

**MINNETONKA PLANNING COMMISSION
MINUTES**

FEBRUARY 15, 2007

1. CALL TO ORDER

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

2. ROLL CALL

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

Staff members present: Community Development Director Ron Rankin, City Planner Julie Wischnack, Principal Planner Susan Thomas, Planner Josh Metzger, Planning Technician Jeff Thomson, City Engineer Lee Gustafson, and Recreation Director Dave Johnson.

Chair Hart welcomed Planning Commissioner Paul Lehman and Planner Josh Metzger.

- 3. APPROVAL OF AGENDA:** The agenda was approved as submitted with modifications and additional comments provided in the change memo dated February 15, 2007.

- 4. APPROVAL OF MINUTES:** January 25, 2007

Dahl moved, second by Cheleen, to approve the January 25, 2007 meeting minutes as submitted.

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

5. REPORT FROM STAFF

Wischnack briefed the commission on land use applications considered by the city council at its meeting of February 5, 2007:

- Adopted a resolution approving a conditional use permit for telecommunications antennas at 4525 Williston Road for Sprint Spectrum/Hall Institute.
- Adopted a resolution approving items concerning the reconstruction of a shared driveway at 16443 and 16451 McGinty Road West for Cross Country Design Build, LLC.

- Changed the moratorium language to allow more time for the city to examine electronic billboard issues.

Chair Hart encouraged commissioners to take advantage of training seminars.

6. REPORT FROM PLANNING COMMISSION MEMBERS: None

7. PUBLIC HEARINGS: CONSENT AGENDA: None

8. PUBLIC HEARINGS

A. Items concerning the redevelopment of Petters International (Fingerhut) at 4400 Baker Road for Welsh Construction, LLC. (06076.06a)

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.

Dahl asked if the signs would be illuminated. Wischnack explained the location and internal illumination of the signs. The access point would remain the same. The berm would be reshaped.

Adams asked how the traffic pattern would be enforced. Gustafson explained that Hennepin County's recommendation related to the completion of phase two. No changes would be necessary for phase one. There would be no change in the use of the site during phase one. The city agrees with the Minnesota Department of Transportation and Hennepin County that a study would be completed and changes made prior to completion of phase two.

Adams asked what might be done to protect pedestrians and bicyclists. Gustafson explained the city's policy regarding county roads. Baker Road is not on Hennepin County's schedule to be improved for the next ten years. Baker Road has no flat surface that extends 200 feet. Unfortunately, there is no feasible way to construct a temporary trail on Baker Road.

Schmitz asked if Baker Road could be restriped to give pedestrians more room. Gustafson stated that Woodhill Road was restriped by the city because it is a city street and could be done with solely the city's decision. Baker Road is a county road, with a posted higher speed. Hennepin County is not likely to agree to changes that would impede vehicle traffic.

Brandt asked if the property previously received a variance for two monument signs. A large parcel might need two signs on Baker Road, but a sign facing Interstate 494 would not direct traffic into the drive and parking area. Wischnack was not aware that the city did not grant a sign variance for the site previously. Staff felt that the site is so large that two signs would be appropriate.

Chair Hart confirmed with Wischnack that the current signs have been there since the 1970s. The sign facing Interstate 494 would direct motorists when to exit.

Adams asked for the history of height variances in the city. Wischnack provided examples. Typical ceiling to floor height is taller now. Chair Hart and Wischnack agreed that a standard for ceiling height should be discussed.

In response to Chair Hart's question, Wischnack described the traffic pattern created to prevent stacking on Baker Road and make turning easier.

Chair Hart noted that the proposed buildings would be smaller in square footage than the current buildings. Chair Hart confirmed with Gustafson that the intensity of the use of the site would not change, so additional requirements would not be added.

In response to Dahl's question, Wischnack stated that the floor area ratio would be 26 percent for the two buildings.

Dennis Doyle, Chief Executive Officer of Welsh Companies, applicant, agreed with staff's recommendation. As many trees would be saved as possible. Gustafson is very experienced. He understood the issues related to the third building. He was concerned with creating quality buildings. Buildings are higher today. He does have plans for a three-story building, but it would have a larger footprint, block more of the view, and was unsightly. He was present to answer questions.

Adams asked Mr. Doyle to explain the need for the size of the building. Mr. Doyle explained for practical use and economic reasons the project would not be feasible with less square footage. The proposal is the most aesthetically pleasing plan. He pointed out the front of the building and parking areas.

In response to Cheleen's question, Mr. Doyle was unsure how long it would be before the third building would be constructed. He hoped within six months or a year. It would hinge on Petters International's need or another company's

interest. The first phase would begin as soon as possible this spring and be completed June of 2008.

Cheleen asked why the floor to ceiling height would be 12 feet to 13 feet tall. Mr. Doyle explained that the minimum height used today is 10 feet to clear. That would not leave room for the electronics included in current commercial structures.

Brandt asked if there would be a basement. Mr. Doyle stated that there would be underground parking. The building would have a walk-out level. The current buildings were constructed in phases. He explained the condition of the existing buildings. Mr. Doyle explained the trend and need for higher ceilings in office settings.

Adams asked what type of lighting would be used. Mike Shranum, of Welsh Construction, provided light on the subject. The windows would be tinted with shades and possibly reflected.

The public hearing was opened.

