

**MINNETONKA PLANNING COMMISSION
MINUTES**

JULY 17, 2008

1. CALL TO ORDER

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

2. ROLL CALL

Commissioners Walker, Blatz, Lehman, Schmitz, Sjeklocha, and Cheleen were present. Adams was absent.

Staff members present: City Planner Loren Gordon, Principal Planner Susan Thomas, Planner Josh Metzger, and Planning Technician Jeff Thomson.

- 3. APPROVAL OF AGENDA:** The agenda was approved with removal of Items 8B, items concerning a 2-lot subdivision of existing properties at 10323 34th Circle West (Fretham Tenth Addition), and 8D, variances to construct a detached garage at 4511 Crawford Road, at the applicants' requests and additional comments provided in the change memo dated July 17, 2008.

- 4. APPROVAL OF MINUTES:** July 3, 2008

Lehman moved, second by Schmitz, to approve the July 3, 2008 meeting minutes as submitted with the following change:

Page 5: He had trouble relocating the business.

Walker, Blatz, Lehman, Schmitz, Sjeklocha, and Cheleen voted yes. Adams was absent. Motion carried.

5. REPORT FROM STAFF

Gordon briefed the commission on land use applications considered by the city council at its meeting of July 14, 2008:

- Continued items concerning ordinances regarding tree protection, tentatively scheduled for the August 11, 2008 city council meeting, for further consideration.
- Adopted a resolution approving items concerning a five-lot subdivision at 2714 Oakland Road.
- Adopted a resolution approving items concerning a three-lot subdivision of the existing property at 12117 Hilloway Road.

Lehman noted that the tree protection ordinance will not return to the planning commission, but was continued to a city council meeting.

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 Blatz, to approve the items listed on the consent agenda as recommended in the respective staff reports as follows:

A. Feehan Design and Build is requesting a Floodplain setback variance for an addition to the house at 12308 Hilloway Road.

Adopt the resolution on pages A15-A17 of the staff report, which approves a floodplain setback variance from 20 feet to 12 feet for an addition to the home at 12308 Hilloway Road. Approval is based on the following findings:

- 1) The proposal is reasonable and would meet the required standards for a variance, because:
 - a. **UNDUE HARDSHIP:** There is an undue hardship due to the location of the house in relation to the adjacent floodplain. The back of the house is currently set back 2 feet from the floodplain, providing a practical difficulty in constructing an addition on the back of the home to meet setback requirements.
 - b. **UNIQUE CIRCUMSTANCE:** The existing nonconforming floodplain setback is a circumstance that is not common to every similarly-situated property.
 - c. **INTENT OF THE ORDINANCE:** The proposed addition would not increase the flood damage potential of the property. The addition would meet the lowest floor elevation requirements, and would be set back further from the floodplain than the existing house.
 - d. **NEIGHBORHOOD CHARACTER:** The proposed addition would not impact the character of the existing residential neighborhood.

Approval is subject to the following conditions:

- 1) Prior to issuance of a building permit:
 - a. A copy of this resolution must be recorded with the County and a copy of the recorded document returned to the city.
 - b. Install a temporary rock driveway, erosion control, tree protection and wetland protection fencing as required by natural resources staff for inspection and approval. These items must be maintained throughout the course of construction.
- 2) The addition must have a minimum lowest floor elevation not less than two feet above the designated 100-year flood elevation of 975.2, and the crawl space used to elevate the structure must be constructed to flood internally in conformance with Section 300.24.9(i) of the City Code.
- 3) 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.

B. John Malotky and Diann Crane are requesting a floodplain setback variance for the construction of a home addition at 4124 Skyview Rd.

Blatz thanked the applicants for their patience, effort, and work to improve the plan.

Adopt the resolution on pages A14-A17 of the staff report, which approves the following variances at 4124 Skyview Road:

- Floodplain setback variance from 20 feet to 13 feet.
- Variance from lowest floor elevation separation requirement above the natural overflow elevation of the floodplain. A variance from 2 feet above natural overflow elevation of the flood plain to 3.7 feet below the overflow elevation.

