

**MINNETONKA PLANNING COMMISSION
MINUTES**

SEPTEMBER 13, 2007

1. CALL TO ORDER

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

2. ROLL CALL

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

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

- 3. APPROVAL OF AGENDA:** The agenda was approved as submitted with additions provided in the change memo dated September 13, 2007. Item 8C, amendments to a previously approved site plan, specific to the grading and landscape plans, for the West Alano property at 5235 Woodhill Road for West Hennepin Alano (06020.07a), was removed from the agenda in response to the applicant's request.

- 4. APPROVAL OF MINUTES:** August 30, 2007

Adams moved, second by Lehman, to approve the August 30, 2007 meeting minutes as submitted with a change from the change memo dated September 13, 2007.

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

5. REPORT FROM STAFF

Wischnack briefed the commission on land use applications considered by the city council at its meeting of September 10, 2007:

- Adopted a resolution approving a one-year extension of the Lipe Addition final plat.
- Adopted a resolution approving a conditional use permit to operate a massage business out of the home at 6170 Creek View Ridge for Dean and Deborah Little.

- Introduced an application to rezone from R-1 to a planned unit development district for a two-lot subdivision at 506 Milbert Road for Dan Ylitalo.
- Adopted a resolution approving the vacation of part of a drainage and utility easement at 5723 Kipling Avenue for Steve Hansen.
- Adopted a resolution approving the vacation of unneeded public right of way in the vicinity of 14517 Excelsior Boulevard for Thomas Wartman.
- Adopted a resolution approving a conditional use permit and variances to demolish the existing home and construct a new home at 2529 Bantas Point Road for Gary Medin. The city council made the residence footprint smaller. The end result was positive.

Wischnack shared the progress of the Comprehensive Guide Plan Steering Committee. The city's website, *eminnetonka.com*, provides updated information.

Wischnack announced that:

- An open house will be held at 6:30 p.m. on September 19, 2007 to discuss the tree ordinance and receive the public's feedback. The planning commission will review the tree ordinance in December.
- The September 27, 2007 planning commission meeting is cancelled.
- The shoreland ordinance is tentatively scheduled to be reviewed by the city council November 19, 2007.

6. REPORT FROM PLANNING COMMISSION MEMBERS: None

7. PUBLIC HEARINGS: CONSENT AGENDA

The item was not removed from the consent agenda.

Cheleen moved, second by Schmitz, to approve the items listed on the consent agenda as recommended in the respective staff reports as follows:

A. Front yard setback variance for a third stall on the existing garage at 15014 Williston Lane for Residential Renewal Inc. (07047.07a)

Adopt the resolution on pages A8-A10 of the staff report, which approves a front yard setback variance from 35 feet to 34 feet for a garage addition at 15014 Williston Lane. 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 home and garage have nonconforming front yard setbacks, and the addition would maintain the existing building line of the home. The addition would not increase the nonconforming setback.
- 2) The variance would meet the intent of the ordinance since:
 - a. The applicant is proposing reasonable use of the property since the addition would be a standard sized two-car garage.
 - b. The variance would not alter the character of the neighborhood, since many of the homes along Williston Lane have nonconforming front yard setbacks. The proposed setback is consistent with the building line along Williston Lane.

Approval is subject to the following conditions:

- 1) Submit proof of having recorded this resolution with the county before the city issues a building permit.
- 2) The driveway approach must not exceed 20 feet in width at the point it intersects with the right-of-way line.
- 3) Drainage must be directed to the front or back of the property and not to the adjacent property to the east.
- 4) Install and maintain a temporary rock driveway, erosion control, and tree protection, as required by the city's environmental 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.

Schmitz, Adams, Cheleen, Lehman, and Hart voted yes. Brandt and Dahl were 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. Rezoning and preliminary plat for a two-lot subdivision at 506 Milbert Road for Dan Ylitalo. (07034.07a)

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.

Adams' only concern was that the most significant tree would be removed. He asked if the floor plan could be reversed to save the tree. Colleran provided that the tree is an American elm. There is a good probability that it will contract Dutch elm disease and die.

Dan Ylitalo, 506 Milbert Road, applicant, stated that the driveway could be moved to accommodate the tree. He recently lost an elm tree. He thought the city had been treating it. Colleran clarified that the city does not treat trees located in the right-of-way of private property. Mr. Ylitalo was agreeable to relocating the driveway to save the tree.

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

Chair Hart reviewed the primary issues. She was comfortable with the proposal.

Adams moved, second by Cheleen, to recommend that the city council approve the following items for a two-lot subdivision at 506 Milbert Road for Dan Ylitalo (07034.07a):

REZONING (PLANNED UNIT DEVELOPMENT)

- 1) *Recommend that the city council adopt the ordinance on pages A5-A7 of the staff report, which approves a rezoning from R-1, low density residential to PUD, planned unit development for a two-lot subdivision at 506 Milbert Road. This ordinance is based on the following findings:*
 - a. The rezoning does not change the residential character of the neighborhood.

- b. The rezoning would be consistent with the city's comprehensive guide plan. The site is guided for low density residential uses, and the site would be developed consistent with the R-1 zoning requirements.
- c. The rezoning preserves the natural resources of the site, and minimizes site impacts as required by the development moratorium.
- d. The rezoning would be consistent with the public health, safety, and welfare.

