

**MINNETONKA PLANNING COMMISSION
MINUTES**

OCTOBER 25, 2007

1. CALL TO ORDER

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

2. ROLL CALL

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

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

- 3. APPROVAL OF AGENDA:** The agenda was approved as submitted with modifications and additions provided in the change memo dated October 25, 2007.

- 4. APPROVAL OF MINUTES:** October 11, 2007

Schmitz moved, second by Adams, to approve the October 11, 2007 meeting minutes as submitted with the changes from the change memo dated October 25, 2007:

Page six, condition four, of the staff recommendation and the resolution are amended to read:

- 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. Construction must begin by December 31, 2008 or the variance will expire.

Brandt, Cheleen, Schmitz, Adams, and Hart voted yes. Dahl and Lehman 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 October 22, 2007:

- Adopted a resolution approving a request for a one-year time extension for a two-lot preliminary plat at 2001 Yorkshire Avenue South for Dennis Recknor.
- Adopted an ordinance transferring title of city-owned property and correction to a legal description for previous vacation action for Opus Northwest LLC.
- Introduced an ordinance rezoning property at the southeast corner of the I-394/Hopkins Crossroads intersection from R-1, low density residential, to PID, planned I-394 district and approving a master development plan, with final site and building plans, for the Crossroads Corporate Center for Opus Northwest LLC.
- Adopted an ordinance approving items concerning the proposed Lake Rose Highlands development at 15407 Lake Shore Avenue for Clark Kent Homes LLC regarding rezoning from R-1, low density residential district, to PUD, planned unit development and a preliminary plat.

Wischnack provided scheduling of upcoming meetings:

- A comprehensive guide plan open house will be held November 8, 2007 from 5 p.m. to 7 p.m.
- A shoreland listening session will be held November 27, 2007 at 6:30 p.m.
- The November 28, 2007 joint meeting will be rescheduled for January 2008.

6. REPORT FROM PLANNING COMMISSION MEMBERS: None

7. PUBLIC HEARINGS: CONSENT AGENDA

No items were removed from the consent agenda for discussion or separate action.

Cheleen noted that parking on County Road 101 will be striped for parallel parking and asked about the sign. Thomas explained that the applicant would need to apply for a sign permit. It would be reviewed by staff to determine if it meets ordinance requirements. The placement of the sign is the only aspect of the sign being approved.

Chair Hart noted that Hennepin County is requiring access from Manor Road.

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

A. Reaffirming parking lot variance action from 2004 and sign setback variance at 3435 County Road 101 for Boyer Building Corporation (04053.07a)

1) *Adopt the resolution on pages A4–A8 of the staff report, which approves the following variances for the property at 3435 County Road 101: (1) a parking lot setback variance from the north property line from 10 feet to 0 feet; (2) a parking lot setback variance from 20 feet to 3 feet; and (3) a sign setback variance from 10 feet to 8 feet. This resolution is based on the following findings:*

- a. PARKING: A parking lot which includes this number of spaces could not be built on the property without variances. The discrepancy between the office zoning of the property and the ability to meet office zoning parking requirements presents a practical difficulty.
- b. SIGN: An area of the applicant's property adjacent to County Road 101 was taken as part of the road improvement project. Were it not for this taking, the proposed sign could be constructed without variance.
- c. The subject property is located on a major roadway and is zoned and guided for office use. However, the property is just 0.35 acres in size and 113 feet deep. The small size of the site is a unique circumstance not common to every B-1 zoned property in the city.
- d. The proposed variances would not change the use of the site, but would allow for a more intuitive parking situation and appropriate way-finding. As such, the variances would not impact neighborhood character.

Approval is subject to the following conditions:

- a. Prior to beginning any site work:
 1. Record this resolution with Hennepin County and return a recorded copy to the city