Approval is based on the following findings:

- 1) Given the greater setback of the current proposal relative to that of the original plans, and the fact that proposed low floor elevation will match the

existing floor elevation, it is staff's determination that the proposed addition would not increase flood damage potential of the home.

- 2) The applicants have revised the plans to bring almost the entire addition within the 20-foot floodplain setback, with the exception of the 48 square-foot point intrusion at the southwest corner of the home.
- 3) Given the presence of floodplain on the property it would be difficult to place a home on the property without the need for a floodplain setback variance. This is a unique circumstance for an R-1 zoned property, which constitutes an undue hardship.
- 4) The applicants' proposal would update the existing house and would not alter the essential character of the neighborhood.

Approval is subject to the following conditions:

- 1) Prior to issuance of a building permit:
 - a. A copy of this resolution must be recorded with the County and a copy of the recorded document returned to the city.
 - b. Install a temporary rock driveway, erosion control and tree protection fencing as required by natural resources staff for inspection and approval. These items must be maintained throughout the course of construction.
- 2) The low floor elevation of the home must be no lower than 959.8.
- 3) Final grading plans are subject to approval by engineering and natural resources staff prior to building permit approval.
- 4) Permits may be required from other outside agencies, including but not limited to the United States Army Corps of Engineers, Minnesota Department of Natural Resources, Minnehaha Creek Watershed District, and the Lake Minnetonka Conservation District. It is the applicant's and/or property owner's responsibility to obtain any necessary permits.

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.

Walker, Blatz, Lehman, Schmitz, Sjeklocha, and Cheleen voted yes. Adams was absent. Motion carried and the items on the consent agenda were approved as submitted.

8. PUBLIC HEARINGS

A. Old Time Auto is requesting a conditional use permit for an auto repair business at 12201 Minnetonka Boulevard.

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

Thomson reported. He recommended denial of the application. Based on the planning commission's previous discussions staff has also drafted a resolution for approval of the application.

Lehman asked if the condition should specify that screening should screen the use from the south. Thomson explained staff's intent of the condition to be that the use itself, building, drive aisle, and open field on the west would be screened from the trail instead of the entire length of the south property line.

Lehman suggested the following conditions be added: prohibit rental of vehicles on the site; prohibit sale of gasoline; and restrict inoperable or unlicensed vehicles from being stored on the site. Thomson agreed with the first two conditions. Thomson stated that there would be inoperable vehicles on the site for repairs. It would be difficult to determine how many vehicles would be appropriate to be allowed on the site. Requiring vehicles to be located on the gravel area instead of the grass would be a possibility.

Sjeklocha asked if the conditional use permit would prohibit debris such as snowmobiles and gasoline tanks. Thomson answered in the affirmative. All outside storage would be prohibited on the property.

Blatz noted the condition that would require the construction of a new fence along the south property line. She asked if it was assumed that the other fence would be removed. Thomas responded affirmatively.

Chair Cheleen was at the site when the fire inspector provided a list of violations that must be corrected in two months. He questioned what would happen with the conditional use permit if the two month time deadline was not met. Thomson was aware of the inspection and violations. The violations do need to be corrected by September 17, 2008. If that deadline is not met, it would be a

violation of the conditional use permit. The business would not be allowed to operate until it complied with the conditional use permit.

Walker asked if required landscaping was completed by July 21, 2008. Colleran answered affirmatively. The ground cover has yet to be installed.

George Caviness, Hopkins, applicant, stated that no one knew who built the fence. It was unfair to require Mr. Capone to remove the fence when it was there when he purchased the property. Thomson stated that the city did not install the fence. It seems to be obvious that the fence was constructed to screen the site. It is not known which owner installed the fence. The encroachment of the fence on the public property on the south is the issue that staff is concerned with. It is the responsibility of the property owner to remove the fence.

Chair Cheleen noted that the Hennepin County Railroad Authority may require removal of the fence. Whether the present owner put up the fence or not, the current owner is responsible for removing it. Thomson agreed.

The public hearing was opened.

