

**MINNETONKA PLANNING COMMISSION
MINUTES**

APRIL 26, 2007

1. CALL TO ORDER

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

2. ROLL CALL

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

Staff members present: City Planner Julie Wischnack, Principal Planner Susan Thomas, Planner Josh Metzger, Planning Technician Jeff Thomson, Natural Resource Manager Jo Colleran, Natural Resource Technician Aaron Schwartz, and City Attorney Desyl Peterson.

3. APPROVAL OF AGENDA: The agenda was approved as submitted.

4. APPROVAL OF MINUTES: April 12, 2007

Schmitz moved, second by Dahl, to approve the April 12, 2007, meeting minutes as submitted.

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

5. REPORT FROM STAFF

Wischnack briefed the commission on land use applications considered by the city council:

- Adopted a resolution approving a conditional use permit to operate a garden center at 11400 State Highway 7 (Country Village Shopping Center) for Linders Greenhouses, Inc.
- Denied a request to amend a condition of the preliminary plat approval concerning setback requirements at 3140 County Road 101 for John and Ruth Reed.
- Extended the moratorium regarding electronic signage.
- Adopted a resolution approving items concerning the proposed expansion of the General Mills Federal Credit Union at 9999 and 10001 Wayzata Boulevard for HTG Architects. Paved parking was replaced with proof of parking to provide more green space.

John Cheleen was appointed to serve on the Minnetonka Comprehensive Guide Plan Steering Committee. An open house will be held April 30, 2007 from 5 p.m. to 7:30 p.m.

A joint city council and planning commission workshop has been rescheduled for May 14, 2007 at 6:30 p.m. in the Boards and Commissions Room.

6. REPORT FROM PLANNING COMMISSION MEMBERS: None

7. PUBLIC HEARINGS: CONSENT AGENDA: None

8. PUBLIC HEARINGS

A. Conditional use permit to move over 1,000 cubic yards of earth at 18511 and 18517 Ridgewood Road for Rod Peterson. (Project 05041.07a)

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.

Thomas stated that the retaining walls would not increase the mass of the structure from the rear. Denying the permit would not prevent a residence from being built. Denying the permit would not fix the current erosion problem. The conditional use permit would provide guarantees that the project would be completed as required.

Robert Bean, 4300 Forest Road, St. Bonifacious, applicant's engineer, agreed with staff that the project has had several issues. The previous engineer is no longer working on the project. He agreed with the conditions. Chair Hart confirmed that the retaining wall would be built first. Mr. Bean stated that the applicant hoped to get the project done without any more issues.

In response to Chair Hart's request, Colleran explained that stabilization of the slope behind the east two lots is a concern. Adding fill and constructing the retaining wall is the best way to fix the problem. The original grading plan illustrated the homes and a six-foot to eight-foot tall retaining wall. The retaining wall is necessary to hold the slope and prevent continued erosion.

Chair Hart asked how the ground would be prepared to handle 430 truck loads of dirt. Mr. Bean explained that the dirt would be transported by lifts and compacted in 12-inch increments. A geotechnical engineer would be required to test each lift and provide compaction reports to the city.

Mr. Bean had been trying to work more with Schwartz. The contractor is now working with Schwartz directly. Schwartz stated that the response to recent inspection notices has been cooperative. Continued maintenance of the site and completion of the project is necessary to prevent further deterioration.

Cheleen was curious if there was a way to construct the wall in a more aesthetically pleasing manner for the neighbors south east of the site. Mr. Bean explained that the location of the wetland would prevent terracing. Not much would be gained by terracing.

Chair Hart asked if vegetation could be planted at the base of the retaining wall. Colleran answered positively. Appropriate plantings and trees could be added to the conservative easement. Mr. Bean stated that the applicant is required to replant the wetland with a mix designated by the city, so there would be an opportunity for the city to designate exactly what would be planted. Colleran suggested a condition be added to require additional screening approved by city staff.

The public hearing was opened.

Scott Harris, 18416 Ridgewood Road, stated that the site has been mismanaged. Fill had been brought in and taken out. He asked if fill would be brought in. Thomas answered affirmatively.

Mr. Harris stated that the street is already in need of repair. The trucks would further damage the street. He suggested the developer pay to fix the road.

In response to Chair Hart's question, Thomas will check where Ridgewood Road is scheduled on the city's pavement management plan. The construction management plan and city engineer would provide guidance if the trucks cause damage to Ridgewood Road.

No additional testimony was submitted and the hearing was closed.

Chair Hart reviewed the primary issues. It is in the best interests of the city, the developer, and the neighbors to get the project completed. It has been a difficult process, but, hopefully, the conditions will speed it up.

