

**MINNETONKA PLANNING COMMISSION
MINUTES**

OCTOBER 12, 2006

1. CALL TO ORDER

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

2. ROLL CALL

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

Staff members present: Community Development Director Ron Rankin, City Planner Julie Wischnack, Planning Technician Jeff Thomson, and Natural Resource Manager Jo Colleran.

3. APPROVAL OF AGENDA: The agenda was approved as submitted with additions provided in the change memo dated October 12, 2006.

Chair Hart introduced Minnetonka City Planner Julie Wischnack.

4. APPROVAL OF MINUTES: September 28, 2006

Adams moved, second by Dahl, to approve the September 28, 2006 meeting minutes as submitted.

Cheleen, Dahl, Adams, Brandt, and Hart voted yes. Schmitz and Britain abstained. Motion carried.

5. REPORT FROM STAFF

Wischnack reminded commissioners of a joint study session to be held Monday, October 16, 2006, at 6:30 p.m. in the Boards and Commissions Room to discuss an Opus project.

6. REPORT FROM PLANNING COMMISSION MEMBERS: None

7. PUBLIC HEARINGS: CONSENT AGENDA: None

8. PUBLIC HEARINGS

A. Preliminary plat for a two-lot subdivision at 2001 Yorkshire Avenue for Dennis and Julie Recknor. (06058.06a)

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

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

In response to Chair Hart's request, Wischnack defined floor area ratio to mean the square footage of the residence divided by the lot size of the property, not including the basement and including the garage. The lot area does not include the lakeshore.

Colleran explained the wetland setback and buffer for the site. A conservation easement would protect the wetland buffer. The dotted line represented the water's edge, not the ordinary high water level.

Britain questioned if a walk-out back would be considered a basement. Wischnack and Chair Hart explained that the neighboring properties used in the comparison calculations did not include basements in the calculation.

Dahl asked staff to address drainage concerns. Wischnack explained the elevations and drainage pattern. The change memo included additional requirements to address drainage. Dahl confirmed with Wischnack that a city engineer would review the project prior to its approval.

Dahl noted the concern over the location of the north property boundary. Wischnack stated that the project should be reviewed with the assumption that the submitted survey is correct. She welcomed additional information to be provided to staff who would share it with commissioners and city council.

Wischnack explained that the submitted survey is a formal survey. The site would be resurveyed at the time a building permit would be issued. There is time for homeowners to deal with a discrepancy.

Tom Goodrum, of Schoell Madson, 15050 23rd Avenue North, Plymouth, representing the applicant, thanked staff for their assistance and recommendation. He stated that:

- The project would match the character of the neighborhood.
- The applicant agrees with the conditions in the staff report and change memo.
- The homes would be custom built. Grading would be done to the city's requirements.

- The neighborhood consists of ramblers, split-level, and two-story homes. Split-level homes are no longer desirable in today's market. He requested that the split-level residence requirement be removed.
- As a stand-alone property, the site would meet ordinance requirements. The buildable area would be approximately 15,000 square feet more than required.
- A large, solitary, estate-type home would not fit the character of the neighborhood.

Britain asked for the rationale behind the split-entry requirement. Wischnack explained that staff intended to keep the residences in context with the surrounding neighbors. The homes in the area are modest. Multiple tools were utilized to address the floor area ratio compatibility of the area.

Britain asked if a two-story residence would be out of character with the area. Wischnack said that it would be possible. The fact that the lots would be walk-outs made the requirement more plausible.

Cheleen noted the comment received from the residents at 2004 Ford Road. A two-story residence located 30 feet from that residence would appear massive. Goodrum explained that a two-story or one-and-one-half-story residence would be restricted to a specific height. It would be better to control the height, than restrict the style of the residence. The lots would be sold to custom builders. The residences would conform to the city's regulations.

Chair Hart noted that a one-and-a-half-story residence did not necessarily have to be a split-level if the front façade would be kept at one-and-a-half story. Goodrum stated that the market for one-and-a-half story homes is not as feasible for today's market. The applicant would prefer the flexibility to design the style of the residence while remaining within the floor area ratio requirements.

Chair Hart asked if a plan for more than a one-and-a-half-story residence that would meet the character of the neighborhood was submitted, then would an administrative approval be allowed or would the planning commission need to review the plan. Wischnack would recommend that the planning commission review the plan.

The public hearing was opened.

Sue Proudfoot and Kara Mueller, 1916 Yorkshire Avenue, which is a one-and-a-half-story residence without a walkout, provided the following comments:

- They were grateful that the city decreased the floor area ratio to 0.16.
- Lot one's square footage would equal 3,573 square feet.
- Mr. Recknor told neighbors that the residences would be no larger than 3,000 square feet in size.
- They agreed with the drainage and depressional basin conditions.
- Additional drainage from a new property would travel into Lake Windsor. She hoped that engineering staff would remediate the situation if needed.
- They agreed with the 25-foot buffer.
- The property line issue may be dealt with during the building permit process. She hired a surveyor who has begun surveying the property line. A change three feet into the Recknor's property would be the change if it is determined that the Recknor's survey is not accurate.
- They were happy to hear that the façade would be kept at one-and-a-half-story style.