Susan Selcke, 13004 Shady Dale Road, purchased their home in 2000. At that time, she was informed by the city that the site is one parcel. She was concerned why the property would be subdivided. The surrounding properties are legally platted. They should be maintained as is unless there is a hardship. The redevelopment would improve the city's tax base. Subdivision means that one of the proposed lots might be sold separately. Uses allowed in a B-1 district's use with a conditional use permit are scary. The only reason for Welsh to request a subdivision is to open the possibility of a future profit for their company to the residents' detriment.

Chair Hart clarified that staff is recommending two lots. Ms. Selcke was grateful for that. Chair Hart questioned Ms. Selcke's rationale. Ms. Selcke explained that if one is likely to subdivide it would be logical to sell one parcel without the others. She questioned if the proposal would be changed if there would be no subdivision. Her concern was that there would be three separate owners.

In response to Lehman's question, Ms. Selcke explained that the detriment would be for the potential of three different tenants. In the future, Petters could go bankrupt.

In response to Chair Hart's request, Wischnack explained B-1 district requirements. Chair Hart confirmed with Wischnack that the right to subdivide exists as long as ordinance requirements are met.

Pat Sepnieski, 13108 Shady Dale Road, questioned the access locations. Chair Hart explained that nothing would change for phase one. Mr. Sepnieski asked if 400 additional employees would use the site for phase one. Mike Shraad, Welsh Construction, stated that phase one would have 275 occupants. The new four-story proposed building would have 400 to 450 occupants. The previous facility housed 935 employees. Mr. Sepnieski asked if the previous facility had traffic problems. Gustafson stated that neighbors had concerns, but since there would not be an increase in intensity, Hennepin County and the Minnesota Department of Transportation can not require changes at this time.

Chair Hart explained that the buildings' total square footage and use would be less than when Fingerhut utilized the site.

Mr. Sepnieski asked if the "no parking" signs would remain on Shady Dale Road. Gustafson stated that no request for a change has been received from residents, so a change would not take place.

Laura Eisenberg, 13108 Greenwood Road, asked how many vehicles the underground parking would hold. It could impact the attractiveness of the above-ground area. It would be a good thing. Wischnack stated that total parking would equal 1,200 stalls. She was unaware how many would be underground.

Ms. Eisenberg pointed out her residence. She questioned the impact of the proposal on her property value. Rankin explained property values related to the current proposal. No detrimental impact was expected.

Ms. Eisenberg asked about the third building. Chair Hart stated that no plan was submitted.

Ms. Eisenberg asked why the sound walls did not continue further along Interstate 494. Gustafson explained that the Minnesota Department of Transportation does not install noise walls for non-residential areas. Ms. Eisenberg said that the area is not commercial. Chair Hart explained that a B-1 district is a commercial district.

Ms. Eisenberg asked if public transportation would travel on Baker Road. Chair Hart stated that service would remain the same for phase one.

Mr. Doyle approximated 79 parking stalls would be located underground.

Cheleen asked what type of lighting would be used. Mr. Doyle stated that the lights would remain the same until phase two.

Bill Brody and Susan Brody, 12901 Shady Dale Road, were concerned with the traffic. Mr. Brody stated that there is a lot of traffic on Baker Road. Chair Hart stated that phase one would require no change to handle traffic. She recognized the current traffic problem.

Ms. Brody did not understand how the use would not change. Right now the building is not being used. Chair Hart referred to the site's use when Fingerhut was in operation. Ms. Brody remembered when the site was a farm. She opposed Fingerhut developing the site. She opposed a commercial use. The low building was a compromise. Fingerhut had predictable traffic patterns, a rush in the morning and one in the evening. Three separate businesses would have different peak traffic times. There is a hill that causes a blind spot. She asked how often traffic accidents occur there. She witnessed one vehicle rear end another one. She believed the proposal would increase traffic. The ramp from Highway 7 to Baker Road is dangerous.

Mr. Gustafson stated that the corridor study for the area would include the Highway 7 ramp. The city is aware of the difficulty of vehicles turning on and off Baker Road.

Erik Blashka, 15309 Crown Drive, stated that the traffic issues would be a concern in six months. He questioned if the city was prepared to handle the problems for phase two. Wischnack stated that a corridor study would take approximately one year to complete. Phase two would not be reviewed until the traffic issues are addressed and the corridor study is completed. Mr. Blashka enters Crown Drive in a blind spot.

No additional testimony was submitted and the hearing was closed.

Chair Hart reviewed the primary issues. The impact created by phase two had been discussed.

Brandt asked if the south parking lot could be required to have shoe box lighting. Wischnack stated that could be requested of the developer.

Dahl and Cheleen suggested putting the lights on timers to decrease the number of lights illuminated when the lot is not in use.

Adams was satisfied with the height. He understood the reality of commercial buildings. Cheleen agreed. The configuration saved the landscape and trees.

Chair Hart suggested making a request of the developer to provide a lighting plan for the city council to review.

Dahl felt the redevelopment would benefit the area.

Dahl moved, second by Brandt, to recommend that the city council approve the following items concerning the redevelopment of Petters International (Fingerhut) at 4400 Baker Road for Welsh Construction, LLC with the changes provided in the February 15, 2007 change memo:

Site and Building Plan Review, with Variances

- 1) *Recommend that the city council approve the site and building plan, with variances, dated December 22, 2006. Approval is based on the following findings:*
 - a. Height Variance
 - (1) The impact of the height of structure is mitigated by the diminished building width.
 - (2) The height variance would not allow an additional story, rather a four story structure, as contemplated within the B1 Zoning District.
 - (3) A building redesign to conform to the measured building height requirements would further impact the natural features on the property.
 - (4) The hardship derives from the site topography and existing parking lot locations.
 - b. Parking Variance
 - (1) The parking lot setback variance from an interior lot line is addressed by a cross parking/access agreement.

