

**MINNETONKA PLANNING COMMISSION
MINUTES**

MARCH 15, 2007

1. CALL TO ORDER

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

2. ROLL CALL

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

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

3. APPROVAL OF AGENDA: The agenda was approved as submitted with the addition of electing officers to serve as chair and vice-chair of the planning commission and items listed in the change memo dated March 15, 2007.

Schmitz moved, seconded by Brandt, to elect Hart to serve as chair of the planning commission for 2007.

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

Adams moved, seconded by Dahl, to elect Cheleen to serve as vice-chair of the planning commission for 2007.

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

4. APPROVAL OF MINUTES: February 15, 2007

Dahl moved, second by Cheleen, to approve the February 15, 2007 meeting minutes as submitted with the change from the change memo dated March 15, 2007:

Page 16, after the motion, add:

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

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

5. REPORT FROM MAYOR AND STAFF

Wischnack briefed the commission on land use applications considered by the city council at its meetings of February 26, 2007 and March 5, 2007:

- Adopted a resolution approving final plat approval of the Reeds Addition plat at 3140 County Road 101 for John H. Reed.
- Adopted a resolution approving final plat approval of the Devisser Addition plat at 13801 Spring Lake Road for Lawrence Olson.
- Adopted a resolution approving preliminary and final plats for a two-lot subdivision at 2202 Meeting Street for H & W Family Limited Partnership.
- Adopted a resolution approving a twelve-month extension of a two-lot preliminary plat at 15616 Highwood Drive for Kyle Olson and Kim Eigner.
- Adopted a resolution approving a two-lot subdivision of the existing property at 13400 McGinty Road West for Peter Knaeble.
- Adopted a resolution approving a public hearing for vacation of drainage and utility easements, and removal of outlot status, at 12909 (Brandstetter) and 13001 (DeWerff) Hideaway Trail.
- Adopted a resolution approving items concerning the redevelopment of Petters International (Fingerhut) at 4400 Baker Road for Welsh Construction, LLC.
- Adopted a resolution approving an ordinance amending a master development plan at 14401, 14407, 14413 and 14517 Excelsior Blvd and 14324 Stewart Lane for Glen Lake Redevelopment LLC. Glen Lake Extension and 4th addition.
- Adopted a resolution approving a twelve-month extension of a two-lot preliminary plat at 18724 Ridgewood Road for Tom and Diana Gagner.
- Adopted a resolution approving a preliminary plat extension request for Wentworth Trail for Earl Fischer.
- Adopted a resolution approving a preliminary plat extension request for Wentworth Woods for Avery and Horace Chope.

Mayor Jan Callison provided an overview of the comprehensive guide plan review. The comprehensive guide plan is updated every ten years. It will guide development and public services through the year 2030 consistent with

community values. She discussed community values, policy, and the comprehensive plan.

A survey will be given to residents to help gauge what is valued, issues, and how much attention should be given to each issue.

Policy direction will be developed. An inventory will be taken relating to land use, traffic, demographics, housing, natural resources, and public services. Decisions will be made to determine which way the community wishes to go, i.e.: similar to Edina or St. Louis Park.

The comprehensive plan will be used as a future land use plan. Overall city development and development of specific geographic areas will be addressed. Functional plans for water and sewer and strategic service plans will be examined. Implementation plans will be created. Development pressures are beginning to appear in certain areas including the Interstate 394 corridor and Ridgedale area, Opus, United Health Group property, Minnehaha Creek Mills, Highway 7 between County Road 101 and Interstate 494, Shady Oak Road, Highway 169 and Minnetonka Boulevard, and County Road 101 and Minnetonka Boulevard. Those areas will be looked at in depth.

The city council's overall responsibility will be to accept and adhere to the comprehensive plan. A steering committee will create the vision. Residents with a variety of demographics will be on the steering committee. Appointments to the steering committee will occur at the March 26, 2007 city council meeting.

Feedback will be provided by focus groups of seniors and business owners. The *Minnetonka Memo* and web site will be sources of information. Public hearings will be held. Assistant City Manager Geralyn Barone will have primary staff responsibility; consultant Anne Perry will be the project manager; and Community Development Director Ron Rankin and City Planner Julie Wischnack will be part of the team.

The process will be long and complex. Meetings will be held in April and continue through the fall of 2008. The plan will then be reviewed by the city council.

