

**MINNETONKA PLANNING COMMISSION
MINUTES**

JANUARY 3, 2008

1. CALL TO ORDER

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

2. ROLL CALL

Commissioners Lehman, Adams, Brandt, Cheleen, and Dahl were present. Schmitz and Hart were 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 modifications provided in the change memo dated January 3, 2008.

4. APPROVAL OF MINUTES: December 6, 2007

Dahl moved, second by Adams, to approve the December 6, 2007 meeting minutes as submitted.

Lehman, Adams, Brandt, Cheleen, and Dahl voted yes. Schmitz and Hart 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 December 17, 2007:

- Adopted a resolution approving a request for a one-year time extension for the approvals of variances at 2813 McKenzie Point Road for Lawrence and Betty Kochevar.
- Adopted a resolution approving a request for a one-year time extension of the Hopaca Hollow preliminary plat at 4404 and 4412 Wilson Street for Curt Fretham.
- Adopted a resolution approving a request for a one-year time extension of the approvals for Kinsel Point associated with the Glen Lake Redevelopment Project for Tom Wartman.

- Adopted a resolution approving Minnetonka Highlands preliminary and final plat, 5516 Glenavon Avenue.
- Adopted a resolution approving Ridgedale Center Seventh Addition final plat at 12441 Wayzata Boulevard.
- Adopted a resolution approving conditional use permits for a trail and boardwalk in Kinsel Park at 14017 Kinsel Road for the city of Minnetonka.
- Denied adopting a resolution approving items concerning Crossroads Corporate Center at the southeast corner of the I-394/Hopkins Crossroads intersection, for Opus Northwest LLC. The developer has submitted new materials for the city council to consider. It will be reviewed at the January 28, 2008 meeting. Notice has been provided to the neighborhood. The developer will hold a neighborhood meeting January 15, 2008 at city hall. The only variance in the new plan would be for floodplain separation for the south ramp.

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.

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

A. North property line setback variance to add two new trash enclosures at 12950 Wayzata Blvd for Ridgehill Partners. (95043.07a)

Adopt the resolution on pages A8-A11 of the staff report, which approves setback variances from 50 feet to 12 feet for the construction of two new trash enclosures at 12450 Wayzata Blvd. 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. There is a practical difficulty given the location of the existing retail building on the site. The trash enclosures could not be located to meet setback requirements without negatively impacting site circulation and traffic.
- 2) The variance would be consistent with the spirit and intent of this ordinance for the following reasons:
 - a. The trash enclosures are a reasonable use of the property. The proposed structures would be constructed to screen the existing dumpsters located behind the retail building.
 - b. The trash enclosures would be located to provide a functional and efficient site design.
 - c. The trash enclosures would not alter the character of the neighborhood. The enclosures would not be highly visible from surrounding properties due to the existing grade change, retaining wall, and vegetation along the north property line.

Approval is subject to the following conditions:

- 1) The trash enclosures must be constructed of masonry compatible with the existing principal building materials.
- 2) The location of the trash enclosures must be shown as proof-of-parking on the site plan. The city may require installation of the parking spaces whenever the need arises.
- 3) All dumpsters and recycling receptacles must be located entirely within the trash enclosures.
- 4) The existing cedar fence trash enclosure must be removed.
- 5) Complete the following prior to issuance of a building permit:
 - a. Submit proof of having recorded this resolution with the county.
 - b. Install erosion control and tree protection fencing as required by the city's natural resources staff. These items must be maintained throughout the course of construction.

- 6) These variances will end on December 31, 2009, unless the city has issued a building permit for the project covered by these variances or approved a time extension.