- (2) The parking lot setback variance is appropriate as there is a hardship presented by the existing access location
 - (3) Additional accesses onto Baker Road would present safety issues.
- c. Signage Variance
- (1) The variance for signage would allow an additional monument sign for the property.
 - (2) The hardship presented for the additional sign is presented by the unique size of the parcel for this area and zoning district.

Approval is subject to the following conditions:

- a. Construction must begin by December 31, 2008, unless the planning commission grants a time extension.
- b. Before starting any site work or obtaining a grading permit, complete the following:
 - (1) The installation and maintenance of temporary rock driveways, erosion control, and tree protection fencing, subject to review by the city's natural resources staff. During construction, the streets must be kept free of debris and sediment, and any tree protection and erosion control fencing must be maintained.
 - (2) Approval of final grading, drainage, utility, and erosion control plans by the city. The developer must work with staff to determine if the water infiltration and other water quality best management practices are being incorporated into the drainage plan.
 - (3) Submit a stormwater pollution prevention plan, for staff approval.
 - (4) Submit a letter of credit or cash escrow for 150% of the estimated cost to comply with grading permit requirements and restore the site.

- (5) Submit copies of the watershed district permit. The city may require revisions to the approved plans to meet the district's requirements.
 - (6) Submit a construction management plan for staff approval.
 - (7) All construction plans must be amended, as required by the city engineer.
 - (8) All changes indicated in the traffic memorandum dated January 3, 2007, must be completed.
 - (9) Compliance with comments received from the city stormwater consultant (Barr Engineering) in letter dated January 17, 2007 (pages A55-57).
 - (10) Revision or modifications to the middle access to improve the line of sight must be submitted and approved by the city and county.
 - (11) Consideration of Phase II will not occur until a corridor study has been completed.
 - (12) The property owner should assume that Phase II or a corridor study could require removal or restrictions for the north and/or south access points to the property.
 - (13) The property owner shall provide shields for lighting to lessen impacts on surrounding property in areas where lighting will be replaced (northern portion of property).
- c. The following must be submitted to the city for staff approval before the city issues a building permit:
- (1) Final landscape and irrigation plans for staff approval. 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. Additional screening is required on the berm to mitigate the height of the building.

- (2) A letter of credit or cash escrow for 150% of the estimated cost of all required landscaping.
 - (3) All required hook-up fees.
 - (4) Copy of the county access permit.
 - (5) Payment for public and on-site traffic signs and installation, as required by the city engineer.
- d. The following must be completed, subject to staff approval, before the city issues an occupancy permit:
- (1) Compliance with landscaping plan.
 - (2) Compliance with stormwater improvements.
 - (3) A traffic demand management plan. Implementation of this plan is a condition of the city's approval of this project.

Preliminary Plat

- 2) Recommend that the city council approve the preliminary plat. Approval is based on the following findings:
 - a. The plat shall contain two lots to alleviate an accessory use (parking) prior to a principal use on a property (building) on the southern parcel.
 - b. Subdivision of the parcel does not negatively impact the surrounding properties.
 - c. There is no minimum lot size for the B-1 Zoning District.

Approval is conditioned on the following:

- a. Provide a cross parking, access and utility easement document satisfactory to the city attorney, prior to application for final plat.

- b. Revise the final plat drawing to show two parcels.
- c. Prior to final plat approval:
 - (1) Show the following on the final plat:
 - (a) Provide an additional 7 feet of right of way along the existing right of way, from the point at which the right of way narrows (north of the middle entrance).
 - (b) Provide a 15 foot drainage, utility and trail easement outside of new right of way dedication.
 - (c) 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.
 - (d) Utility easements over existing or proposed public utilities, as determined by the city engineer.
 - (e) Provide a road easement for a potential future round about at the middle entrance, with dimensions satisfactory to the city engineer.
 - (2) Provide documentation that there are no conflicts with the existing access control that pertains to the northern access.
 - (3) Pay the city a park dedication fee.
- d. 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.

- (3) Any other requirements included with final plat approval.

Sign Plan Review with Variance

- 3) Recommend that the city council approve the sign plan, with variance, date stamped December 22, 2006. Approval is based on the following findings:
 - a. Currently, the property contains two monument signs.
 - b. A variance is required if more than one monument sign is located within a development.
 - c. The property is of unique size for this zoning district.

Approval is based on the following conditions:

- a. The following must be completed prior to issuance of a sign permit:
 - (1) As-builts of the western monument sign.
 - (2) Verification that the signs do not contain electronic display.

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

Chair Hart requested the developer provide an improved lighting plan for the city council to review. The city council is tentatively scheduled to review the item at its February 26, 2007 meeting.

B. Variances for an addition to the home at 17309 Bay Lane for Streeter and Associates, Inc. (95036.06a)

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

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

Schmitz asked if floor area ratio had been considered. Thomson provided an illustration showing surrounding properties. The proposed addition would be well below the floor area ratio requirement of the mcmansion policy at .19.

