

**MINNETONKA PLANNING COMMISSION
MINUTES**

JANUARY 17, 2008

1. CALL TO ORDER

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

2. ROLL CALL

Commissioners Lehman, Schmitz, Adams, Brandt, Cheleen, and Hart were present. Dahl was 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 additional information provided in the change memo dated January 17, 2008.

4. APPROVAL OF MINUTES: January 3, 2008

Adams moved, second by Lehman, to approve the January 3, 2008 meeting minutes as submitted.

Lehman, Adams, Brandt, and Cheleen voted yes. Schmitz and Hart abstained. Dahl 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 January 7, 2008:

- Introduced an ordinance regarding a proposed subdivision at 11501 K-Tel Drive for Hoyt Properties.
- Introduced items concerning a two lot subdivision at 3919 Haven Road for Leo Grinberg.
- Adopted a resolution approving a rezoning from R-1, low density residential, to PUD, planned unit development, and a preliminary plat for a two-lot subdivision at 15549 Ranchview Court for Evergreen Development Corporation. It was approved with the removal of a condition requiring the preservation of tree number two.

Wischnack thanked Michael Brandt, Mike Dahl, and Sandal Hart for their service on the planning commission. Wischnack shared that during her 10 years of service for the city on the planning commission and as a member of the economic development authority Chair Hart has reviewed 133 conditional use permits, 70 rezonings, 100 site and building plan reviews, 116 subdivisions, and 363 variance requests. She has been involved with over 700 public hearings.

Cheleen commented that Chair Hart has been consistent and professional as well as light hearted as chair of the planning commission. She took the time to attend workshops and encouraged others to do so to better understand planning policies and city ordinances. He appreciated her friendly and positive influence. He will miss her expertise.

Chair Hart thanked Brandt and Dahl for their service. Her time on the commission was always interesting, challenging, and educational. She felt it was an honor. She thanked the city's great staff and wished the commissioners the best of luck.

6. REPORT FROM PLANNING COMMISSION MEMBERS: None

7. PUBLIC HEARINGS: CONSENT AGENDA: None

8. PUBLIC HEARINGS

A. Items concerning a two lot subdivision at 3919 Haven Road for Leo Grinberg.

- (1) Rezoning from R-1, low-density residential, to PUD, planned unit development;**
- (2) Wetland alteration permit; and**
- (3) Preliminary and final plat, with variances.**

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

Thomas reported. She recommended denial of the application based on the findings listed in the staff report.

Adams asked how the site would have access. Thomas explained that the site currently has access by a private driveway easement located on the property to the north of the subject property.

Cheleen asked if options included moving the cul-de-sac. Thomas answered affirmatively. It could be moved to avoid the trees and wetland area. That could be accomplished if the two property owners worked together.

Andrew Berenberg, engineer with Loucks and Associates, representing Leo Grinberg, stated that:

- The project was stuck between preserving trees and wetland.
- He understood the purpose of the moratorium was to save natural resources. The proposal wants to do that as well as be sustainable from a public works stand point.
- He understood that the plan needs a modification.
- There are a number of spectacular trees on the site.
- The site would make two very nice lots.
- He understood what staff wanted.
- Mr. Lynch's best option right now is not to relinquish his right to use his approved plan. He was willing to work to make the right plan.
- He reviewed options previously considered by the applicant and discussed with staff.
- The Lynch and Grinberg groups were working with Ryan Engineering to form a solution.
- Mr. Lynch's preliminary plat was approved.
- A north access was discussed with staff. Staff recommended the applicant work with Mr. Lynch.
- During this time, new owners began working with the Lynch group and Ryan Engineering.
- The wetland delineation was done in June of 2007.
- Loucks and Associates was hired August of 2007 to complete the preliminary plat submittal for Mr. Grinberg. He noted that the cul-de-sac was needed.
- There was a communication breakdown with engineering staff. He met with staff and learned what was wanted: save natural resources, comply with the zoning code, and sustainability for public works.
- He did not try to ignore what staff wanted. The cul-de-sac really could not be moved. It was stuck between the wetlands and the oak trees. The conditions of approval require Mr. Lynch to plat a half cul-de-sac. It does not designate where.
- He was looking for help. He wanted to move the cul-de-sac, but not relinquish Mr. Lynch's right to develop his plat as approved. Options given to staff "fell on deaf ears."

- He provided a conforming lot exhibit that illustrated how the plan could be done while meeting ordinance requirements. It would be awkward, but it would work.
- Mr. Lynch is acceptable to selling the parcel and working with Mr. Berenberg.
- He addressed the findings for denial listed in the staff report.
- The proposed subdivision would result in construction of the cul-de-sac.
- It would be beneficial to replace the gravel road with vegetation.
- The proposal would have frontage when the Lynch plat is replated.
- Any trees that could be saved would be saved.
- He wanted to know the possible options.
- He reviewed tree locations in relation to staff's modified preliminary plat.
- Saving the trees would make the Lynch property even more valuable.
- He feared that a combined plat would be rejected due to the moratorium and Mr. Lynch's plat would be void.

In response to Adams' question, Mr. Berenberg reviewed a preliminary plat modified by staff.

