

**MINNETONKA PLANNING COMMISSION
MINUTES**

APRIL 20, 2006

1. CALL TO ORDER

Chair Hart called the meeting to order at 6:30 p.m. She apologized for not being able to act on Items C, a side yard setback variance to build an addition to the home at 3677 Steele Street for Thomas Lutz (06011.06a), and D, a sign setback variance for a tenant identification sign at 11550 and 11541 Encore Circle for Encore Park Associates (06013.06a), due to the absence of three commissioners.

2. ROLL CALL

Commissioners Dahl, Adams, Cheleen, and Hart were present. Frisque, Brandt, and Britain were absent.

Staff members present: Planning Director Geoff Olson, Principal Planner Cary Teague, Planner Susan Thomas, Natural Resource Manager Jo Colleran, and Planning Technician Jeff Thompson.

- 3. APPROVAL OF AGENDA:** The agenda was approved with the postponement of Items C, a side yard setback variance to build an addition to the home at 3677 Steele Street for Thomas Lutz (06011.06a), and D, a sign setback variance for a tenant identification sign at 11550 and 11541 Encore Circle for Encore Park Associates (06013.06a), which were rescheduled for the May 11, 2006, planning commission meeting.

Olson explained that the remaining items will require a simple majority of three votes for approval.

- 4. APPROVAL OF MINUTES:** March 30, 2006

Dahl moved, second by Adams, to approve the March 30, 2006 meeting minutes as submitted.

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

5. REPORT FROM STAFF

Olson briefed the commission on land use applications considered by the city council at its meeting of April 10, 2006:

- Adopted a resolution approving items concerning a proposal for a food shelf/office building on the property at 13000 St. David's Road for The Episcopal Parish of St. David. Council modified a small part of the parking lot to save a tree; the loading dock was removed and replaced with a hydraulic lift; the size of the pond was doubled and it was moved further west; and the design was changed to add more vertical lines and windows to match the church. One of the councilmembers noted that the street is a dead-end, residential street with a church. Olson noted there was a lot of good testimony, and neighbors felt that their input influenced the final project.
- Adopted a resolution approving items concerning the renovation of the baseball fields at 18301 Highway 7 for Minnetonka High School.
- Adopted a resolution approving preliminary plat for the proposed three-lot Fischer Subdivision at 13533 Wentworth Trail for Earl Fischer. Council felt reasonable access was provided to the south. It did not require the north access.
- Denied approval of items concerning grade changes and a pervious patio on the lake access lot at 17024 Gray's Bay Boulevard for Lakewest Landscape. Council felt an adequate patio could be done within setback requirements.

Olson introduced Planning Technician Jeff Thompson. Chair Hart welcomed Thompson.

6. REPORT FROM PLANNING COMMISSION MEMBERS: None

7. PUBLIC HEARINGS: CONSENT AGENDA

Items C, a side yard setback variance to build an addition to the home at 3677 Steele Street for Thomas Lutz (06011.06a), and D, a sign setback variance for a tenant identification sign at 11550 and 11541 Encore Circle for Encore Park Associates (06013.06a), were removed from the consent agenda and postponed to the May 11, 2006 planning commission meeting.

Cheleen moved, second by Adams, to approve Items A, a conditional use permit for an outdoor garden center at 17507 Minnetonka Boulevard for Great Gardens By Grandma (05017.05a), B, items concerning the existing Dairy Queen Restaurant at 12940 Minnetonka Boulevard for Sandness Construction (06005.06a), and E, ordinance changing the definition of lot to exclude land under lakes or streams (06016.06a), listed on the consent agenda as recommended in the respective staff reports as follows:

A. Conditional use permit for an outdoor garden center at 17507 Minnetonka Boulevard for Great Gardens By Grandma (05017.05a)

Recommend that the city council adopt the resolution on pages A1–A5 of the staff report. This resolution approves a conditional use permit for Great Gardens by Grandma to operate an outdoor garden center at 17507 Minnetonka 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) Submit a signed parking agreement between the owners of the 17507, 17515, and 17523 Minnetonka Boulevard properties. This agreement must be recorded against the properties and a copy of the recorded agreement returned to the city.
- 2) The garden center may be open annually, the last Monday in April through the last Sunday in June.
- 3) No more than four signs, which do not exceed 32 square feet in aggregate, are allowed for the garden center.
- 4) Incidental product or pricing signs placed directly next to the appropriate product. Product advertising is permitted, but must be included in the maximum allowed sign area. The signs shall have a professional appearance and shall be securely mounted or erected in a safe location. These limitations apply to all signs associated with the use, including those affixed to vehicles.
- 5) The conditional use permit is issued in the name, Great Gardens by Grandma, and is for an outdoor garden center in the area specified in the application. Any change in the person, location or items sold shall render the permit invalid.
- 6) Violation of the conditional use permit standards outlined in City Code 300.21.4(o) or conditions placed upon the conditional use permit shall result in immediate revocation of the conditional use permit.
- 7) The city council may reasonably add or revise conditions to address any future unforeseen problems.