2. Install tree protection fencing around the two trees to be saved on Manor Road as required by natural resources staff.
 - b. The site must be developed per Exhibit A of this resolution.
 - c. Concrete curb must be installed per city code requirements.
 - d. Upright juniper or arborvitae must be planted adjacent to the southern parking space to provide screening from the residential homes to the east. A deciduous tree must be planted east of the northern parking area.
 - e. A sign plan must be submitted for staff review and approval. The plan must include:
 1. Posting "Entrance" and "Exit" signs at appropriate drives.
 2. Posting "Right Turn Only" at the Manor Road drive.
 - f. The exterior trash area must be enclosed with materials compatible with the principal structure, subject to staff approval.
 - g. A separate sign permit must be submitted for staff approval. Apart from the setback variance approved per this resolution, the sign must meet all city code requirements.
 - h. This variance will end on December 31, 2007, unless the city has issued a building permit for the project covered by this variance or approved a time extension.
- 2) *Adopt the resolution on pages A9–A11 of the staff report, which denies a parking lot setback variance from 20 feet to 10 feet from the south property line at 3435 County Road 101. This resolution is based on the following findings:*
- a. The requested variance is based on the applicant's desire to have an additional parking stall on the south side of the building. This is a self-created hardship, not warranting a variance.
 - b. The requested variance would result in removal of two significant maple trees that would otherwise be preserved.

- c. Denial of the variance would not deny reasonable use of the property. The required number of parking stalls could be accommodating through simple restriping.

B. Front yard setback variance to construct a detached garage at 10912 Oak Knoll Terrace North for Richard Hughes. (07053.07a)

Adopt the resolution on pages A9-A11 of the staff report, which approves a front yard setback variance from 25 feet to 14 feet to construct a detached garage at 10912 Oak Knoll Terrace North. 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 undeveloped Belmont Road right-of-way requiring a front yard setback from the north property line, when the lot line functions as a rear yard.
- 2) The variance would meet the intent of the ordinance since:
 - a. The intent of the ordinance is for accessory structures to be located in the back yard of the property, and the proposed garage would be located in the back of the property.
 - b. There is no present or future need to extend a public road within the unimproved Belmont Road right-of-way.
 - c. The garage would not alter the character of the neighborhood since it would match the materials and style of the existing house, and would conform to all other accessory structure code requirements.

Approval is subject to the following conditions:

- 1) The site must be developed in conformance with the site plan date stamped September 19, 2007.
- 2) Submit proof of having recorded this resolution with the county before the city issues a building permit.
- 3) The garage materials must match the existing house.

- 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.

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

8. PUBLIC HEARINGS

A. Variance to construct an addition that maintains the existing low floor elevation of the house at 16019 Temple Drive for Roger Hanson (07052.07a)

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.

Roger Hanson, 16019 Temple Drive, applicant, opposed the flooding crawl space. The residence does not have a water problem currently. He did not want another avenue for water to enter. On the right hand side, a door faces a pond. The door is at the same level as his basement and existing crawl space. The open door would provide an easier access for the water to enter the entire crawl space. It would not decrease the floodplain capacity. It would flood the entire, inside of the residence at the same time the water rises up and equalizes the pressure inside and outside the house. He does not want to do the flooding-type crawl space because he wants to keep his basement dry. It is a living and storage space.

Thomson explained the reasoning of engineering and planning staff. The residence was constructed prior to the adoption of the flood plain ordinance. The intent of the ordinance is to minimize the damage impact to the residence. It would be appropriate for the addition on the back to be designed to minimize the damage in exchange for increasing the footprint of the residence. It would be structurally engineered to in-take water as required by the city's ordinance.

Chair Hart and Thomson reviewed the floor plan. Currently, the water would flow in the door on the north side of the home, through the basement, and into the

existing crawl space. The new crawl space would be located behind the existing crawl space. Chair Hart reviewed that the residence could be flooded one of two ways. One way would be from the pond level rising to a height to flood the area where the door is already. The second way would be from runoff from surrounding properties in which case the water would travel underneath the required crawl space and continue to the pond.

Brandt asked Mr. Hanson how long he resided in the residence. Mr. Hanson responded seven years. He has not seen the water level reach his back door.

Orville Fast, 16206 Temple Way, adjacent neighbor rear of the site, stated that the water level rose over the street in 1987 when 10 inches to 12 inches of rain occurred in less than a few hours. That should happen once in a 100 years. There are 80 years left. At that time, every resident had water in their basements. He did not see a problem with the proposal as the applicant requested.

Mr. Hanson said that, if he had to, he would prefer putting the addition on posts, like a deck, to eliminate opening up the crawl space and basement by creating another way for water to get in. Chair Hart mentioned tabling the item to allow Mr. Hanson time to review options.

Wischnack noted that staff and the applicant did discuss options and disagreed on the best one. Chair Hart asked if staff would agree with putting the addition on posts. Wischnack stated that a change in building plans could be reviewed by the planning commission on November 8, 2007.