Chair Hart asked if the city council could reject the plan. Mayor Callison understood that if the plan would be rejected by the city council, the plan would be redone. Wischnack confirmed that the metropolitan council requires every city in the metropolitan area update a comprehensive plan every ten years as required by state statutes.

Adams asked Mayor Callison to describe the process for appointing steering committee members. Mayor Callison has been working with staff to contact individuals and conduct interviews.

6. REPORT FROM PLANNING COMMISSION MEMBERS: None

7. PUBLIC HEARINGS: CONSENT AGENDA: None

8. PUBLIC HEARINGS

A. Amendment of Resolution 2006-028, which approves a conditional use permit at 4703-4795 Highway 101 (Westwind Plaza) for Untiedt's Garden Market. (88030.07a)

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

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

Cheleen asked if the city received complaints or comments due to the length of time the businesses operated on that site. Thomson answered in the negative.

In response to Chair Hart's question, Thomson explained that the site plan was based on the 2006 conditional use permit. After the 2006 conditional use permit was approved, staff determined that the site did not meet the required setback for the greenhouse. There was also as an issue with the site's perimeter circulation. The business was allowed to be shifted to the east to provide emergency access along the lot and provide a 50-foot setback. The revised site plan is included in the change memo. The current proposed business would utilize 28 parking spaces. The site has 34 excess parking stalls.

Remi Stone, attorney for applicant, thanked staff. The applicant supported every condition except number 13, "This conditional use permit shall be amended if any conditional use standard associated with transient sales is amended by future city ordinance." She offered to work closely with staff to determine the best type of use for the site or to see if an interim use ordinance would be applicable. She questioned if Cub or Severs was required to have a similar condition. The owner of Untiedt's Garden Market was present to answer questions.

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

Brandt asked if an amendment to the transient sales ordinance was pending. Thomson stated that staff hoped to address an issue related to the length of time transient sales would be allowed to operate by spring of 2008.

In response to Schmitz's question, Thomson stated that conditional use permits for transient sales range from 30 days to 200 days. The 200-day permits are specific to the Cub Foods site and a previous one at Westwinds Plaza. Westwinds Plaza has a significant amount of surplus parking and the location of the stand had no adverse impact on parking and circulation. The proposed site is unique compared to other multi-tenant shopping centers in the city.

Chair Hart stated that staff provided her with a chart that illustrated transient sales permits currently in operation for 45 days to 100 days. The difficulty is that 200 days does not seem transient, because it is almost 7 months. It would seem capricious to allow transient sales in the Cub parking lot that lasts 200 days, but not across the street. She would be comfortable if the site had enough space. She agreed with removing condition 13. She agreed that staff should consider adding definition to the ordinance. As long as the ownership did not change, the use could continue indefinitely. At this point in time, the condition would be hard to enforce.

Adams moved, second by Cheleen, to recommend that the city council adopt the resolution on pages A17-A24 of the staff report with the removal of condition number 13, "This conditional use permit shall be amended if any conditional use standard associated with transient sales is amended by future city ordinance." and the changes provided in the change memo dated March 15, 2007. This resolution amends the existing conditional use permit for Untiedt's Garden Market to operate the produce and plant market at Westwind Plaza. Approval is based on the finding that the required conditional use permit standards are met. The conditional use permit is subject to the following conditions:

1. Record this resolution with the county.
2. The produce and plant sales may be operated from April 15th through October 31st.
3. Display of items must be arranged in as compact a manner as reasonably practicable.
4. Any change in the person, location, or items sold at the stand renders this permit invalid.

5. This approval does not approve any signs at the site. A sign permit application must be submitted for staff review and approval. Any proposed sign must meet requirements outlined in city code.
6. Violation of any conditional use permit standards outlined in city code will 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 site must be completely cleared, and cleaned of any leftover merchandise and debris within 3 days of the last day of operation.
10. The water supply for the market cannot be from a fire hydrant.
11. No portable sanitation facilities are permitted on the site.
12. No items shall be placed in public right-of-way, and sight-lines at intersections shall be kept free and clear. The market/display area shall be limited to the painted parking area and all drive aisles shall be kept clear for access and emergency purposes.
13. The applicant must obtain any food or business license from the city's community development department, if required.
14. The applicant must agree to the above conditions in writing.

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

Chair Hart stated that the city council is tentatively scheduled to review the item at its March 26, 2007 meeting.

B. Lot division for a three-lot subdivision at 4808 Williston Road for John Paulson. (07003.07a)

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 observed that the proposal would benefit from requirements provided in the mcmansion policy.