- 8) 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.
- 9) The applicant must agree to the above conditions in writing and record this resolution with the county.

B. Items concerning the existing Dairy Queen Restaurant at 12940 Minnetonka Blvd for Sandness Construction (06005.06a)

- 1) Recommend that the city council adopt the resolution on pages A1–A4 of the staff report, which approves a conditional use permit for the existing restaurant at 12940 Minnetonka Boulevard. Approval is based on the finding that the proposal meets the required conditional use permit standards and is subject to the following conditions:
 - a. Record this resolution with the county before the city issues a building permit.
 - b. The city council may reasonably add or revise conditions to address any future unforeseen problems.
 - c. Any change to the approved use that results in a significant increase in traffic or a significant change in character would require a revised conditional use permit.
 - d. The applicant must agree to the above conditions in writing.
- 2) Recommend that the city council approve the site plan with the following variances: (1) a front yard setback variance from 50 feet to 40 feet; (2) side yard setback variances from 35 feet to 7 feet on the west side of the building and from 35 feet to less than 1 foot on the east side of the building; and (3) a parking space variance from 10 spaces to 3 spaces.

Approval is based on the following findings:

- a. Strict enforcement would cause undue hardship because of the following circumstances that are unique to this property:
 1. The lot is an existing, non-conformity. There is no buildable area on the property.

- b. The variance would be consistent with the spirit and intent of this ordinance for the following reasons:
 - 1. The existing building is non-conforming. The proposal maintains existing side building lines and extends just 4-inches beyond the footprint of the previous exterior storage space.
 - 2. The proposal does not reduce the amount of parking on the site.
 - 3. The proposed addition is for storage space. It would not increase the number of patrons to the restaurant or result in increased demand for parking.
 - 4. Given the existing non-conformities and the location at the rear of the building, the proposal would have no negative impact on the surrounding area.

Approval is subject to the following conditions:

- a. Submit proof of having recorded this resolution with the county before the city issues a building permit.
- b. The parking lot must be re-striped to accommodate the door at the back of the proposed addition.
- c. This variance will end on December 31, 2007, unless the city has issued a building permit for the project covered by this variance or approved a time extension.

C. Side yard setback variance to build an addition to the home at 3677 Steele Street for Thomas Lutz (06011.06a)

Postponed until the May 11, 2006 planning commission meeting.

D. Sign setback variance for a tenant identification sign at 11550 and 11541 Encore Circle for Encore Park Associates (06013.06a)

Postponed until the May 11, 2006 planning commission meeting.

E. Ordinance changing the definition of lot to exclude land under lakes or streams (06016.06a)

Recommend the city council adopt the ordinance on pages A1–A2 of the staff report and refer it to the planning commission.

Dahl, Adams, Cheleen, and Hart voted yes. Frisque, Brandt, and Britain were absent. Motion carried and Items A, a conditional use permit for an outdoor garden center at 17507 Minnetonka Boulevard for Great Gardens By Grandma (05017.05a), B, items concerning the existing Dairy Queen Restaurant at 12940 Minnetonka Boulevard for Sandness Construction (06005.06a), and E, ordinance changing the definition of lot to exclude land under lakes or streams (06016.06a) on the consent agenda were approved as submitted.

8. PUBLIC HEARINGS

A. Lot division with variances at 5808 Louis Avenue for Home Reflections, Inc. (06008.06a)

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.

Teresa Elsbern, owner of Home Reflections, Incorporated, applicant, stated that she completed remodeling a residence on the property south of the proposed site. She wanted to build one or two homes on the property. One single home would sell for over \$1,400,000. The market preferred two homes approximately 2,500 square feet in size which would sell for \$800,000 to \$900,000 each.

The public hearing was opened.

Mark Bergman, 5820 Louis Avenue, noted that lots on the same side of the street as the proposed site are larger than what is specified as in keeping with the neighborhood. He received 16 property owners' signatures on a petition opposed to the variance allowing the property to be subdivided. The residents submitted that two large homes would not be the best use of the property.

Dave Johnson, 5801 Whited, stated that the properties to the west are larger lots than specified, as in keeping with the neighborhood. It would be a mistake to construct two huge homes on the lot. It would be out of character with the neighborhood.

No additional testimony was submitted and the public hearing was closed.