Wischnack explained that the applicant has the right to appeal the planning commission's decision to the city council or submit another plan and start the process over.

Chair Hart agreed to proceed with Item 8B, lot-behind-lot setback variance to build a new house at 17216 Lake Street Extension for Ryan and Christa Willits and return to Item 8A, a variance to construct an addition that maintains the existing low floor elevation of the house at 16019 Temple Drive for Roger Hanson.

B. Lot-behind-lot setback variance to build a new house at 17216 Lake St. Extension for Ryan and Christa Willits. (07055.07a)

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.

Adams confirmed with Thomson that the school district owns the property north and east of the site and the west parcel is owned by the city. Adams acknowledged that the proposal would not impact the neighbor on the north. Thomson agreed that there would be no impact to the character of the neighborhood.

Chair Hart said it was difficult to find practical difficulties and a hardship.

Ryan Willits, 9780 Oak Crest, California, owner of 17216 Lake Street Extension, applicant, plans to construct a residence on the site. Its location to the middle school and tree cover attracted him and his wife to the property. His reasons for the variance include:

- Tree preservation.
- Keeping the driveway away from the lot on the south.
- It would allow more space between the proposed residence and the neighbor.
- The house could be angled to allow a view of the yard to supervise children.
- It would locate the residence away from mature trees.
- It would not change the essential character of the neighborhood.
- Approval would not impact anyone else.

Chair Hart asked if the property could be entered the same way if the residence would be moved 10 feet to the south. Mr. Willits answered affirmatively.

Colleran identified significant trees which staff's recommendation was based on preserving. She agreed with the applicant that preservation of the significant trees was the main concern. The house design and grading would play a large role in saving the trees.

Mr. Willits may have misunderstood the report in regard to the 15-foot setback and 10-foot variance. Between the times he made the offer on the property and the time he purchased it, the side setback changed from 25 feet to 40 feet. When the final house plan was done that setback changed. An additional 15 feet would allow the house to be turned and positioned in the pad.

Chair Hart suggested he consider tabling the application to reconsider the position of the proposed residence. Grading would need to be reviewed prior to the commission considering moving the building pad south 10 feet.

Mr. Willits preferred to keep the application's residence position as it was. Chair Hart stated that staff's recommendation denied the application. She stated that he could table the item. Mr. Willits stated that it is difficult for him to travel from California. She asked if he had an architect who could represent him. He answered affirmatively. Chair Hart suggested he e-mail, fax, or talk on the phone with staff.

Mr. Willits and Chair Hart reviewed the house placement options. The application is Mr. Willits' first choice. Chair Hart felt there was a difference of opinion in whether it would cut into the trees or not.

Chair Hart asked Thomson if the floor plan was moved 10 feet to the south, then would there be a point intrusion on the east side. Thomson stated there was the potential for that to happen.

Chair Hart asked Mr. Willits if he preferred to table the item or have the planning commission taken action. Chair Hart stated that he would have to redo the application because the recommendation is to deny the variance.

Chair Hart and staff reviewed the number of votes necessary to pass a motion to deny the application and the difference between tabling review of the current application and submitting a new application.

Chair Hart returned to discussion of Item 8A, a variance to construct an addition that maintains the existing low floor elevation of the house at 16019 Temple Drive for Roger Hanson (07052.07).

A. Variance to construct an addition that maintains the existing low floor elevation of the house at 16019 Temple Drive for Roger Hanson. (07052.07a) continued:

Mr. Hanson requested the planning commission act on his application.

The public hearing was opened.

Steve Orr, 16244 Temple Drive South, supported the application. The applicant's lot is very large and would accommodate the addition. Chair Hart agreed that the

addition would fit the site, but the floodplain and potential property damage were issues.

Mr. Orr mentioned that a large drainage pond is located off of the applicant's property. The applicant's property sits higher than the drainage pond. Chair Hart said that the basement is almost at pond level.

No additional testimony was submitted and the hearing was closed.

Chair Hart reviewed the primary issue.

Adams understood that the two crawl spaces would be open to each other and both flood if the basement flooded. It appeared to him that it met the definition of the resolution. Thomson acknowledged that the home would take on water from the existing door. The internal flood requirement mandates openings in the foundation wall that can be no greater than a foot above grade and the size of the openings have to be a certain size to allow a certain amount of water in at a certain rate. It would be engineered to allow for the water. The existing door would not be engineered or designed to take the water in. There would be external holes put in the crawl space to allow water to come in from the outside.

