

**MINNETONKA PLANNING COMMISSION
MINUTES**

MAY 10, 2007

1. CALL TO ORDER

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

2. ROLL CALL

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

Staff members present: Community Development Director Ron Rankin, City Planner Julie Wischnack, Principal Planner Susan Thomas, and Planner Josh Metzer.

- 3. APPROVAL OF AGENDA:** The agenda was approved as submitted with the removal of Item 8B, a variance and sign plan review for signs at 17603 Minnetonka Boulevard for Lindsay Can-Am LP (94014.07a), as requested by the applicant, and an added condition provided in the May 10, 2007 change memo.

- 4. APPROVAL OF MINUTES:** April 26, 2007

Cheleen moved, second by Lehman, to approve the April 26, 2007 meeting minutes as submitted with the following changes:

- Page 1:

Commissioners Cheleen, Dahl, ~~Adams~~, Schmitz, and Hart were present.

- Page 7:

Schmitz moved, second by ~~Lehman~~ . . .

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

5. REPORT FROM STAFF

Wischnack briefed the commission on land use applications considered by the city council at its meeting of May 7, 2007:

- Adopted a resolution approving Data 100 3rd Addition (United Health Group) at 9701 Data Park Drive for United HealthCare Services Inc.
- Adopted a resolution approving a conditional use permit and site and building plan review for park improvements at 3717 County Road 101 for Bennett Family Park. Lighting the park was not approved. A public address system permit would not be issued for one year due to recent violations.
- Adopted a resolution approving a conditional use permit to move over 1,000 cubic yards of earth at 18511 and 18517 Ridgewood Road for Rod Peterson.
- Adopted an ordinance amending the city code regarding non-conforming uses.

A meeting will be held May 14, 2007 at 7 p.m. in the Boards and Commissions Room to discuss dynamic signage with the city council.

6. REPORT FROM PLANNING COMMISSION MEMBERS

Cheleen provided an update of the Minnetonka Comprehensive Guide Plan Steering Committee's activities. A bus tour will provide an opportunity to look at different areas of the city. The committee's vision and goals will be presented to the city council at its May 21, 2007 meeting.

Lehman attended land use workshops that were informative and provided good real-life scenarios. Minnetonka City Attorney Desyl Peterson was a speaker at the training. Chair Hart agreed that Peterson is a great asset for the city.

7. PUBLIC HEARINGS: CONSENT AGENDA

The item was not removed from the consent agenda for discussion or separate action.

Dahl moved, second by Brandt, to approve the item listed on the consent agenda as recommended in the respective staff reports as follows:

A. Variances for an addition to the rear of the home at 4842 Valley Road for Roger and Jennifer Kraus (00011.07a)

Adopt the resolution on pages A11-A13 of the staff report, which approves an aggregate side yard setback variance from 30 feet to 26 feet for an addition to the home at 4842 Valley Road. This resolution is based on the following findings:

- 1) Strict enforcement would cause undue hardship because of the following circumstances that are unique to this property:
 - a. The existing house has a nonconforming aggregate side yard setback of 20 feet.
 - b. The lot has a substandard width of 80 feet at the setback line.
- 2) The variance would meet the intent of the ordinance since:
 - a. The addition would be setback further from the south side lot line than the existing house.
 - b. The variance would not alter the character of the neighborhood because it is located on the back of the existing home and would not be highly visible from surrounding properties.

Approval is based on the following conditions:

- 1) The building and roof materials and colors must match the existing house.
- 2) Submit proof of having recorded this resolution with the county before the city issues a building permit.
- 3) Existing drainage patterns and stormwater flow to the west need to be maintained.
- 4) Install and maintain a temporary rock driveway, erosion control, and tree protection, as required by the city's natural resources staff.
- 5) This variance will end on December 31, 2008, unless the city has issued a building permit for the project covered by this variance or approved a time extension.

Cheleen, Dahl, Lehman, Schmitz, Brandt, and Hart voted yes. Adams was absent. Motion carried and the item on the consent agenda was approved as submitted.

Chair Hart stated that an appeal of the planning commission's decision must be made in writing to the planning division within 10 days.

8. PUBLIC HEARINGS

A. Lot-behind-lot setback variance for an addition to the (4 Votes to Deny) home at 6016 Eden Prairie Road for Jeff and Purita Edson. (07009.07a)

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

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

Chair Hart confirmed with Metzer that a change in the application eliminated the need for one variance.