Gary Capone, owner of 12201 Minnetonka Boulevard, stated that the railroad constructed the fence. Mr. Capone knows that Thompson Lighting did not build the fence. Staff indicated that the city did not construct the fence. Mr. Capone questioned who applied for the permit to put up the fence. It was not Mr. Capone. It was there when he purchased the property. He does not want to move someone else's fence or be liable for damages he could create on Hennepin County's property. Gordon responded that the city did not construct the fence. It is likely that a previous property owner constructed the fence. The issue is how the fence will be corrected because it is encroaching on Hennepin County Railroad Authority's property. Ultimately, the situation is a dispute between property owners.

Chair Cheleen saw the condition requiring a fence and landscaping along the south property line to screen the building separate from the situation with the fence. That is an issue between Mr. Capone and Hennepin County. That really is not part of the current application. Thomson answered affirmatively. Removal of the fence is not a condition of approval. Construction of a new fence and landscaping to prevent encroachment on the property as well as to screen the use is a requirement of the conditional use permit.

Mr. Capone stated that screening has been accomplished with the current fence. He would have to have time to find out who is responsible for the fence. The

fence could be removed and not replaced if Mr. Caviness did not operate his business from the site. Staff has “come up with some things” that imply they might have a personal vendetta against “the people that are operating back there.” Chair Cheleen did not believe that. Staff is enforcing conditional use permit standards that make sense. The fence located on Hennepin County Railroad Authority property will have to be removed. Hennepin County Railroad Authority is aware of it and will enforce its policy to rectify the situation. When that part of the fence is removed, other screening would need to be installed. It makes sense.

No additional testimony was submitted and the hearing was closed.

Lehman moved, second by Schmitz, to recommend that the city council approve the resolution attached on pages A23-A28 of the staff report with the following added conditions: no sale or rental of vehicles on the property; no dispensing or installation of gas pumps and no sale of gasoline products; a limit on the number of vehicles that may be present on the site at one time; and no work may be done on vehicles outside of the building. This resolution approves a conditional use permit with a variance for an auto repair business at 12201 Minnetonka Boulevard. Approval is based on the following findings:

- 1) The proposal meets the required conditional use permit standards.
- 2) The proposal meets the required standards for a variance, because:
 - a. UNDUE HARDSHIP: There is a hardship due to the proximity of the site from the residential properties.
 - b. UNIQUE CIRCUMSTANCE: There is a significant change in grade between the subject property and the residential properties to the south. This is a circumstance that is not common to every similarly-situated property.
 - c. INTENT OF THE ORDINANCE: The variances would meet the intent of the ordinance to provide appropriate screening and buffering between commercial uses and residential uses.
 - d. NEIGHBORHOOD CHARACTER: The proposal would not impact the character of the neighborhood. The auto repair use would be located over 150 feet from the nearest single-family homes and

would be screened by the existing vegetation and change in topography.

Approval is subject to the following conditions:

1. This resolution must be recorded with the county, and a copy of the recorded resolution must be returned to the city.
2. The detached building must comply with building and fire codes.
3. Submit a landscape and lighting plan for city staff approval. The plan must include the construction of a fence and landscaping along the south property line to screen the use from the trail.
4. There must not be any outside storage on the site, including equipment, tanks, or miscellaneous items.
5. No vehicles which are unlicensed and inoperable shall be stored on the site. Vehicles that are scheduled for service must be located within a designated storage area. This area must be paved or graveled and must be screened from surrounding properties.
6. All repair, assembly, disassembly and maintenance of vehicles shall occur within closed buildings.
7. There must be no sales, rental, storage or display of automobiles, trucks, trailers, boats, or other motor vehicles.
8. There must be no sales or dispensing of motor fuel.
9. The conditional use permit expires if normal operation of the use has been discontinued for longer than 12 months.
10. The city council may reasonably add or revise conditions to address any future unforeseen problems.
11. 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.
12. The applicant must agree to these conditions in writing.

Blatz, Lehman, Schmitz, Sjeklocha, and Cheleen voted yes. Walker voted no. Adams was absent. Motion carried.

B. Items concerning a 2-lot subdivision of existing properties at 10323 34th Circle West (Fretham Tenth Addition)

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

C. Hans Cederblad is requesting a side yard setback variance for a home and garage addition at 11820 Live Oak Drive.

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

Metzer reported. He recommended denial of the application based on the findings listed in the staff report.