Chair Hart confirmed with Thomson that if the water came from the run off of surrounding properties, then it would flood the new structure first. She asked if the water would go into the basement. Thomson answered affirmatively. Chair Hart stated that if the water came from the pond's direction, the water would enter the basement first.

Schmitz confirmed with Mr. Hanson that he was concerned that the required crawl space would, in turn, flood his existing crawl space.

Adams felt it seemed that the crawl space with external openings would provide more opportunity for the residence to flood. He opposed the requirement. He supported the variance with the removal of condition three, requiring the crawl space to be constructed to flood internally and requiring the standards outlined in §300.24.9(j) of the city code.

Brandt assumed the city's engineering staff approved the recommendation. He supported staff's recommendation.

Cheleen felt the house would flood no matter what if the pond reached a certain height, through the door or the new foundation. If the property owner would enter into a "hold harmless" agreement with the city, then he agreed with Adams.

Schmitz was concerned that because the new crawl space would be “flood proof” the existing crawl space would become more likely to flood.

Thomson stated that if storm water reached the 100-year floodplain elevation, the entire basement would flood. The basement is more than 3 feet below floodplain elevation.

Schmitz concurred with Adams and Cheleen since it did not seem that it would make a big enough difference. If it would be a new structure, then it would be warranted, but it would not prevent property damage on the old structure.

Chair Hart questioned why the old space would be open to the new space. Mr. Hanson described the floor plan of the residence. He explained how access would be provided to the required crawl space.

In response to Brandt’s question, Thomson stated that engineering staff did review the information and comments provided by Mr. Hanson prior to planning staff forming their recommendation.

Colleran pointed out that the condition is required by the city’s ordinance. Additions to homes built before September 9, 1974, the first floodplain ordinance, must be constructed to internally flood. The storm basin is land-locked.

Adams moved, second by Schmitz, to adopt the resolution on pages A10-A13 of the staff report, which approves the variance from the minimum low floor elevation of 948.8 to 947.55 for the addition to the house at 16019 Temple Drive with the removal of condition three, “The crawl space must be constructed to flood internally and must meet the standards outlined in §300.24.9(j) of the city code. The flood-proofing measures must be certified by a licensed professional engineer or registered architect.”

Cheleen, Schmitz, and Adams voted yes. Dahl and Lehman were absent. Brandt and Hart voted no. Motion failed.

Chair Hart mentioned waiting until the planning commission has seven members. Wischnack reviewed the options.

Adams moved, second by Cheleen, to adopt the resolution on pages A10-A13 of the staff report, which approves the variance from the minimum low floor elevation of 948.8 to 947.55 for the addition to the house at 16019 Temple Drive. 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 low floor elevation, and there is a practical difficulty in constructing the addition such that the floor elevations match the existing floor elevations of the split-level house.
- 2) The variance would meet the intent of the ordinance since:
 - a. The proposed addition would not result in increasing the flood damage potential of the structure.

Approval is subject to the following conditions:

- 1) The site must be developed in compliance with the site plan date-stamped September 14, 2007, except as modified by the following conditions.
- 2) Complete the following before the city issues a building permit for the project:
 - a. Submit the existing low floor elevations and finished floor elevation of the main level prepared by a registered land surveyor.
 - b. Submit proof of having recorded this resolution with the county.
 - c. Install a temporary rock driveway, erosion control, and tree protection, as required by the city's natural resources staff. These items must be maintained throughout the course of construction.
 - d. The property owner must enter into a hold harmless agreement with the city that the construction may increase flood risk to life and property. The agreement must be recorded with the chain of title for the property, and a copy of the recorded agreement must be submitted to the city.
- 3) The crawl space must be constructed to flood internally, and must meet the standards outlined in §300.24.9(j) of the city code. The flood-proofing measures must be certified by a licensed professional engineer or registered architect.

- 4) Before final inspection, the applicant must submit as-built drawings and certification by a licensed professional engineer or registered land surveyor that the lowest floor elevation of all structures were constructed in compliance with the city code.
- 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.

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

Chair Hart returned to Item 8B.