Jeff Edson, 6016 Eden Prairie Road, applicant, thanked Metzer for his extra work on the proposal. Chair Hart appreciated his willingness to work with staff.

The public hearing was opened.

Dewey Hinderman, 5951 Pinewood Lane, supported the proposal.

No additional testimony was submitted and the hearing was closed.

Chair Hart reviewed the primary issue. Most of the improvement would be located within the buildable area.

Brandt thanked the applicants for working with staff. The proposal was an improvement from the original application.

Schmitz moved, second by Brandt, to adopt the resolution on pages A4–A6 of the staff report approving the applicants' request for a lot-behind-lot setback variance for an addition to a home located in the R-1 zoning district. Approval is based on the findings in the staff report with the following conditions:

- 1) The building and roof materials and colors must match the existing house.
- 2) Submit proof of having recorded this resolution with the county before the city issues a building permit.
- 3) Install and maintain a temporary rock driveway, erosion control, and tree protection, as required by the city's natural resources staff.
- 4) This variance will end on December 31, 2008, unless the city has issued a building permit for the project covered by this variance or approved a time extension.

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

Chair Hart stated that an appeal of the planning commission's decision must be made in writing to the planning division within 10 days.

B. Variance and sign plan review for signs at 17603 Minnetonka Boulevard for Lindsay Can-Am LP (94014.07a)

Item 8B, a variance and sign plan review for signs at 17603 Minnetonka Boulevard for Lindsay Can-Am LP (94014.07a), was removed from the agenda at the applicant's request.

C. Amendment to the existing master development plan at 6001 Shady Oak Road for Minnetonka Crossings (True North Investments) (06006.07a)

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 questioned the purpose of the following additional condition: the property owner must grant a unilateral access easement to the adjacent property owner in a form to be approved by the city attorney.

Thomas explained that a very small portion of the driveway would not be located in the current access easement. Staff and the applicant have agreed that an easement should be granted to Jimmy's Restaurant owners. There would only be one access point. The west access must be closed.

Dahl asked Thomas to address a letter from Mr. Lindgren regarding the north access easement. Thomas stated that there has been disagreement regarding possible sidewalk encroachment into the north access easement, as well as 90-degree parking stalls that currently exist. These are private issues between the property owners.

Schmitz asked if the property owners could request a joint sign. Jimmy's Restaurant owners may want a sign on the corner of True North's property. A joint sign would eliminate the visibility concern. Thomas stated that Minnetonka Crossings has an approved sign plan. Perhaps the city would consider allowing Jimmy's Restaurant to have a display panel on the Minnetonka Crossings sign. Schmitz asked who would make the final decision. Thomas stated that True North would have to provide consent. A variance for the off-site sign would have to be approved by the planning commission.

Peter Coyle, attorney for applicant, felt that staff did an amiable and thorough job of presenting the basis for the request. It would be a minor adjustment to the site plan. Mr. Novak consented to the access easement agreement. He was present to answer questions.

The public hearing was opened.

Jay Lindgren, land use attorney on behalf of 3Putt LLC, the building owner of Jimmy's Restaurant, stated that:

- His goal was to protect the business and its property value.
- Two commercial parcels that have been tied together for 20 years need to continue to function in a compatible manner.
- He submitted a letter that outlined issues and the proposed resolution with the adoption of additional conditions.
- Parking, access, and visibility to the commercial building are issues.
- Because the parcels are so tightly configured, shared parking will continue to occur.
- The 36 underground parking stalls under Building A must be available for evening parking on the True North site to service Buildings A and B.
- Additional parking analysis is warranted.
- Dense development by True North would have a significant negative impact on the commercial value and the use of Jimmy's Restaurant's building.

