
 - e. Compact spaces shown as proof-of-parking may not be striped unless approved by the city upon a demonstrated need for these spaces.
 - f. All parking areas must be surrounded with concrete curb and gutter.
 - g. Construction must begin by December 31, 2007, unless the planning commission grants a time extension.
- 2) *Recommend that the city council adopt the resolution on pages A6–A10 of the staff report which approves three outdoor seating areas at 11000 Red*

Circle Drive. Approval is based on the finding that the proposal meets all conditional use permit standards and is subject to the following conditions:

- a. Outdoor seating areas surrounded by an uninterrupted enclosure, except as required by the building code. The proposed walls and gates must be approved by the fire marshal prior to issuance of a building permit.
- b. Seating areas located under canopies must be equipped with automatic fire sprinklers as required by the fire marshal.
- c. The outdoor seating area must remain as seasonal seating. It may not be fully enclosed or converted to year-round usable space. This condition prohibits any type of enclosure, including screening or plastic.
- d. A refuse container must be available to each outdoor eating space.
- e. Any speaker or audio equipment cannot be audible from adjacent properties.
- f. Record this resolution with the county before the city issues a building permit for any exterior work not related to the interior improvements.
- g. The city council may reasonably add or revise conditions to address any future unforeseen problems.
- h. 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.
- i. The applicant must agree to the above conditions in writing.

Adams, Brandt, Cheleen, Dahl, Frisque, and Hart voted yes. Britain was absent. Motion carried.

9. ADJOURNMENT

*Cheleen moved, second by Frisque, to adjourn the meeting at 8:00 p.m.
Motion carried unanimously.*

By: _____
Lois T. Mason
Planning Secretary