Tom and Jenny Sandstrom, 17309 Bay Lake, applicants, wanted additional single-floor living space and a separate living area for Jenny's parents. The property has a slope, pond, and trees that should be saved. Mr. Sandstrom stated that the proposed plans would provide all of their needs and work around the property's physical constraints. A lot of time and expense have been put into the project. They were surprised when the recommendation was for denial. The property's uniqueness creates a hardship. The proposal would fit the character of the neighborhood. The home to the west has an elevation similar to his. The residences behind his house tower over his because of the elevation. His residence is on the border of small homes with small lots and the block with very sizeable lots and homes. He disagrees that only the small houses across the street are included in his neighborhood. The large houses should also be included. He appreciated the commission's consideration.

In response to Dahl's question, Thomson stated that a height variance would not be required. The addition would be at a lower height than the existing house. The applicants felt the proposal would be beautiful. Ms. Sandstrom stated that Sara Kline, a neighbor, supported the addition.

Mr. Sandstrom hoped that they would be allowed to continue with the project. Jeff Lindgren, Streeter and Associates, described how the plan was changed to accommodate drainage and height issues. An outside engineer was hired to perform the calculations to accommodate storm water. A hip roof was considered. With some guidance, the plan could be modified by changing the roof line to make it seem less massive.

Schmitz asked why the addition was being proposed to be located closer to the street than another part of the property. Thomson pointed out the setbacks and buildable area. Schmitz asked why the applicants chose the location. Mr. Lindgren stated that the addition would look like a train if it met setback requirements and have a much greater impact on mature oak trees.

Mr. Sandstrom stated that the current plan is being presented because designers had told him that the proposal would be approved since the site would still meet the conditions of its current nonconformity.

Schmitz asked staff to address the impact on trees. Colleran agreed with the architect. The footprint and grading caused by a different plan would kill the oak trees.

Chair Hart confirmed with Mr. Lindgren that the deck would be made smaller. The proposed addition would be a bedroom and bathroom area. The current house's square footage is 3,000.

The public hearing was opened.

Art Nickel, 2921 Bay Street, lived far enough away so that he could not see the property. He was concerned how the neighboring properties would be impacted. He has lived in Minnetonka 60 years. The proposal might make the small houses on Bay Lane look smaller.

No additional testimony was submitted and the hearing was closed.

Chair Hart reviewed the primary issue.

Dahl saw the neighborhood as very eclectic. It is a transition neighborhood. The proposal would save trees and not increase the nonconformity. He recommended approval of the project.

Adams was conflicted. The design was attractive. As he drove down the street, the first thing he noticed was how close the garage was to the street. He agreed with the thought that the property had reached its maximum use.

Brandt agreed with Adams. He felt the garage stuck out. He supported staff's recommendation.

Lehman was troubled with the impact that would occur to the lot if the proposal was denied. He supported preservation of trees. The topography of the lot creates a hardship. An alternative would be closer to the wetland.

Cheleen was conflicted. The proposal would look nice. The addition placed in the buildable part of the lot would look like a long train. The proposal would be large coming around the corner, but it is a transition neighborhood. He supported the proposal.

Schmitz's general feeling was to grant the variance to save significant trees. The proximity of the garage to the street was not as much of a concern. The proposal would look large on the lot. The area is typical of large houses on small lots. For

preservation of the trees and because the proposal would be the best location for an addition, she supported the application. She was willing to make a motion.

Chair Hart noted that the planning commission denied the variance for the garage in 1995 and it was approved on appeal by the city council. Thomson explained that, in 1995, the garage had been converted into living space, so there was no longer a garage. Chair Hart could understand the location of the garage. She had a problem with the appearance of the addition from the street. It would be an increase in the square footage of the nonconformity. She would be more inclined to grant a variance for an addition to extend into the rear or replace the deck with an addition and add a deck on the back. She leaned toward denial of the application.

Brandt commented that if the application was denied, then it did not necessarily mean that the train-style addition would be completed.

Wischnack reviewed the commission's options. Chair Hart asked if the applicants would agree to table the item and grant a waiver from the 120-day action rule. Mr. Sandstrom was worried another delay and attempt to make the plan amenable to the city would cost more money and provide no results. Ms. Sandstrom asked what the commission wanted to happen. Chair Hart stated it would give the applicants, architects, and staff time to meet. Chair Hart would be more amenable to a rear yard setback or building where the deck is located. Mr. Sandstrom said they could construct the addition on the east without a variance. Ms. Sandstrom wanted to save the oak tree that the deck was built around. Chair Hart understood the situation was not easy.

Mr. Lindgren stated that the plans had tried to meet the needs of the city as well as the client. The proposal is the final and best plan.

Wischnack asked if a partial front yard setback variance would be considered. Chair Hart felt less of a setback variance would be better, but she could not suggest a certain distance.

Mr. Sandstrom provided a waiver for the 120-day rule.

Cheleen thought it might be more amenable to commissioners if there would be less of an intrusion on the north side and an increased intrusion to the rear.

Chair Hart understood that the applicant might return with the same application.

Dahl asked if the mass of the house or the setback was the main issue. The nonconformity was approved for the site. He supported saving the oak trees. A 15-foot setback was approved for a site in Glen Lake. He challenged why that variance was approved, but not this one.

Chair Hart stated that the Glen Lake variance was located on two arterial roads and was in a commercial district. It was surrounded by townhomes and was a large, four-story rental building. This proposal resides in a residential neighborhood.

Wischnack agreed that the Glen Lake variance was not comparable, but that there are variances that would be comparable that have been approved. There are definitely two sides to the issue.