In response to Walker's question, Metzer explained that an illustration was provided to show how the addition could be built and meet ordinance requirements.

Blatz noted neighbors' comments regarding the proposal's driveway setbacks. Metzer explained that driveways may be five feet or ten feet from the side yard setback at the front of a property. The driveway may angle out and be located next to a side property line as it extends into the property if there would be no negative drainage impact to adjacent properties.

Blatz asked if the proposal would cause tree removal. Metzer pointed out two maples that would need to be removed.

Hans Cederblad, 11820 Live Oak Drive, clarified with staff that approval of the application will require five approval votes. He described the property and the reasons why the proposal would be the best for the addition. He stated that:

- The residence is a 1951 rambler with a one-car garage.
- The lot is long and narrow.
- No one uses the driveway in the winter because it is too treacherous. The driveway is gravel.
- He has planned the addition for the past 21 years. The garage location has always been an issue. The residence is located too close to the property line.

- The property line was mistakenly located on an incorrect survey. In 1958, a survey shows that the distance was 15 feet instead of 11 feet. The correct distance is 10.7 feet.
- The property slopes to the east, south, and north.
- He wants to update the house and solve the garage issue. He would prefer a two-car garage. A detached garage is another option, but he would consider that a hardship.
- The south side would be too steep. Retaining walls and more tree removal would be required.
- There is a 10-degree angle between the property line and the building itself. It has complicated the situation. The current plan would have less than 3-feet of encroachment into the 10-foot setback. It would be a point intrusion. It would be reasonable.
- He provided slides showing various garage options.
- The proposal would meet the criteria of: providing functionality; providing the desired aesthetic quality; creating the least impact on the environment; having a hardship for a variance; and the financial expense is offset by the value of the project.
- He wants to do the right thing for the long term.
- An attached side-by-side garage is not possible because it would extend up to the property line.
- Moving the two-car garage addition to the east three feet would constitute a hardship because it would be very difficult to get into the inner stall. It would also increase the cost and change the roof line.
- The angled design to stay within the 10-foot setback would create a 170-degree angle to the house. He considered that a hardship. It would be difficult to get in and out of the stall, create an odd look, and increase construction costs.
- If the front of the garage could be moved in line with the building, it would be more functional, but it would cause the removal of part of the house and have to be rebuilt somewhere else.
- The proposal would be less than a three-foot point intrusion. It would be reasonable. There would be no excessive height or sight line interference.
- The trees to the west would not be impacted.
- A number of architects and designers have visited the site. Many ideas have been considered. He described some of them.
- He wanted to remove the current unsightly shed once the proposal would be completed.

- He provided slides that demonstrate that there would be no sight-line interruption for the neighboring property.

Schmitz asked for the size of the proposed garage. Mr. Cederblad recalled it to be 24 feet or 25 feet wide and 19 feet or 20 feet deep.

Walker asked if the existing garage would primarily be used for storage rather than vehicles. Mr. Cederblad said that was his initial intent. He would like the option to use it as a garage stall. It could be converted into living space at some point. The intent is to use it for storage now. Mr. Cederblad was aware that the proposal would require a variance when his architect reviewed plans with him. He provided the survey from 1958 that shows that the lot has four more feet.

Blatz asked if the driveway would remain the same. Mr. Cederblad stated that the driveway on the side of the garage and on the south would be converted to lawn and a walkway path.

Chair Cheleen confirmed with Metzger that the city considers an attached, 24-foot by 24-foot two-car garage as the city's policy standard. Chair Cheleen observed that two separate garage doors may be optimal, but the proposed garage is quite wide. He asked if three feet would be removed from the center, then would the garage wall fit within the setback requirement. Mr. Cederblad said that the three feet would be needed to open vehicle doors. Mr. Cederblad hoped to eliminate the current, cramped condition. In his neighborhood, three-car garages and four-car garages are the norm. Some properties in his neighborhood have garages bigger than his residence.

The public hearing was opened.

Dave Wiemer, 11918 Hilloway Road, was hyper sensitive regarding the proposal because of a remodel that was done across the street from him. He hoped that the commissioners made a conscious effort to keep the addition in line with the character of the neighborhood. The point intrusion would be less than three feet. It would be behind the property. The applicant has worked real hard to keep the content of the neighborhood where it is at.