Dahl asked if the property could be divided with a lot behind a lot. Teague stated that it would still require a lot frontage variance.

Dahl was comfortable with the variance. One huge home would be out of character with the older character neighborhood.

Chair Hart recalled an instance on Bantas Point where the size of the residence was restricted. Teague believed residence size was restricted only on small, lake shore lots.

Adams asked Teague for the widths of lots on the west side of Louis Avenue. Teague confirmed that all of the lots meet or exceed 110 feet in width.

Adams felt that two lots would not be in character with the lots on the west side of the street.

Chair Hart calculated that over half of the 13 lots have less width than the proposed lots. Therefore, the proposed subdivision would meet the character of the neighborhood.

Cheleen was unaware of what the original house looked like, but he guessed that two regular-sized residences would look better than one mega-sized house in the middle. The lots would be only three feet less in width than two of the lots across the street. He felt it would be a feasible plan.

Chair Hart agreed that one \$1,400,000 house would be very large. The variance is modest, from 110 feet to 102 feet, compared to variances previously approved. She supported staff's recommendation.

Adams understood Chair Hart's position.

Dahl appreciated the neighbors' comments. He agreed with Chair Hart.

Dahl moved, second by Cheleen, to recommend that the city council adopt the resolution on pages A1–A4 of the staff report. This resolution approves a lot division at 5808 Louis Avenue, with a lot width at the setback variance from 110 feet to 102 feet for each lot. Approval is based on the following findings:

- 1) Except for the variances, the proposal meets the required standards and ordinances for a lot division.

- 2) The proposal meets the required standards for a variance, because:
 - a. There is a unique hardship to the property caused by the existing width of the lot which would prevent subdivision of the lot similar to other lots in the neighborhood.
 - b. The variance would meet the intent of the ordinance because the lot width would be consistent with other lot widths on Louis Avenue.

Approval is subject to the following conditions:

- 1) The following items must be submitted to the city before the city releases this resolution:
 - a. If applicable, evidence of watershed district approval
 - b. The following documents for the city attorney's approval:
 - (1) Ten-foot-wide drainage and utility easements next to any public street right-of-way and seven-foot-wide drainage and utility easements along all other lot lines
 - (2) Drainage easements over wetlands and storm water ponds
 - (3) Conservation easements over the area 25 feet outward from the edge of the wetland, and a drawing of the easements for the approval of the city attorney. The easements and drawing must be recorded with the final plat.
 - (4) Title evidence that is acceptable to the city attorney. Title evidence must be current within thirty days before release of the lot split resolution.
 - (5) Restrictive covenants to be recorded against the individual lots with the lot split resolution. The covenants must include the conditions that have not been met as of the release of the resolution. These covenants must first be submitted for the approval of the city attorney.

These documents must be recorded with the lot split resolution, and a drawing of any easements must be attached to the easement deed.

- c. A park dedication fee of \$2,375.00.
- 2) The following must be completed before the city issues a building permit:
- a. 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 approved lot division plan and must preserve trees designated for preservation at the time of lot division 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. Grading plan must be adjusted to eliminate retaining walls in the city right-of-way.
 - c. The installation and maintenance of a temporary rock driveway, erosion control, tree protection, and wetland protection fencing must be installed subject to review and approval of the city's natural resources staff.
 - d. A copy of the recorded resolution and a copy of any easements or restrictive covenants required to be recorded must be submitted to the city.
 - e. A hook-up fee for sanitary sewer and water.
 - f. Minimum low basement elevation of 945.5 for both lots.
 - g. A letter from the surveyor stating that boundary and lot stakes have been installed as required by ordinance.
 - h. All garbage and debris be removed from the property.
- 3) During construction, the streets must be kept free of debris and sediment, and the tree protection fencing and erosion control fencing must be maintained.
- 4) Trees must be planted to compensate for significant trees removed from each site that would be outside of the building pad and driveway area. The trees must be primarily species native to the area. They must be at least 2

1/2 inches in diameter for deciduous trees and 6 feet tall for coniferous trees. The property owner or original developer must replace the required trees if they die within one year after installation.

- 5) This resolution must be recorded by the county within one year, unless the city council approves a time extension. If the council does not approve the extension, the lot division approval will be void.

Dahl, Cheleen, and Hart voted yes. Adams voted no. Frisque, Brandt, and Britain were absent. Motion carried.

Chair Hart announced that the item is tentatively scheduled to be reviewed by the city council May 8, 2006.

9. ADJOURNMENT

Cheleen moved, second by Dahl, to adjourn the meeting at 7:08p.m. Motion carried unanimously.

By: _____
Lois T. Mason
Planning Secretary