Adams moved, second by Cheleen, to table action on the setback variance from 35 feet to 16 feet for an addition to the house at 17309 Bay Lane until the March 15, 2007 planning commission meeting.

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

Chair Hart apologized for the delay.

Chair Hart called for a ten-minute recess and reconvened the meeting.

C. Two-lot subdivision of the existing property at 13400 McGinty Road West for Peter Knaeble. (06077.06a)

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.

Peter Knaeble, applicant and civil engineer for the project, described the property. It is the largest piece of property in the area at 51,000 square feet. The site already has water and sewer services stubbed for two residences. He agrees with the city forester to protect the trees within 15 feet of the property line. He provided an illustration of the proposed rain garden. A maintenance agreement has been submitted to the engineering department. The floor area ratio in the area is 25 percent. The project would be well under that at 15 percent. One significant tree would have to be removed, but the rest would remain.

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

Chair Hart reviewed the primary issues.

Cheleen moved, second by Brandt, to recommend that the city council adopt the resolution on pages A7–A10 of the staff report. This resolution approves a lot division at 13400 McGinty Road East. Approval is based on the finding that the plat meets the required standards and ordinances. Approval is subject to the following conditions:

- 1) The following items must be submitted to the city before the city releases this resolution:
 - a. Submit the following documents for the city attorney's review and approval:
 - (1) Ten-foot-wide drainage and utility easements next to the public street right-of-way and seven-foot-wide drainage and utility easements along all other lot lines.
 - (2) Drainage easements over the proposed rain garden at the rear of Parcel B.
 - (3) Restrictive covenants to be recorded against the individual lots with the lot split resolution. The covenants must:
 - (a) Include property owner responsibility for the rain garden on Parcel 2. The rain garden may not be filled or altered to change its purpose.
 - (b) 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.

- b. A park dedication fee of \$2,750.00.

- c. Title evidence that is current within thirty days before release of the lot split resolution for the city attorney's approval.
- 2) The following must be completed before the city issues a building permit:
- a. Submit the following for staff review and approval:
 - (1) A grading and tree preservation plan including preservation of trees within 15 feet of the property line subject to staff approval. The grading plan must include:
 - (a) A retaining wall on the east side of the house. The wall is intended to minimize fill and maintain the existing drainage pattern.
 - (b) A rain garden to compensate for all additional impervious surface on the site. All additional stormwater resulting from additional impervious surface must be managed on-site. A swale must be created to direct water into the rain garden.
 - (2) Rain garden cross sections, construction details, and infiltration calculations for the existing soils to verify correct sizing.
 - (3) 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.
 - (4) A hook-up 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.
 - b. 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.
 - c. A driveway turnaround must be included on Parcel B.

- d. Install a temporary rock driveway, erosion control and tree protection fencing subject to review and approval of natural resources staff.
 - e. All portions of first story walls as measured by an approved route around the exterior of the building must be within 150 feet of the street. If access requirements cannot be met, the building must be protected with 13D automatic fire sprinklers.
- 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, Lehman, Schmitz, Adams, Brandt, Cheleen, and Hart voted yes.
Motion carried.***

D. Preliminary plat for a two-lot subdivision known as Helen Cooley Addition at 2202 Meeting Street for H & W Family Limited Partnership (07004.07a)

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.

Chair Hart acknowledged that the water and sewer fees relate to the size and length of the lots located on Meeting Street. Thomas concurred.

Jonathan Adam, applicant, was present to answer questions. Issues had been worked out with staff.

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

Schmitz moved, second by Adams, to recommend that the city council give preliminary approval to a two-lot plat known as Helen Cooley Addition at 2202 Meeting Street. Approval is based on the finding that the plat meets the required standards and ordinances. Approval is subject to the following conditions:

Approval is subject to the following conditions:

- 1) Complete the following before final plat approval:
 - a. Show the following on the final plat:
 - (1) Dedication of additional right-of-way to ensure a uniform 12 feet behind the existing Meeting Street curb.
 - (2) A ten-foot-wide drainage and utility easements next to the public street right-of-way and at least seven-foot-wide drainage and utility easements along all other lot lines.
 - (3) A 15-foot wide drainage and utility easement along the north property line of Lot 1.
 - (4) Utility easements over existing or proposed public utilities, as determined by the city engineer.
 - (5) Drainage and utility easements over the pond on Lot 2.
- 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) Private driveway easement over Lot 1 for the benefit of Lot 2.

- (2) Title evidence that is current within thirty days before release of the final plat.
- (3) 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.
- (4) The restrictive covenants must note that stormwater ponding will be required on Lot 2 upon further subdivision of the property.

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. Submit the following for staff review and approval:
 - (1) A grading and tree preservation plan. 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 copy of the recorded plat and any easement or covenants required to be recorded.
 - (3) A letter from the surveyor stating that boundary and lot stakes have been installed as required by ordinance
 - b. If required by the city engineer, existing runoff rate from the site must be maintained. Infiltration techniques such as infiltration trenches, French drains, or rain gardens may be utilized.
 - c. Retaining walls must be constructed on Lot 1 in the general location indicated on plans date-stamped January 10, 2007. The walls are intended to minimize tree loss at the front of the property.