Cheleen concurred. It was unfortunate the project was not managed better from the start. Constructing the walls first makes sense. He supported adding a condition that would require the applicant to plant vegetation, approved by staff, to provide screening of the retaining wall.

Schmitz moved, second by Dahl, to recommend that the city council adopt the resolution on pages A14–A18 of the staff report, which approves a conditional use permit to move over 1,000 cubic yards of earth at 18511 and 18517 Ridgewood Road, with the condition that vegetation approved by city staff be planted to provide screening of the retaining wall. This resolution is based on the following findings:

- 1) The proposal would meet the general conditional use permit standards as outlined in city code.
- 2) The proposal would meet minimum engineering requirements.
- 3) The conditional use permit, with stringent conditions, would allow the development to be completed more quickly than it would be otherwise.
- 4) The conditional use permit would give the city the opportunity to place greater controls over the work done on the properties.

Approval is subject to the following conditions:

- 1) Prior to issuance of a building permit, complete the following:
 - a. Submit a tree preservation plan for each property.
 - b. Submit a specific construction management plan for each property. This plan must outline erosion control measures, a street sweeping plan, construction parking, haul routes, and haul hours. Haul hours are limited to weekdays only.
 - c. Submit an erosion control escrow in the amount of \$10,000.
 - d. This escrow must be accompanied by a document prepared by the city attorney and signed by the builder and property owner. Through this document the builder and property owner will acknowledge: (1) the property will be brought into compliance within 48 hours of notification of a violation; and (2) if compliance is

not achieved, the city will use any or all of the escrow dollars to correct any erosion and/or grading problems.

- e. All property corner stakes must be reset for staff inspection.
 - f. Submit revised plans for the retaining wall, soils data, and any other information as required by the city's building official.
 - g. Record this resolution with the county and return a recorded copy of this resolution to the city.
 - h. Vegetation that has been approved by city staff will be planted and maintained to provide screening of the retaining wall.
- 2) Prior to final inspection of either house:
- a. Submit an engineering report associated with the retaining walls, as required by the city's building official.
 - b. Submit either one of the following:
 - (1) As-built plans that include the foundation, retaining walls, two-foot contours and any other item as required by the city engineer; or
 - (2) Cash escrow in an amount to be determined by the city engineer and natural resources staff. The escrow dollars will not be released until all required as-builts have been submitted.
 - (3) Construction of retaining walls must commence before any fill is brought onto the site and prior to footing inspections for either house.
 - a. The retaining walls must meet all building code requirements.
 - b. Construction of the retaining wall must meet all other requirements of the city's building official and building plans reviewer. These may include, but are not limited to:
 - (1) An engineer on site during construction of the retaining walls.

- (2) As required by the city's building plans reviewer, an engineering report must be submitted following installation of the walls.
- 4) As defined by natural resources staff, groups of trees adjacent to the Ridgewood Road must be protected during construction.
- 5) No tree removal is permitted within the wetland or the 25-foot wetland buffer.
- 6) A swale must be graded between the houses to direct overflow from the street.
- 7) The city council may reasonably add or revise conditions to address any future unforeseen problems.
- 8) Any change to the approved use that results in a significant increase in traffic or a significant change in character would require a revised conditional use permit.
- 9) The applicant must agree to the above conditions in writing.

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

**B. Ordinance amending the city code regarding non-conforming uses.
(Project 07013.07a)**

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

Peterson reported. She recommended approval of the application based on the findings.

Chair Hart asked if a non-conforming use was created by eminent domain, then would it be considered a legal non-conforming use. Peterson stated that it would not be considered a non-conforming use. It would not be subject to the limitations and restrictions in the ordinance.

Chair Hart asked how the city would know that a non-conforming use was created by eminent domain. Peterson explained that a final certificate would be

recorded with Hennepin County or language would be included in an easement agreement.

Chair Hart questioned how replacing preexisting conditions would be monitored. Peterson stated that a procedure had not yet been established. Wischnack commented that roofing, siding, and windows would not be required to stay the same. Chair Hart acknowledged that materials not in accordance with code could not be replaced.

Peterson explained that a conditional use permit would allow the city to add conditions to the improvements and expansions. Chair Hart understood that, over time, the goal is to eliminate non-conforming uses. Peterson hoped negotiation would provide an opportunity to encourage improvements that would minimize non-conformities.

Schmitz and Peterson reviewed non-conforming uses in the city.

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

Dahl moved, second by Cheleen, to recommend that the city council adopt the ordinance on pages A1-A9 of the staff report.

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

9. ADJOURNMENT

Schmitz moved, second by Dahl, to adjourn the meeting at 7:25 p.m. Motion carried unanimously.

By: _____
Lois T. Mason
Planning Secretary