B. Lot-behind-lot setback variance for a home addition at 5474 Tamarack Circle for Stonehouse Designs. (07063.07a)

Adopt the resolution on pages A4-A6 of the staff report, which approves a lot-behind-lot setback variance from 25 feet to 17 feet for construction of a home addition at 5474 Tamarack Circle. 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 met setback requirements when constructed. Subsequent ordinance amendments created non-conforming setbacks on the property. The location of the existing structure presents a practical difficulty.
 - b. The subject property is a lot-behind-lot, which requires principal structures to maintain minimum setbacks of 37 feet and 25 feet from property lines. These setbacks are not common to all properties located in the R-1 zoning district.
- 2) The variance would be consistent with the spirit and intent of this ordinance for the following reasons:
 - a. The proposed setback variance would not alter the essential character of the surrounding neighborhood.
 1. The proposed addition would not be located closer to the northwest property line than the existing home.
 2. The adjacent property to the north is vacant and is owned by the applicants. As such, the addition would not impact the living space or buildable area of a neighboring land owner.

Approval is subject to the following conditions:

- 1) Prior to issuance of a building permit:

- a. Submit proof of having recorded this resolution with the county.
 - b. Install erosion control and tree protection fencing for staff inspection and approval. These items must be maintained throughout the course of construction.
- 2) This variance will end on December 31, 2009, unless the city has issued a building permit for the project covered by this variance or approved a time extension.

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

Acting Chair Cheleen 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. Items concerning the reconfiguration of lot lines at 5121 and 5125 Baker Road (proposed Lots 1 and 2, Minnetoga Estates) for Maressia Twele. (07017.07c)

Acting Chair Cheleen 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.

Adams asked who would fund the cost of extending the storm and sanitary sewer. Metzer explained that a grit chamber would be included in the storm sewer. The grit chamber would take water in, reduce the rate of flow, separate the sediment from the water, and release clean water. The city would incur the cost of the grit chamber, but the extension of all other utilities and construction of the road would be the responsibility of the developer.

Acting Chair Cheleen asked if the new storm sewer system would benefit the Franks' property. Metzer answered affirmatively. The project would help with erosion and an existing standing water problem on the Franks' property.

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

Acting Chair Cheleen felt Metzger did a nice job going through the proposal. He reviewed the primary issues.

Adams moved, second by Brandt, to approve the items concerning the reconfiguration of lot lines at 5121 and 5125 Baker Road for Maressia Twele with the modifications provided in the change memo dated January 3, 2008.

REZONING ORDINANCE

- 1) *Recommend that the city council adopt the ordinance on pages A8–A10 of the staff report, which approves the proposed rezoning. This ordinance is based on the following findings:*
 - a. The rezoning would be consistent with the city's guide plan;
 - b. The rezoning would be consistent with the public health, safety, and welfare.
 - c. The rezoning, and resulting subdivision, would be consistent with the intent of the current development moratorium.

PRELIMINARY PLAT

- 2) *Recommend that the city council grant preliminary approval to Minnetoga Estates, date stamped December 3, 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) All existing drainage and utility easements shall be vacated and new drainage and utility easements shall be dedicated on the proposed plat as required by the city engineer as follows:
 - (a) Drainage and utility easements are required at, or above, the 100-year flood elevation (899.0-feet) or above the delineated wetland, whichever is greater.
 - (b) Drainage and utility easements required for all public utilities, 20-foot minimum width centered on the utility.

- (c) Drainage and utility easement required for access across 5113 and 5117 Baker Road, 20-foot minimum width centered on proposed and existing driveway easement.
 - (d) Drainage and utility easements required on side and rear property lines, 7-foot and 10-foot respectively.
 - (e) Drainage and utility easements required to be rededicated for 5125 Baker Road.
 - (2) Private easements shall be obtained and established by deed as required by the city engineer as follows:
 - (a) Private driveway access easement across 5113 and 5117 Baker Road, 20-foot minimum width centered on proposed and existing driveway.
 - (b) Private utility easements for private utility lines across 5113 and 5117 Baker Road, 20-foot minimum width centered on proposed utility or 10 feet beyond outside edge of parallel utilities (30-foot easement required for joint sanitary sewer forcemain and water service line).
 - (c) Temporary construction easements encompassing all construction limits including, but not limited to, utilities, grading, tree removal, silt fence installation.
 - (3) All existing topography and proposed, elevations, contours, easements, proposed features, delineations, etc. shall be based on a certified survey (in lieu of the city topography mapping). Respective city benchmarks shall be used and labeled on the plans.
 - (4) City of Minnetonka standard construction details shall be used and shown in the plans.
- 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 must be prepared by an attorney knowledgeable in the area of real estate, and submitted for the approval of the city attorney:
 - (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 within the plat. The covenants must include conditions that have not been met as of the release of this plat.