- d. City approval of the installation of a temporary rock driveway, erosion control and tree protection fencing.
 - e. Pay a hookup fee for sanitary sewer and water. The estimated fee at the current time is \$60,444.52.
 - f. All portions of the first story walls as measured by a Fire Department approved route around the exterior of the building must be within 150 feet of the street. If access requirements cannot be met, the house must be If access requirements cannot be met the building must be protected with 13D automatic fire sprinklers.
- 4) During construction, the streets must be kept free of debris and sediment, and the tree protection fencing, and erosion control fencing must be maintained.
 - 5) Trees must be planted to compensate for significant trees removed from each site that would be outside of the building pad and driveway area. The trees must be primarily species native to the area. They must be at least 2 ½ inches in diameter for deciduous trees and 6 feet tall for coniferous trees. The property owner or original developer must replace the required trees if they die within one year after installation.
 - 6) The city must approve the final plat within one year of preliminary approval or receive a written application for a time extension or the preliminary approval will be void.

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

E. Conditional use permit and site and building plan review for park improvements at 3717 County Road 101 for Bennett Family Park (90029.06a)

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.

Johnson explained the history of studies that showed the city's lack of athletic fields and improvements made so far. The community, city, and school districts have worked together to address the city's needs.

In response to Chair Hart's question, Johnson explained that need is based on population. It does not take into account demographics. Regulation baseball recommends 1 field for every 5,000 residents. There are currently 5 fields in Minnetonka. Three soccer and lacrosse fields are still needed. Football and rugby need 4 new fields.

Cheleen asked if there are teams that cannot be accommodated now. Johnson stated that most teams are not being taken care of in regard to regulation baseball. There are plenty of little league fields, but there is a real shortage at the regulation baseball level. Six additional fields would meet current demand.

Schmitz asked how lighting a field would help accommodate more play time. Johnson stated that lights added 90 games per year for the Minnetonka High School field.

Wischnack noted a memorandum included in staff's report from Minnetonka City Attorney Desyl Peterson.

Adams asked how additional fields could be justified in light of decreasing enrollments in the schools. Johnson stated that most of the unmet demand impacts adult teams. The types of play have also added to the need. Girls' softball is much more popular now.

Adams stated that residents have identified fields on school property that were unused during the summer. Johnson stated that there is no central scheduling system, but the city does work closely with the Minnetonka and Hopkins School Districts to utilize the fields. Game-quality fields are lacking.

Bob Jasper, 125 Mound Avenue, Tonka Bay, serves as director of long-term planning for Bennet Family Park and serves on the board of directors for Miracle League of Minnesota. He provided a presentation describing the history of the site and mission of the organization. He stated that:

- Tournament-quality fields are needed.
- Lighting is needed to complete games.
- He requested an additional 30 minutes more than staff's recommendation to allow time to play a second game. The 13 year old through 15 year old players would be able to play in Minnetonka with the additional 30 minutes.
- He described the amount of time for Little League and Babe Ruth games.

- The Babe Ruth games are the quietest. The girls' games are the loudest.
- The proposal would decrease the size of field 1 by 20 feet.
- He provided the physical proximity to neighbors for Bennett, Big Willow, and Glen Lake Parks.
- Finding good, responsible, adult coaches is the most difficult part of operating the league. Coaches and parents would be unable to accommodate an earlier start time.
- For safety and injury concerns, warm-up time must be provided.
- A 10:30 p.m. lights-out policy would be a good compromise.
- Two neighborhood meetings have been conducted. Compromises have been made.
- Fields would not be lit for practice; just games from April to August.
- He wanted a neighbor liaison on the Bennett Family Park board.
- A public address system is necessary for emergencies and announcements.
- Parking would be improved.

Adams asked under what situations the public address system is used. Mr. Jasper stated that it would be controlled and used much less this year.

Cheleen asked if the speakers could be turned toward the bleachers. Mr. Jaspers stated that volume also needed to be controlled. Cheleen asked why lighting was needed for the three fields. Mr. Jasper stated that field four would be lit first, but field two may not be lit for a couple years. Cheleen asked why the season could not go longer. Mr. Jasper felt it probably had to do with Little League rules for the practice season and tournaments.

The public hearing was opened.

Bob Lear, 3632 Larchwood Circle, has kids that play on the fields. He stated that:

- He strongly opposed all lights on the fields and encroachment into the conservation easement.
- He supported the improvements.
- He spoke to 178 neighbors who opposed the project.
- The reason people like to live in Minnetonka is the feel of nature and no street lights.
- The noise from the batting cage starts at 7 a.m.
- The proposal would impact the neighborhood's culture.
- Any lights would be more lights than no lights. Knowing that the noise will stop when it gets dark is good.

- Children who live in the area would be kept up by the noise and kids would stay up later to play.
- Traffic would be increased and people would cut through yards late at night.
- The houses abutting the park would lose value.
- The lights are a desire, not a need.
- Fifty percent of the people who use Bennett Family Park are not from Minnetonka.
- He questioned what has changed to require the change.
- He thanked the city's planning and recreation departments.

Carl Adamek, 3640 Larchwood Circle, stated that:

- He fully supported Bennett Family Park, but opposed lighting.
- Lack of sleep for children can cause behavioral problems.
- Add a condition to limit the start and end dates for when the lights can be used.
- He supported a neighbor be included on the Bennett Family Park Board.
- He heard bating from 7 a.m. to 9:30 p.m. last summer.
- The city should enforce the Minnesota Pollution Control Agency's noise level requirements.

Wischnack stated that the Minnesota Pollution Control Agency's standards are adopted by the city's ordinances. Sound equipment is used to monitor violations on a complaint basis. Wischnack explained the enforcement process.