Margaret Wolfe, 11800 Live Oak Drive, supported Mr. Cederblad. It is evident how long and hard he has been working to develop the proposal. The effort has gone on for so long. She hoped the three feet would not nix the entire project. She walks her dog past the residence every day. The applicant's driveway is dangerous. She supported the proposed design and hoped the commission would approve it.

No additional testimony was submitted and the hearing was closed.

Walker was disappointed the architect did not shift the building three feet to eliminate the variance issue. It could be easily done and not affect the aesthetics or minimize the use of the space. He supported the proposal because the applicant worked very hard, but he suggested the applicant shift the house three feet. Architecturally, it would be good, if not better, if it was slid over three feet.

Chair Cheleen asked if there are utility easements along the garage wall. Metzger answered in the negative.

Schmitz visited the site and understood how connecting the wall and moving it forward makes sense internally. She considered that the proposal would be smaller than a standard two-car garage. She supported the minor point intrusion. After seeing the residence next door, it would be a garage next to a garage that is very tall. The point intrusion would cause no problem for the adjacent neighbor having to view it. She supported the proposal.

Chair Cheleen initially felt like Walker. Given that the variance would be a point intrusion, it would be located next to a garage, and there are no utility easements, he could support the proposal also.

Blatz leaned in favor of granting the variance. She noted that the property owners on the west have concerns regarding a landscape barrier. Metzger explained that the proposal would not be required to provide screening.

Walker moved, second by Lehman, to adopt a resolution approving the proposed side yard setback variance from 10 feet to 7 feet at 11820 Live Oak Drive.

The planning commission finds that the applicants' proposal is reasonable because:

1. It will maintain the line of the existing garage wall and give the applicant reasonable use of the property by providing a three-stall garage.
2. The proposed addition will not encroach on any drainage and utility easements.

3. The proposal is only a point intrusion on the setback. The only adjacent structure is a detached garage on the neighboring lot. The proposal will not alter the essential character of the neighborhood.

The Planning Commission approves the above-described variance, based on the above findings. Approval is subject to the following conditions:

- 1) Prior to issuance of a building permit:
 - a. A copy of this resolution must be recorded with the county and a copy of the recorded document returned to the city.
 - b. Install a temporary rock driveway, erosion control and tree protection fencing as required by natural resources staff for inspection and approval. These items must be maintained throughout the course of construction.
- 2) The south driveway access off Live Oak Drive must be permanently removed.
- 3) 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.

Walker, Blatz, Lehman, Schmitz, Sjeklocha, and Cheleen voted yes. Adams was absent. Motion carried.

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

D. Sharon Hanna is requesting variances to construct a detached garage at 4511 Crawford Road.

This item was removed from the agenda.

E. Ronald Hays and Nina Norum are requesting a conditional use permit for a detached garage in excess of 1,000 square-feet at 4914 Shady Oak Road.

Chair Cheleen 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 Cheleen invited the applicant to speak, but the applicant was not present.

Chair Cheleen suggested a condition that required the garage be moved or rotated to provide for a 15-foot setback. Thomas confirmed that is a condition of approval included in staff's recommendation.

Lehman asked if staff is aware of the reason for the original proposed orientation of the garage. Thomas explained how the project would have met ordinance requirements if not for the added truss space. The applicant was unaware that it is included in the total square footage. Thomas estimated that the applicants' intent was to keep the angle the same for the residence, garage, and driveway.

Schmitz asked if staff knew the applicants' reactions to staff's recommended angle change. Thomas stated that the applicants are comfortable with staff's recommendation.

The public hearing was opened. No one chose to speak at the public hearing.

Blatz moved, second by Lehman, to recommend that the city council adopt the resolution on pages A10-A14 of the staff report. This resolution approves the conditional use permit for a detached garage in excess of 1,000 square-feet. Approval is based on the finding that, with a 5-foot shift in its location, the proposed garage meets the required conditional use permit standards and is subject to the following conditions:

- 1) Prior to issuance of a building permit:
 - a. Record this resolution with the county. A copy of the recorded resolution must be returned to the city.
 - b. Submit a revised site plan indicating 15-foot side yard setback as required by city code.
 - c. Install a temporary rock driveway, erosion control, tree protection and wetland protection fencing as required by natural resources staff for inspection and approval. These items must be maintained throughout the course of construction.
- 2) The detached garage cannot be used for commercial activities.