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. A grading permit is required for extension of the private drive extension from Lot 3, Block 1, Marga Estates to proposed Lot 1, Block 1, Minnetoga Estates. Unless authorized by appropriate staff, no site work may begin until a complete grading permit application has been submitted, reviewed by staff, and approved.
- (1) The following must be submitted for the grading permit to be considered complete:
 - (a) Soil borings are required for several areas to ensure proper design including wetland (impacted areas), driveway (fill areas), and house pad.
 - (b) Final site, roadway, utility, and erosion control plans must be submitted for staff review and approval.
 - (i) The utility plan must include appropriate "Private" labels on all sanitary sewer forcemain.
 - (c) A stormwater pollution prevention plan for staff review and approval.

- (d) A construction management plan. This plan must be in a city-approved format and outline minimum site management practices and penalties for non-compliance.
 - (2) Prior to issuance of a grading permit:
 - (a) Submit cash escrow in the amount to be determined by city staff. This escrow must be accompanied by a document prepared by the city attorney and signed by the applicant. Through this document the applicant will acknowledge:
 - (1) the property will be brought into compliance within 48 hours of notification of a violation of the construction management plan, other conditions of approval, or city code standards; 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.
 - (b) Install a temporary rock driveway, erosion control, tree and wetland protection fencing for natural resources staff inspection. These items must be maintained throughout the course of construction.
 - (3) Permits may be required from other outside agencies including, but not limited to, Nine Mile Creek Watershed District (grading and erosion control permit), Minnesota Department of Health (water service permit), Minnesota Pollution Control Agency (sanitary sewer permit), Minnesota Pollution Control Agency (NPDES permit), Army Corp of Engineering, and Minnesota Department of Natural Resources.
- d. Complete the following before issuance of a building permit for proposed Lot 1, Block 1, Minnetoga Estates:
 - (1) Schedule and hold a preconstruction meeting with engineering, planning, and natural resources staff.
 - (2) Submit the following documents:

- (a) A recorded copy of the rezoning ordinance, preliminary plat, and restrictive covenants.
 - (b) A letter from the surveyor stating that boundary and lot stakes have been installed as required by ordinance.
 - (3) Install a temporary rock driveway, erosion control, tree protection and wetland protection fencing for each lot. These items must be maintained throughout the course of construction.
 - (4) Install heavy-duty fencing, which may include chain-link fencing, at the conservation easement. This fencing must be maintained throughout the course of construction.
 - (5) Pay a hookup fee for sanitary sewer and water.
 - (6) The house to be located on proposed Lot 1 must be protected with 13D automatic fire sprinklers.
 - (7) The final plat must be released by the city and filed with Hennepin County for recording.
- e. The following specific development requirements apply to Lot 1, Block 1, Minnetoga Estates:
- (1) Lot 1 must be custom graded at the time of building permit. Only grading for the private drive, utilities, and drainage improvements will be permitted prior to issuance of a building permit.
 - (2) Minimum low floor elevation shall be 901.0-feet (2 feet above 100-year flood elevation, 899.0). The minimum driveway elevation shall be 900.0-feet (1-foot above 100-year flood elevation, 899.0).
- f. During construction, the streets must be kept free of debris and sediment.
- g. Sixty-seven inches of trees are required to be replanted prior to issuance of the certificate of occupancy.