Schmitz moved, Dahl seconded, to extend the meeting a half hour past 11 p.m. Dahl, Lehman, Schmitz, Adams, Brandt, Cheleen, and Hart voted yes. Motion carried.

Mr. Adamek asked how the permit process for the public address system operated. Johnson explained.

John Powers, 3611 Rainbow Drive, stated that:

- He likes the field, but it has grown to a point that it has maximized its use. It should be reduced in size.
- He could not be in the house with the doors closed in the summer with the air conditioning running and not hear what was happening at the park.

- He sponsored teams, he coached teams, his son played on a team, the park board members are nice people, but they are wrong. In 1991, Bennett Family Park was probably a good neighbor, but it is no longer.
- The sound system was not mistreated by unsupervised kids. Members of the board advertised donuts at 8 a.m.
- A noise study has never been done.
- It does not pay to be tolerant neighbors. There is no record of intolerance on the books, so that is being used against the neighbors.
- The board keeps coming back for more expansion.
- The city paid the Bennett Family Park Board the exact amount it requested in exchange for a conservation easement. A concession stand was built with the funds.
- Harmon Killebrew's website states that the Miracle Field has been constructed at Bennett Family Park from funds raised by his fundraiser.
- He likes Bennett Family Park.

Alan Lanners, 3616 Larchwood Circle, stated that:

- His wife wrote a letter to the city regarding the issue of whether the city allowing lights on the fields would contribute to a violation of the city's noise ordinance.
- The park is very noisy.
- The fields need study would not benefit from lighting for Little League fields.
- Field 1 does have a need.
- Bennett Family Park provides a service for the community. The board members are well intentioned. The lighting proposal would not be tolerable for the neighborhood.
- He recommended tabling the issue until a noise study can be completed at the height of the season.
- Extension of the current season or additional play dates should be prohibited.
- The neighbors are concerned that the lights would be used to increase the number of games and expand the number of games for adults.

Mary and Will Davy, 17603 Susan Lane, purchased their home in 1987. They opposed the lights and extending play time passed 9 p.m.

Doug Mcnamara, 3633 Comet Lane, stated that:

- Mr. Jasper lives no where near Bennett Family Park.
- The request should be used as a tool to force the organization to fix runoff going from the fields into the parking lot.
- Incremental changes have occurred over the past 25 years.
- The changes have impacted the neighborhood.
- The public address system is heard 3 to 4 blocks away.
- He can tell from his deck whether each ball was a ball or a strike.
- The decibel level borders on the obnoxious.
- The proposal would have less impact in the Glen Lake area.
- The brightness of the lights would exceed the city's ordinance requirements.
- The proposal would lower the property values by 3 percent to 4 percent.
- Conditioning the approval of ceasing activities at 9:45 p.m. is not reasonable.
- The staff report is incomplete. It does not address the neighbors' concerns.
- His neighbors had to leave the meeting early because they have young children, they live near the park, and they had to get them to bed by 8:30 p.m.

Schmitz moved, Cheleen seconded, to extend the meeting a half hour past 11:30 p.m. Dahl, Lehman, Schmitz, Adams, Brandt, Cheleen, and Hart voted yes. Motion carried.

A resident of 3915 Larchwood Drive stated that he rarely saw a baseball game going on at Bennett Family Park during the day because the parents work. That was not a good answer. High school students could coach. If the fields could be used during the day, it would relieve the pressure to supply the lights for night play.

Warren Omohundro, 3731 Dartmouth Drive, stated that the city was balancing property owners' rights. He stated that:

- The noise from the park is horrendous.
- It needs to end at night. Lights would let the noise continue past dark.
- There is no way to ignore the noise.
- The park serves a useful service. It should be used during a reasonable time.

Mr. Powers suggested the building be handicap accessible. A Miracle Field playing surface would need to be smooth.

Richard Payne, 3419 Rainbow Drive, valued Bennett Park, but opposed lights.

Mr. Lanners said that instability of the land had been determined to be unable to hold the lights previously. He recommended a soil analysis be done.

Mr. Lanners stated that the Miracle Field would be constructed on a field that is currently used for the youngest players. No field capacity would be lost. The lighting proposal provides that light spillage at the property line would be the maximum allowed by the city's ordinance. That would be too much. That does not include headlights.

Mr. Jasper addressed that:

- Miracle League came to Bennett Family Park because it wanted the opportunity of Little League players to work with disabled players.
- Soil studies are being done and the lights would need to be engineered.
- "Neighbor liaison" means having a Bennett neighborhood member on the board.
- The goal the lights would fulfill is to finish games and stagger start and stop times to allow easier access in and out of the park, not to add additional games.

Craig Gallop, 15331 Woodside Lane, explained that the maximum reading at the property line is half a foot candle. Lighting would not be at the maximum level allowed for the majority of the property line. Trees surround three-fourths of the property that would shield the lights. Homes to the north and south would not see the light poles or the light.

Doug Mcnamara can see the players from his house and trees enshroud his yard. During the eight years his son played ball at Bennett Family Park, there was one game cancelled due to darkness.

Mr. Lear stated that no one is against the Miracle League.

No additional testimony was submitted and the hearing was closed.

Chair Hart reviewed the primary issues.

Dahl asked if the parking lot and trails would provide handicap accessibility. Mr. Jasper stated that the parking lot would be improved at the time the road is improved. Funds have been allocated to make the path and concession stands handicap accessible.

Brandt agreed with the neighbors. He lives by Glen Lake and felt the lights on that ball field were ridiculous. Dawn to dusk would be reasonable.