In response to Dahl's question, Thomas explained where the driveway accesses would be located.

Chair Hart asked when the outbuildings would be removed. Thomas responded that the outbuildings would be required to be removed prior to the filing of the plat with Hennepin County. Some of the outbuildings have historic value and photographs would be taken prior to demolition.

John Paulson, 4808 Williston Road, applicant, stated that one resident commented on dumpsters behind the barn. What were referred to as dumpsters are actually old, empty feed troughs. The rest of the conditions have been addressed. Future home builders would work with the city to create an acceptable grading plan.

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

Chair Hart reviewed the primary issue. The application requires no variances. A building permit would not be issued prior to the city approving a grading plan.

Schmitz moved, second by Dahl, to recommend that the city council adopt the resolution on pages A9–A14 of this staff report with the modifications provided in the change memo dated March 15, 2007. This resolution approves a lot division at 4808 Williston Road. 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. The following documents for the city attorney's approval:

- (1) Ten-foot-wide drainage and utility easements along the Williston Road and Crown Drive rights-of-way and seven-foot-wide drainage and utility easements along all other lot lines.
- (2) 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.
- (3) Title evidence that is current within thirty days before release of the resolution.

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 \$4,750.
 - c. All accessory buildings must be removed. Prior to demolition of the buildings, the property owner must:
 - (1) provide city staff access to the buildings for photographing and historical documentation; and
 - (2) obtain a demolition permit.
 - d. Any existing drive/parking area that encroaches on the Parcel 2 must be removed.
- 2) The following must be completed before the city issues the first building permit for new house construction on Parcel 1, 2, or 3:
- a. A revised grading plan must be submitted for all three lots. The grading plan must be in substantial compliance with Exhibit 1 of this resolution.
 - (1) Parcels 1 and 2 must include swales on their respective east property lines to direct drainage from the rear and east side of the houses out to Crown Drive.

- (2) Tree loss must be minimized on the existing north slope of the properties.
 - b. A letter from the surveyor stating that boundary and lot stakes have been installed as required by ordinance.
 - c. A copy of the recorded resolution and a copy of all easements or restrictive covenants required to be recorded must be submitted to the city.
- 3) The following must be completed before the city issues each building permit:
- a. Submit an erosion control plan and cash escrow in an amount to be determined by natural resources staff. The escrow must be accompanied by a signed document, to be drafted by city staff, stating that, if an erosion problem is not resolved within 48 hours of notification of that problem, the city could use the escrow dollars to resolve the issue.
 - b. A grading and tree preservation plan for each lot, subject to staff approval. The plan must be in substantial compliance with Exhibit 1 of this resolution.
 - (1) Parcels 1 and 2 must include swales on their respective east property lines to direct drainage from the rear and east side of the houses out to Crown Drive.
 - (2) Tree loss must be minimized on the existing north slope of the properties.
 - (3) Graded elevations for each of the new houses must be in substantial conformance with the graded elevations of adjacent properties, as determined by the city planner.
 - (4) Predevelopment drainage patterns must be maintained. No stormwater run off may be directed and negatively impact adjacent properties. To ensure this, swales and/or retaining walls may be required. These requirements are at the discretion of the city engineer.

- (5) Infiltration/abstraction techniques and associated calculations must be submitted for review and approval of the city engineer.
 - (6) The city may require adjustments in the house pad location and grading to maximize tree preservation. The sewer and water services must be shown to minimize impact to any significant trees.
- c. Surveys for new houses on Parcels 1, 2, and 3 must include existing topography and contours on the neighboring properties directly adjacent to property lines.
 - d. Install a temporary rock driveway, erosion control, and tree protection fencing for staff review and approval.
 - e. Pay a hook-up fee for sanitary sewer and water.
 - f. Any new house on Parcel 3 must take driveway access from Crown Drive only and the existing driveway must be removed from Williston Road.
- 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 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.
 - 6) Permits may be required from other outside agencies, including but not limited to the Nine Mile Creek Watershed District. It is the applicant's and/or property owner's responsibility to obtain any necessary permits.
 - 7) 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.

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

Chair Hart stated that the city council is tentatively scheduled to review the item at its March 26, 2007 meeting.

9. ADJOURNMENT

***Adams moved, second by Cheleen, to adjourn the meeting at 7:20 p.m.
Motion carried unanimously.***

By: _____
Lois T. Mason
Planning Secretary