Chuck Smith, 10108 Windsor Lake Lane, did not find an undue hardship that was not related to economic reasons. He wanted the rules followed. The project would change the neighborhood, the gains would be pocketed, and the instigator would move away. Chair Hart read the general variance standards. She reviewed that the site is large enough to subdivide. The proposal meets all current requirements except the lot width at the street setback for one of the lots.

Mr. Smith found no hardship to justify the variance. Chair Hart explained that the proposed use would be reasonable and there would be practical difficulties to comply with the code because of the layout of the lot. The lot width in the front is narrow. Wischnack reviewed with Mr. Smith the variance criteria that mentioned that economic issues solely do not provide justification for a variance. Wischnack stated that the economic issue was not the main consideration for staff's recommendation. Mr. Smith asked if that was well known to the commissioners. He favored following the laws. He saw no reason for the subdivision other than financial gain. Chair Hart stated that the site has practical difficulties that prevent it from providing for a reasonable use while complying with ordinance requirements; the site has circumstances unique to it and not common to every similarly zoned property that are not self created; and the variance would not alter the essential character of the neighborhood.

David Dosedel, 2000 Ford Road, reviewed the statute regarding variance standards that stated that a variance shall not be granted solely for economic

reasons. Mr. Dosedel said that the variance justification needs to be considered and addressed. He supported Mr. Smith's statements. Mr. Recknor intends on selling his property and leaving promptly. Mr. Recknor's motivation is solely economic. Wischnack read the ordinance regarding variances that dictated that economic hardship alone shall not constitute undue hardship if reasonable use of the property exists under the terms of the ordinance. The city attorney assists with determining what staff measure variances against to determine reasonableness.

Mr. Dosedel stated that if the variance would be needed for economic reasons alone, then the application would not make it to the next level. That is for the city attorney to resolve.

Mr. Dosedel spoke with Wischnack today. Wischnack agreed with Mr. Dosedel's request to add a condition that would prohibit drainage from being directed to neighboring properties. Mr. Dosedel explained his current drainage and slope issues. No one has the right to create a drainage pond in a neighbor's yard. Colleran explained that she is not an engineer, but she reviews building permits with engineering staff. One issue with the exact proposed language is that the amount of drainage that may go to neighboring properties now would still be allowed. Any change that would cause additional drainage to be allowed onto neighboring properties would be looked at by engineering. Prohibiting all drainage from neighboring properties would not be possible if it is already occurring. The intent would be to make sure that any change in drainage or increase in hard surface coverage would be captured to prevent water issues for neighboring properties.

Cheleen asked how it would be determined how much water is draining now, how much the proposal would cause, and who would be responsible if there would be a problem. Colleran explained engineering staff's procedures.

Cheleen asked if the building pad could be lower than 947 ½ feet. Colleran stated that the low-floor elevation would have to be 2 feet above 934 feet. The lower floor would have to be above that to have a basement.

Mr. Dosedel currently has a permeable surface with grass. He was concerned with the increase in surface area that close and that steep. It could be done with a swale. It is inappropriate to sit a house that high and run the drainage onto the neighbors' properties.

Mr. Dosedel stated that a two-story residence with a walk out would look like a three-story structure. That would be plenty huge for the community. The

residences could still equal 7,000 square feet. No residence within miles of the site is larger than 3,500 square feet. Lot 2 may sustain a large residence. In real numbers, the basement counts. He has to live with the results. He requested the commissioners look at the numbers and elevations. The decision would influence the harmony in the community. The houses would not fit in with the community.

In response to Dahl's question, Wischnack explained the floor area ratio calculation. The home with the largest square footage is located on a large lot. Its floor area ratio equals 0.16. The planning commission may consider including the walk-out basement in the size of a proposed residence.

Stephen Dorek, 10,000 Windsor Lake, stated that Mr. Recknor never told him the proposed residences would be 3,000 square feet. He stated that:

- A residence on Ford Road received a variance to construct a home in front of another one.
- Haley built \$1,000,000 town homes.
- Residents want their homes to be worth more.
- Restricting the height of the residences seems to have dealt with the issue no matter the style of the home.
- Nothing egregious is being proposed.

Bonni Fredrickson, 1915 Yorkshire Lane, was concerned with any change to the cul-de-sac, a property line setback variance, and drainage issues. Chair Hart confirmed with Wischnack that there would be no change to the cul-de-sac.

No additional testimony was submitted and the hearing was closed.

Britain acknowledged that there are three-story houses in the vicinity. Any of the proposed houses could be torn down and rebuilt as a two-story residence on the same footprint. He had a problem with limiting the proposed houses to a story and a half because of that issue alone. He agreed with the 0.16 floor area ratio and the inclusion of a walk-out basement in the square-footage calculation.