Adams stated that the park suffered because it is in a residential area. He did not support lighting any of the fields. It went beyond the expectations and patience of the neighbors. It would not allow more adult usage of the fields.

Cheleen concurred with Brandt and Adams. The fields have been successful. He was concerned with how late the games could last. It does not seem appropriate to install lights. He agreed with the proposal except for the lights.

Schmitz moved, Cheleen seconded, to extend the meeting a half hour past 11:30 p.m. Dahl, Lehman, Schmitz, Adams, Brandt, Cheleen, and Hart voted yes. Motion carried.

Lehman did not see a basis in policy or ordinance to deny the application. He asked staff for guidance. Chair Hart stated that the city attorney stated that a factor of a conditional use permit's approval hinges on impact to the surrounding neighborhood. If the impact is too great, it would be reason to deny the conditional use permit.

Schmitz agreed with Cheleen. The neighbors make a strong case. She has a 45-minute commute home and understands how that influences the time issues. Noise is a real concern and the sun setting forces the end of activity. The neighbors would rather deal with congested traffic than have lights. She applauded the board members for addressing the traffic issues. She supported the proposal except for the lighting.

Dahl loved Bennett Family Park. He agreed with the neighbors. He would not want to live there if noise went on passed 10 p.m. that would disturb his household's sleep. A traffic study of how the improvements to County Road 101 would impact the park would be beneficial. The proposal does not address the American with Disabilities Act requirements for the parking lot, concession stand, and restrooms. The concerns are valid. He recommended denial of the project.

Lehman did not support the lights. The benefit to the city would be great. The neighborhood would be negatively impacted, so he recommended denial of the lights. The fields are run by Bennett Family Park, but they serve a community need. He wanted it clear that they are not doing something wrong, but he could not support the lights.

Chair Hart described the topography of the site as a bowl shape which increases the noise level to the surrounding neighbors.

Cheleen moved, second by Dahl, to recommend that the city council approve the following conditional use permit and site and building plan review for park improvements at 3717 County Road 101 for Bennett Family Park with the removal of adding lights to Fields 1, 2, and 4 due to the negative impact of lights and noise on the surrounding properties:

Conditional Use Permit

- 1) *Recommend that the city council adopt the resolution on pages A21-A24 of the staff report, which approves a conditional use permit for recreational use of property at 3717 County Road 101. Approval is based on the finding that the proposal meets the required conditional use permit standards. Approval is based on the following findings:*
 - a. ~~The proposed lighting meets the performance standards set forth in Section 300.28 regarding exterior lighting.~~
 - a. b. The proposed use is consistent with existing and past use of the property and is not considered out of character for the area.
 - c. ~~Impacts to the surrounding neighborhood by the addition of lighting and additional field use are mitigated by conditions placed on this permit.~~
 - b. d. The property consists of approximately 25 acres of which 1/3 is wetland and open space area, which maintains appropriate open space for this use.

Approval is subject to the following conditions:

- a. ~~The submitted lighting plan date stamped January 17, 2007, must be followed.~~

- ~~b.~~ Lighting must also follow the specifications documented in the “light structure green system”.
- ~~c.~~ All lights will be required to have an automatic timer switch installed.
- ~~d.~~ All activities on the property shall cease at 9:45 p.m. for lighted fields #1, #2, and #4. In no case shall the lights be on after 10:00 p.m.
- a. e. All events at the park must adhere to the permitting process for use of the public address system.
- b. f. The city may reconsider the conditional use permit for failure to follow the conditions placed on this permit.
- ~~g.~~ Lighting must be installed on the property no later than December 31, 2008, or a request for extension must be received.
- c. h. A Bennett Family Park Board shall provide a yearly, designated representative to act as the neighborhood liaison. The liaison will be the point of contact for the city to solve complaints or issues raised by the neighborhood including, but not limited to: parking, trespassing, noise, lighting, etc.
- i. The conservation easement document provided to the city in 2002 must be revised to remove the “buy back” provision to ensure appropriate open space is maintained to balance the site activity.

Site and Building Plan Review

- 2) *Recommend that the city council approve the site and building plan for property located at 3717 County Road 101. Approval is based on the following conditions:*
 - a. Prior to approval of a grading permit and building permit the following would need to be completed:
 - (1) Record this resolution with the county before the city issues a building permit.

- (2) A more detailed buffer plan for the north property line near field #5 and southwestern property line must be submitted and approved by staff.
 - (3) All plans must be approved by the city engineer.
 - (4) The applicant must receive written permission from property owners to the north if grading will occur on their property. If no written permission is provided, the grading plan would need to be revised.
- b. Construction must follow the following plans:
- Grading Plan – date stamped December 22, 2006
 - Building Plans – date stamped December 22, 2006
- c. On all natural areas that exist on the property, vegetation will remain, excluding replanting areas identified northwest of field #5 and southwest of field #3.
- d. There would be allowance for replanting of native vegetation in the tennis court area and removal of buckthorn or other invasive species as part of a restoration plan as approved by staff.
- e. The applicant must agree to the above conditions in writing.
- f. Any additional permitting required from other agencies is the responsibility of the property owner.

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

Chair Hart stated that the item was tentatively scheduled to be reviewed by the city council on March 5, 2007.

9. ADJOURNMENT

Schmitz moved, second by Dahl, to adjourn the meeting at 12:15 a.m. on February 16, 2007. Motion carried unanimously.

By: _____
Lois T. Mason
Planning Secretary