- 3) Three existing fir trees in the location of the proposed garage must be transplanted or replaced in a location to be determined by the city's natural resource staff.
- 4) The city council 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.
- 6) The applicant must agree to the above conditions in writing.

Walker, Blatz, Lehman, Schmitz, Sjeklocha, and Cheleen voted yes. Adams was absent. Motion carried.

Chair Cheleen called for a five-minute recess and reconvened the meeting.

F. An ordinance regulating outdoor display in the Planned I-394 District.

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

Gordon reported and recommended approval of the ordinance.

Blatz asked why the language had been changed from "shall" to "must" in Section 2. Gordon responded that the city attorney preferred the change.

In response to Blatz' question, Gordon explained that the used car sales portion of the business would be the accessory to the primary use of new car sales.

Sjeklocha asked how the 1 stall for 150 square feet ratio was determined. Gordon explained the history of the regulation. This standard is just above the median ratio for the current car dealers.

Walker asked for the rationalization why parking requirements would be separate from display parking requirements. Gordon explained that the intent was to prevent cars for sale from using up stalls for visitors, service bays, and employee parking. It became gray at times between what stalls should be used for service and new cars for sale. Parking areas may spill over from time to time.

Walker asked if the intent would be to keep fire lanes clear. Gordon answered affirmatively. Spill over will happen in drive areas and fire lines if the stalls are full. Walker asked if that requirement is covered in the city ordinances. Gordon agreed that the fire lanes are always required to be free and clear. Managing the parking at a dealership is another method of prevention.

Chair Cheleen asked what site changes and exterior improvements include. Gordon clarified that the exception clause redirects the 1989 ordinance regarding how existing businesses can operate and the new standards that are being proposed for new dealerships and existing dealerships. Gordon noted that the trigger would be expansion of the property and/or expansion of the building. Minor improvements would not trigger the proposed performance standards for a new dealership or existing dealership.

The public hearing was opened.

Peter Coyle, Larkin Hoffman, Twin City Automotive, was present to answer questions. He appreciated staff's recommendation and support for the ordinance changes that would allow the new dealership proposal and the adjustment of the lighting standard.

Jim Murdock, 121 Ranchview Lane, recalled going through a similar process in 1988. It seemed to him that when the original Interstate 394 Corridor was created, there was a federal or state mandate that prohibited outdoor storage. Gordon explained that the existing ordinance from 1989 contains local criteria that regulates outside storage of merchandise within the corridor. The proposal would modify those provisions that are specific to outdoor sales for automotive uses. Mr. Murdock asked if there will be conflict between state or federal regulations and the city's proposal. Gordon responded that the land use regulatory authority typically does not reside at the state or federal level. Mandates are given to all communities and Minnetonka complies with those mandates.

Linda Stewart, 13910 Knollway Drive South, behind the Toys R' Us building, stated that:

- The Highland building is owned by Sears Automotive. She would like to see the portion of the building and parking used by the dealership services highlighted in red. It currently misrepresents the amount of area used for the production of its services.

- Her home and the surrounding homes are on a hill. Each property owners' situation needs to be considered when determining proper screening. Trees and fences have come down.
- There is a problem with enforcement. A fire lane may be blocked at a dealership any time. There is no physical way to enforce the ordinances that Minnetonka already has. No one can be there all of the time.
- When looking at expanding the ordinances to allow another dealership in the area, check what the ordinances are already encompassing and how the ordinances would be enforced.
- When she moved in 1998, she was told that the ordinance was not in regard to auto dealerships. The ordinance's intent was regarding outdoor storage. The emphasis on car dealerships is a little skewed.
- The impact of an automobile dealership on its neighbors is horrendous. She lived with it for 20 years. She has called city hall and police numerous times regarding trucks unloading automobiles on the frontage road.
- The long-term ramifications of locating retail next to residences need to be considered.