- Since 1987, the two parcels worked as an integrated whole.
- He provided views of the site since 1987.
- Building B should be no larger than 3,700 square feet. A larger size would have a negative impact on the value of the Jimmy's Restaurant property.
- Bill Berdick, former owner of Sherlock's Home, stated in an affidavit that the 1987 planned unit development intended to recognize how parking and visibility of the site needs to function.
- The city's regulatory authority needs to protect both neighbors. Jimmy's Restaurant has already compromised significantly.
- The east side of Building B faces the patio seating area which Jimmy's Restaurant is authorized to operate. Screening and other considerations need to be made.
- Curbing and other physical structures need to be restored to their prior condition so that Jimmy's Restaurant owners are not financially responsible to restore the same access as was previously maintained.
- Staff recognizes the importance of visibility by suggesting low-growing vegetation. A maximum height of three feet should be established and specific types should be identified.
- A parking study needs to be completed prior to the completion of any building permits.
- He agreed with True North entering into an access agreement and staff's language for the document.

Mr. Coyle stated that:

- City council directed that the shared parking condition be removed from the amended planned unit development for the True North site last summer.
- The True North site is the only site that meets ordinance parking requirements. True North did not object when the Jennings' applied for and received a parking variance.
- Last year, Mr. Rockenstein complained that the building was too far to the south and was blocking the view from the intersection.
- The project meets ordinance requirements. He appreciated staff's endorsement.

No additional testimony was submitted and the hearing was closed.

Dahl asked if there have been parking issues recently. Mr. Coyle answered in the negative. Jimmy's Restaurant's parking has not encroached on True North's parking areas.

Dahl asked for the reason behind increasing Building B's size. Mr. Coyle stated that it would be allowed by ordinance.

Chair Hart reviewed the primary issues. She felt Thomas did an excellent job addressing the issues.

Dahl did not think the location of the building would make much difference. It is within the landowner's rights to build within ordinance requirements. Chair Hart concurred. Unfortunately, the cross-parking arrangement could not be reached.

Schmitz supported the plan, overall, and recalled the location of the building conversation. Wherever it is located, it would block some visibility. She wished the applicant luck and suggested joint signage be considered.

Cheleen was not sure if restricting vegetation height to three feet would tie the hands of a creative landscaper. Thomas pointed out a condition that notes that low-growing species must be included and the number, size, and location of the plantings are subject to review by the city's natural resources staff. It would include the entire True North site.

Dahl moved, second by Schmitz, to approve the minor amendment to the existing master development plan for Minnetonka Crossings as 6001 Shady Oak Road including the condition provided in the change memo dated May 10, 2007. Approval is based on the finding that the amendment meets all required standards and ordinances. Approval is subject to the following conditions:

- 1) Subject to staff approval, the site must be developed and maintained in substantial conformance with the following plans, unless modified by the conditions below:
 - Site plan date-stamped March 23, 2007.
 - Building elevations date-stamped July 18, 2006 with changes to reflect the increase in size of the building.

- 2) Prior to issuance of a building permit submit the following for staff review and approval:

- a) Final site plan. The site plan must include the following:
 - 1) Drive aisles must meet minimum widths as outlined in city code.
 - 2) Parallel parking stalls and the 90-degree stall directly north of the drive through lane associated with the southerly building must be removed. The area of parallel stalls must be shown as previously approved 90-degree stalls. This area may be considered and labeled "proof-of-parking."
 - 3) The westerly driveway access on the south side of the site must be removed.
 - b) Final landscape plan. The plan must include low-growing species. The number, species, and location of plantings are subject to the review and approval of environmental resources staff.
- 3) The property owner is responsible for replacing any required landscaping that dies.
 - 4) All rooftop and ground-mounted mechanical equipment, and exterior trash and recycling storage areas, must be enclosed with materials compatible with the principal structure, subject to staff approval. Low profile, self-contained mechanical units that blend in with the building architecture are exempt from the screening requirement.
 - 5) Approval does not include the signs shown on the drawings. Separate permits are required from staff.
 - 6) Spaces shown as proof-of-parking must be striped upon city staff's determination that there is a demonstrated need for these spaces. A portion of the sidewalk directly south of this area must be removed, as necessary, to meet minimum driveway widths if the area is striped.
 - 7) Construction must begin by December 31, 2008, unless the planning commission grants a time extension.
 - 8) The property owner must grant a unilateral access easement to the adjacent property owner in a form to be approved by the city attorney.

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

Chair Hart stated that an appeal of the planning commission's decision must be made in writing to the planning division within 10 days.

9. ADJOURNMENT

Dahl moved, second by Cheleen, to adjourn the meeting at 7:32 p.m. Motion carried unanimously.

By: _____
Lois T. Mason
Planning Secretary