- h. The proposed storm sewer shall be designed as a continuous system of conduit from the existing 18-inch CMP outlet to the proposed outlet location south of the proposed driveway. All hydrology and hydraulic design computations shall be submitted for review and approval by the city engineer.
- i. The sanitary and water services shall be private up to the connection point into existing city public utilities.
- j. The applicant must obtain a letter of permission from the property owner of 5117 Baker Road, which indicates the owners' acceptance of tree planting on that property.
- k. Final plans, specifications, and design computations shall be submitted to, and revised as required, by the city engineer.
- l. 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.

WETLAND AND FLOODPLAIN ALTERATION PERMITS, CONDITIONAL USE PERMIT, AND VARIANCE FOR DRIVEWAY SETBACK FROM WETLAND

- 3) *Recommend that the city council adopt the resolution on pages A11–A16 of the staff report, which approves:*
 - Wetland and Floodplain Alteration Permits.
 - Conditional Use Permit for excavation and fill greater than 20 cubic yards within the floodplain.
 - Wetland setback variance from 20 feet to 5 feet for construction of a driveway in a wetland overlay district.

This resolution is based on the following findings:

- a. The wetland replacement would benefit the city by creating a better quality wetland than currently exists.
- b. The applicants' have indicated that once the home is built they intend to put a larger area of their land into conservation easement.

- c. The applicants' proposal meets the general and specific standards for granting of a conditional use permit for excavation and fill greater than 20 cubic yards within the floodplain.
- d. Proposed Lot 1 is a landlocked parcel. Vehicular access to the site would be impossible without construction of a driveway requiring a variance. This presents a practical difficulty.

Approval is subject to the following conditions:

- a. Obtain approval from all appropriate agencies before construction.
- b. Obtain approval and comply with the requirements for the Wetland Conservation Act replacement plan as presented in the plans dated September 10, 2007, and as amended.
- c. The mitigated wetland must have 5:1 side slopes and an undulating bottom. The final construction drawings must be revised to reflect this.
- d. The mitigated wetland must be subcut one foot below the final grade to allow placement of hydric soils. The final construction drawings must be revised to reflect this.
- e. The restored wetland area should not be subcut since hydric soils already exist. Only minor alteration to the grade will be allowed in this area. The final construction drawings must be revised to reflect this.
- f. A soil scientist must be on site at the time of hydric soil replacement in the mitigated wetland area; city staff must also be notified in order to ensure compliance with the wetland replacement plan.
- g. All salvaged hydric soils must be treated to ensure that they are free of invasive weed seeds such as thistle and reed canary grass.
- h. The construction plans must be revised to indicate a BWSR W2 seed mix in the specification and in the text under the "Notes" section. The sedge component of the W2 mix must be enhanced.

- i. Applicant must provide wetland conservation act forms, including: affidavit of land ownership, declaration of restrictive covenants, and consent to replacement wetland.
- j. Applicant must provide wetland monitoring reports annually, for a period of five years or until the technical evaluation panel accepts the mitigated wetland. At the end of the monitoring period there shall be no more than 15% invasive species present.
- k. Applicant must provide a cash escrow or letter of credit in the amount of \$7,500 (\$1,500 per year x 5 years) to ensure compliance with the wetland monitoring schedule.
- l. Applicant must provide a letter of credit for 150% of the estimated cost or 125% of the actual bid for the wetland and floodplain replacement to be constructed. The letter of credit will be reduced based on establishment of the replacement wetland.

VARIANCE TO PERMIT A LOT-BEHIND-LOT

- 4) *Recommend that the city council adopt the resolution on pages A17–A20 of the staff report, which approves the variance to permit a lot with no frontage on public right-of-way, which accesses by permanently recorded driveway easement. This resolution is based on the following finding:*

The applicants' proposal meets ordinance criteria for granting of a variance to permit a lot with no frontage on public right-of-way, which accesses by permanently recorded driveway easement

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

9. ADJOURNMENT

*Lehman moved, second by Adams, to adjourn the meeting at 6:55 p.m.
Motion carried unanimously.*

By: _____
Lois T. Mason
Planning Secretary