Chair Hart reviewed the primary issues.

Brandt clarified that the applicant could tear his house down and construct a mcmansion on the property. Chair Hart and Wischnack agreed.

Schmitz asked if there is a difference in height between a one-and-a-half-story house and a two-story residence. Wischnack explained that the one-and-a-half-story residence could be accommodated. A two-story residence with a walk-out

basement would be substantial from the south view. A one-and-a-half-story residence would be less of an intrusion from the street view.

Chair Hart asked for comments regarding if the basement square footage should be included in the floor area ratio calculation. Adams believed that the mcmansion policy used half of the square footage of a basement. Wischnack agreed. In this situation, the basement area was not counted because of similar situations in the neighborhood that were included in the calculation that did not include the basements. Adams suggested following the new mcmansion policy that would include half of the square footage of the basement.

Schmitz concurred with Adams. She did not see how limiting the style of the house would limit its height. She felt counting half of the basement would limit the size of the residence more than restricting its style.

Britain confirmed with Schmitz that she preferred eliminating the one and a half story limitation and favored including half or all of the basement area in the floor area ratio calculation to control the size of the house. Britain agreed with Schmitz.

Britain explained that 90 percent of the developments that are reviewed by the planning commission are motivated by economic reasons. The commissioners determine what is best for the community. He wanted to make sure the subdivision substantially meets the ordinances and that it would fit in with the community. It is not to make the developer money. Chair Hart agreed. It is a balancing act between property owners' rights and community responsibility.

Schmitz moved, second by Britain, to recommend that the city council approve the Recknor preliminary plat, with lot width at right-of-way variances, date stamped October 4, 2006, with the inclusion of conditions provided in the change memo dated October 13, 2006, the removal of the condition requiring the front façade not exceed one and a half stories tall; the addition of a condition including half of the square footage of a walk-out basement in the floor area ratio calculation; and the addition of the word "additional" before drainage in condition 3)m. 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 right-of-way variance in Section 300.10, Subdivision 5(h)(2)(b).

- 3) The proposal meets the general standards for a variance, because:
 - a. The proposed plat is reasonable in the context of the neighborhood. It would result in two homes being constructed at the end of a cul-de-sac. While the lots would not technically meet city standard, they would be similar to many other lots at the end of the cul-de-sac.
 - b. The overall size of the property, relative to its frontage on a public street, is a unique circumstance not common to all R-1 properties.

Approval is subject to the following conditions:

- 1) Complete the following before final plat approval:
 - a. Show the following on the final plat:
 - (1) Additional 7 feet of right of way south of the existing cul-de-sac, as shown on the preliminary plat.
 - (2) 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.
 - (3) Utility easements over existing or proposed public utilities, as determined by the city engineer.
 - (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 \$2,375.00.
 - c. If the developer is petitioning the city to construct the public improvements, the city council must order the improvements.
- 2) The following items must be submitted to the city before the city releases the final plat:
 - a. An electronic CAD file of the final plat in microstation or DXF on a CD disk.

- b. The following documents for the city attorney's approval:
 - (1) Title evidence that is current within thirty days before release of the final plat.
 - (2) Conservation easements over a 25-foot wetland buffer upland from the delineated wetland edge.
 - (3) A 20-foot-wide private driveway easement, centered on the common property line. The easement must state the maintenance responsibilities of each owner. The minimum driveway width must be as required by the fire marshal.
 - (4) 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.
 - d. The existing house must be demolished.
- 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 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. Pay a hookup fee for sanitary sewer and water.
 - e. Submit a letter from the surveyor stating that boundary and lot stakes have been installed as required by ordinance.
 - f. If required, submit evidence of the watershed district approval. The city may require revisions to the preliminary plat to meet the district's requirements.
 - g. Maximum floor area ratio shall be no more than 0.16 per lot. Garage and half of the basement space is included in the floor area ratio calculation.
 - i. Two properties must share a 20-foot wide driveway centered on the common property line or a driveway(s) as approved by the city engineer. The driveway must be constructed of permeable pavers as approved by city staff.
 - j. Minimum floor elevation is 936.0
 - k. Homes must be equipped with automatic fire sprinklers as required by the fire marshal.
 - l. Existing sewer service should be used for the easterly lot.
 - m. Rooftop drainage from homes must be directed to a depressional basin as approved by the city engineer.
 - n. No additional drainage may be directed to the neighboring properties.
- 4) Any existing private wells should be sealed.
 - 5) During construction, the streets must be kept free of debris and sediment, and the tree protection fencing, and erosion control fencing must be maintained.
 - 6) 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.

- 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.

Cheleen, Dahl, Schmitz, Adams, Brandt, Britain, and Hart voted yes. Motion carried.

9. ADJOURNMENT

Cheleen moved, second by Brandt, to adjourn the meeting at 7:55 p.m. Motion carried unanimously.

By: _____
Lois T. Mason
Planning Secretary