This rezoning is subject to the following conditions:

- a. Subject to staff approval, the site must be developed and maintained in substantial conformance with the preliminary plat dated June 15, 2007, unless modified by the conditions below.
- b. The lots are subject to the standard R-1 setback requirements to ensure consistency with the surrounding neighborhood.
- c. The floor area ratio of the homes must not exceed 0.17. The new home on the northern lot cannot exceed 3,735 square feet, which includes the above-grade floor area, attached garage, and half the area of an exposed basement.

PRELIMINARY PLAT

2) *Recommend that the city council give preliminary approval to Ylitalo Acres, date stamped June 15, 2007. Approval is based on the finding that the plat meets the required standards and ordinances. Approval is subject to the following conditions:*

- a. Complete the following before final plat approval:
 - (1) Show 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 on the final plat.
 - (2) Pay the city a park dedication fee of \$5,000.

- b. 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 current within thirty days before release of the final plat.
 - (b) 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.
 - (c) These documents must be recorded with the final plat, and a drawing of any easement must be attached to the easement deed.
 - (3) Any other requirements included with final plat approval.
- c. The following must be completed before the city issues a building permit:
 - (1) City approval of a grading and tree preservation plan for each lot. The plans must be in substantial compliance with the building pads shown on the preliminary plat and must preserve trees designated for preservation at the time of preliminary plat approval. The city may require adjustments in the house pad location to maximize tree preservation. The sewer and water services must be shown to minimize impact to any significant trees.
 - (2) Install a temporary rock driveway, erosion control, and tree protection fencing for each lot, as required by the city's natural resources staff. These items must be maintained throughout the course of construction.
 - (3) Submit a copy of the recorded plat and any easement or covenants required to be recorded.

- (4) Pay a hookup fee for sanitary sewer and water.
 - (5) Submit a letter from the surveyor stating that boundary and lot stakes have been installed as required by ordinance. If the grading for proposed streets has not been completed, the city planner may approve a time extension to this requirement.
- d. All portions of the first story walls of the new home must be within 150 feet of the street as measured by an approved route around the exterior of the building. If access requirements cannot be met, the building must be protected with a 13D automatic fire sprinkler system.
 - e. The floor area ratio of Lot 1, the northern lot, must not exceed 0.17. Therefore, the floor area of the new home cannot exceed 3,735 square feet, which includes the above-grade floor area, attached garage, and half the area of an exposed basement.
 - f. The driveway approach for each lot must not exceed 20 feet in width at the point it intersects with the right-of-way line, except that a driveway approach that provides access to a three-car garage may have a width no greater than 30 feet at that point.
 - g. During construction, the streets must be kept free of debris and sediment, and the tree protection fencing, and erosion control fencing must be maintained.
 - h. 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.
 - i. 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.

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

B. Items concerning a medical office building at 14001 Ridgedale Drive: (1) conditional use permit, with variances; (2) parking variance; and (3) appeal of the maximum trip generation, for Fendler Patterson Construction. (07041.07a)

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.

Bob Grootwassink, 15382 Masons Point, Eden Prairie, applicant, stated that John Patterson was unable to attend the meeting. He stated that the front would be remodeled and the inside would be rebuilt. The facility would be 75 percent medical use and 25 percent office space.

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

Chair Hart noted that the proposal would be the same use as the building's original use. It is never good to have a building sit empty.

Schmitz moved, second by Adams, to recommend that the city council adopt the resolution on pages A10–A14 of the staff report, which approves the proposed conditional use permit, with variances. This resolution is based on the following findings:

- 1) The proposal meets all general and specific conditional use permit standards.
- 2) The proposal meets the variance standards:
 - a. The existing building and associated parking lot was approved and designed for partial medical use and met all code requirements at the time of approval. Subsequent changes to the ordinance have resulted in non-conformity. The discrepancy between the original intended use of the site and current code requirements presents a practical difficulty.
 - b. There are several circumstances unique to this property.

1. The subject property is separated from residential properties by a significant grade change and vegetated screening.
2. There is a significant discrepancy between the code required parking and the parking demand actually created by the proposed use.
- c. For many years the subject property was used almost entirely for medical purposes. Staff is not aware that this medical use adjacent to residential area or its associated parking had any negative impact on the essential character of the neighborhood.

Approval is subject to the following conditions:

- 1) Submit/complete the following before the city issues a building permit:
 - a. Submit proof of having recorded this resolution with the county before the city issues a building permit.
 - b. Submit a construction management plan; this plan must outline parking and construction access and stockpile and material storage.
 - c. Install temporary rock driveway, erosion control, tree protection and lake protection fencing, subject to review by the city's natural resources staff. These items must remain in place throughout the course of construction.
- 2) A maximum of 75% of the gross floor area of the building may be used as a medical clinic.
- 3) Violation of the conditional use permit standards outlined in City Code 300.21.4(o) or conditions placed upon the conditional use permit shall result in immediate revocation of the conditional use permit.
- 4) The city council may review the conditional use permit and may reasonably add or revise conditions to address any future unforeseen problems.
- 5) 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.

The applicant must agree to the above conditions in writing.

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

- C. Amendments to a previously approved site plan, specific to the grading and landscape plans, for the West Alano property at 5235 Woodhill Road for West Hennepin Alano. (06020.07a)**

This item was removed from the agenda at the request of the applicant.

9. ADJOURNMENT

Cheleen moved, second by Adams, to adjourn the meeting at 7:05 p.m. Motion carried unanimously.

By: _____
Lois T. Mason
Planning Secretary