B. Lot-behind-lot setback variance to build a new house at 17216 Lake St. Extension for Ryan and Christa Willits (07055.07a) continued:

Mr. Willits wanted commissioners to act on the application as submitted.

The public hearing was opened.

Gene Stageberg, 17224 Lake Street Extension, strongly supported the application. It would be the only way to prevent the canopies of the trees from being trimmed. The boxelders on the north side are junk. No other house would be affected by the applicant's proposal because the adjacent property is too low and has a wetland. He wanted the residence located further to the north to save the oaks and maple trees.

Chair Hart asked Colleran if the canopies of the trees would need to be cut. Colleran answered that there may be a small area where trimming would need to occur if the proposed residence was moved further south. She did not believe it would permanently harm the trees, but she agreed with Mr. Stageberg that the trees may have to be trimmed.

No additional testimony was submitted and the hearing was closed.

Chair Hart reviewed the primary issue.

Brandt agreed with staff's recommendation.

Cheleen concurred. The applicant has some flexibility when choosing a house plan. It is not reasonable to request a variance to fit the house plan.

Schmitz understood the tree trimming issue. She agreed with Colleran that grading would cause more disruption than trimming the trees. A preferred house plan is not a hardship justification. She leaned towards supporting staff's recommendation.

Adams had mixed feelings. He wanted to protect the trees. He supported staff's recommendation.

Chair Hart saw no practical difficulty. The variance need is self-created. She did not want to set a precedence that could not be backed up with unique circumstances.

Chair Hart asked Mr. Willits again if he would like to table the item. He agreed to table the item.

Schmitz moved, second by Brandt, to table Item 8B, a lot-behind-lot setback variance from 25 feet to 15 feet for the construction of a new house at 17216 Lake Street Extension until the November 8, 2007 planning commission meeting.

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

C. Items concerning a subdivision at Ridgedale Center on Ridgedale Drive for General Growth Properties (07050.07a/b):

- (1) preliminary plat;**
- (2) variance to master development plan requirement.**

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.

Adams asked if the proposed lot included the green area. Thomas answered affirmatively.

Adams had trouble visualizing how the building would fit on the property. He noted the two wetlands on the parcel. Colleran explained incidental wetlands. Incidental wetlands may be filled in.

The applicant was not present.

The public hearing was opened.

Patty Blom, 11333 Fairfield Road West, supported the grocery store. She and her neighbors were looking forward to the store opening.

No additional testimony was submitted and the hearing was closed.

Chair Hart noted that the traffic level would remain the same. Thomas stated that a traffic study for the current application and an expected future expansion will be included for the city council to review. The internal ring road was included in the traffic flow study.

Schmitz moved, second by Cheleen, to recommend that the city council approve the following items concerning a subdivision at Ridgedale Center on Ridgedale Drive for General Growth Properties with a modification provided in the change memo dated October 25, 2007:

PRELIMINARY PLAT

- 1) *Recommend that the city council give preliminary approval to the Ridgedale Center Seventh Addition, date stamped August 31, 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) On the final plat, show a ten-foot-wide drainage, utility, and trail easement adjacent to Ridgedale Drive and at least seven-foot-wide drainage and utility easements along all other lot lines.
 - (2) Pay the city a park dedication fee of \$7,809.00
 - b. The following items must be submitted to the city before the city releases the final plat:

- (1) Payment for traffic signs and installation, as required by the city engineer.
- (2) An electronic CAD file of the final plat in microstation or DXF on a CD disk.
- (3) 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. These covenants must first be submitted for the city attorney's approval.

These documents must be recorded with the final plat, and a drawing of any easement must be attached to the easement deed.

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

VARIANCE RESOLUTION

- 2) *Recommend that the city council adopt the resolution on pages A5–A7 of the staff report, which approves a variance from the master development plan requirement. This proposal would meet the required standards for a variance, because:*
 - a. The intent of the master development plan requirement within the PID ordinance is to ensure reasonable, orderly, and quality development. The applicant's proposal would meet this intent:
 - (1) Any commercial building proposed for the site would be subject to site and building plan review.

- (2) The newly created site would be just 2% of the total Ridgedale Center property.
- b. General Growth Properties is currently developing plans for a significant expansion to the mall itself. A master development plan would be better required at the time of this expansion.

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

Cheleen moved, second by Adams, to adjourn the meeting at 8 p.m. Motion carried unanimously.

By: _____
Lois T. Mason
Planning Secretary