Chair Hart asked if Mr. Lynch's plat received final plat approval. Thomas answered in the negative. The preliminary plat was approved, but not the final plat. Its approval will expire April of 2008. The moratorium will end the first week of June 2008. Thomas explained that the minutes and staff's recommendation clearly state that the applicant needed to plat a half-cul-de-sac outlot. The property owner of Mr. Lynch's property at the time, who now owns the applicant's property, was not willing to participate in the plat. Mr. Lynch was not required to have a survey or delineation of wetlands done on the north property. The cul-de-sac location was based on the Lynch plat and adherence of the lots to ordinance requirements without knowledge of where the wetland was located.

In response to Chair Hart's question, Thomas reviewed the issues related to the plat. The plat would conform to ordinance lot width requirements. The nonconformity that staff refers to relates to the frontage aspect. Mr. Grinberg's property is nonconforming as it stands. It has nothing to do with the proposed plat. It does not have 80 feet of frontage on a usable and dedicated right-of-way.

Chair Hart asked Thomas to explain the site's reasonable use. Thomas obliged. While there is no residence on the lot, that does not diminish the reasonableness of the property. A residence could be constructed.

Thomas explained that Mr. Grinberg and Mr. Lynch do have opportunities to move the cul-de-sac, but it could not be done administratively as part of Mr. Grinberg's plat. Mr. Lynch would need to request modification of his plat. It would then be reviewed by the city council. The alternative would be for Mr. Grinberg and Mr. Lynch to submit an application for one large plat.

Chair Hart reviewed that the issue is with location of the cul-de-sac. Thomas agreed. When staff met with the applicant and Mr. Berenberg, the possibility of significantly moving the cul-de-sac to the south was considered. That may not provide frontage for Mr. Grinberg's property, but staff would be willing to look at what types of variances would be necessary to access those properties. All scenarios would include some type of modification to Mr. Lynch's plat.

Chair Hart asked if Mr. Lynch would lose his right to utilize the approved plat. Thomas explained that the preliminary plat approval is valid through April 9, 2008. It will remain valid until April 10, 2008 or until a new plat is approved for the property. Chair Hart confirmed with Thomas that the submission of a new plat does not invalidate an existing plat unless a new plat is approved for the same property.

Lehman confirmed with Thomas that the lot lines and roadway were submitted in survey quality. Staff did not change the survey quality location of the roadway. The information provided was to illustrate a half cul-de-sac. The process of submitting a final plat would have required a survey quality designation of where the outlot and the cul-de-sac would be located. Mr. Lynch would need to submit an application for final plat approval to move ahead in that manner. Lehman confirmed with Thomas that nothing prohibits negotiations between Mr. Lynch and Mr. Grinberg.

In response to Schmitz' question, Thomas explained that the moratorium does not apply to any application that has already been approved. Ordinances that may be adopted as the result of the work done during the moratorium may impact Mr. Grinberg's property in terms of the location of homes, mitigation of tree removal, and impact to the wetlands.

Cheleen questioned if Mr. Lynch wanted to apply for plat approval, then would he have to determine where the half cul-de-sac would be located. Thomas explained

that staff favored the half cul-de-sac be centered on the right-of-way as it was shown. When Mr. Lynch's plat was reviewed, it was a standard R-1 plat. It met all zoning regulations. Staff did note concern in the report that the oak trees would be removed if the cul-de-sac would be constructed as proposed, but there was no mechanism to prohibit their removal. Cheleen saw that the property owners now have the opportunity to locate the cul-de-sac in a more desirable location.

Mr. Berenberg favored moving the cul-de-sac.

Thomas pointed out that when Mr. Lynch's property was reviewed, the north property owner was not agreeable to subdivision. The intent was that the outlot would remain an outlot. There was no guarantee that the cul-de-sac and tree removal would occur.

Lehman stated that the Lynch property was not being considered. It would not be prudent for commissioners to consider a proposal for the subject property that would locate the cul-de-sac anywhere other than the submitted proposal unless both property owners submit an application. Thomas agreed. Legally, changes could not be required on the Lynch property without a formal application.

Mr. Berenberg stated that Mr. Grinberg and Mr. Lynch will discuss submitting a modification of Mr. Lynch's plat. Mr. Berenberg stated that he was concerned with compromising Mr. Lynch's plat. The current proposal would adhere to the new ordinance regarding tree preservation and mitigation.

Chair Hart asked if he was requesting to withdraw the application. Mr. Berenberg asked for a continuance until his application could be reviewed at the same time as Mr. Lynch's modified preliminary plat, as long as it would not put Mr. Lynch's plat in jeopardy. Chair Hart reiterated that Mr. Lynch's plat is valid until April of 2008 unless a revised proposal is approved. The process of requesting a revision does not invalidate an already approved plat.

Wischnack noted that during the application review process, staff expressed that modification of the plat to the south has always been an option. Two separate plats considered at the same meeting would also be appropriate.

Wischnack stated that review of the application may be continued with a signed agreement by the applicant to waive the deadline for the city to act on the application.

Chair Hart noted that the applicant signed the form and waived the 120-day time requirement. She clarified that Mr. Lynch's already approved preliminary plat is valid until it expires in April of 2008 or a different plat is approved for Mr. Lynch's property.

Lehman moved, second by Adams, to continue review of the application concerning a two lot subdivision at 3919 Haven Road for Leo Grinberg to a future meeting.

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

9. ADJOURNMENT

Lehman moved, second by Schmitz, to adjourn the meeting at 7:39 p.m. Motion carried unanimously.

By: _____
Lois T. Mason
Planning Secretary