Rod Crass, representing Mr. Saliterman, referred to a letter he sent that listed his issues. Mr. Crass stated that:

- Site changes and exterior improvements can mean a lot more than expanding a building.
- The same size percentage expansion for one dealer may cause a trigger, but not cause a trigger for the dealer next door. That is because he, for instance, has one of the smallest automobile dealership buildings. The solution may be set at 20 percent or 20 percent of the largest building. There is no rational relation between the expansion of a building and the amount of total property that constitutes that dealership. He would understand an ordinance that tied an expansion to a certain percentage of the land. The proposal is an artificial way to measure. It would create different rules for different people.
- He was concerned with what could be done to his property without triggering the proposed standards.
- His site shares a driveway with the neighboring property. The landscape requirement cannot be done. A solution needs to be found for that.

- He understood that issues relating to the parking ramp have been taken care of.
- He questioned if there is no longer a maximum number of parking stalls. Gordon explained that the proposed dealer provisions set a maximum of 1 space for every 150 square feet of building on a property. Mr. Crass was concerned with a maximum. He understood the need for a minimum number of stalls and a minimum number of stalls in front of the dealership. A maximum number of stalls could prevent maintaining the inventory a business wants to have or having stalls for visitors or employees. That makes no sense to him. In his case, half of the parking lot is empty, but they would be restricted to the number of parking stalls that could be used despite all of the room. That made no sense to him.
- No other business is limited to the amount of inventory it may display within its facility, assuming there is room for it.
- He wanted the opportunity to sit down with staff and work out the issues before the matter is determined by the city council.

Walker noticed vehicles parked in front when he visited the site. Mr. Crass stated that the drawing is inaccurate. There are parking spaces in front of the building. Walker asked if vehicles have been parking on landscaped areas. Mr. Crass responded not to his knowledge.

Chair Cheleen noted that the dealership may continue to use the entire parking area unless the building would be expanded. Mr. Crass stated that his building could not have the same size expansion without triggering the ordinance than the building next door. Chair Cheleen understood.

Peter Beck, representing Sears and Morris Automotive Groups, provided handouts and stated that:

- He has enjoyed working with staff. He apologized to Mr. Crass that he was not included in a meeting held the day before.
- Progress has been made on some of the issues. Four very important issues remain.
- He did not object to the proposed amendments regarding the impact between the dealerships and residential neighbors. He supported making things better for residential neighbors.
- He did not agree with the language regarding site changes and exterior improvements in Section 3A on the first page. He understood the wording to mean that District 6 and District 7 are exempt from the proposed ordinance changes.

- He was o.k. with staff's recommendation of 20 percent of building space being the trigger.
- The first issue was with the current draft removing the right to expand the property by 20 percent without triggering the new standards.
- The second issue was with 80 percent hard surface site coverage. That is a very strict standard. Auto dealerships are identified as service commercial rather than retail commercial. The standard for service commercial is 70 percent hard surface site coverage and has a higher floor area ratio. The retail commercial standard is 80 percent hard surface site coverage. The dealership is closer to the retail commercial model. It would create a situation where reinvestment would not be feasible without triggering the proposed ordinance.
- The third issue relates to restricting parking. He saw no need, desire, or wisdom of restricting parking for the only use in the city that needs parking for storage product. Parking needs to be screened appropriately from residential uses, but restricting parking would cause parking problems. A business will not change its business model if parking is restricted. It would cause vehicles to be stored off site and have to be transported back and forth more often and use more gas. Even the BMW, brand-new dealership would not meet that standard.
- The fourth issue requests the elimination of the maximum wattage per fixture requirement because it should not matter as long as the light is not casting light where it should not be located. Lower wattage would increase the number of poles and be inefficient and problematic for plowing and driving in the winter. Limiting the height of poles near residential areas is reasonable, but not in the display areas adjacent to the interstate.

Gordon clarified that the lighting requirement only applies to the dealership's property adjacent to residential property. Mr. Beck crossed that issue off his list.

Steve Bloomer, operator of Village Chevrolet, discussed the example on Page 7 which represents his dealership. He stated that:

- He thanked staff for not requiring a structured parking ramp for existing dealers, but he would not be able to park 1 stall for every 150 square feet of building without a ramp.
- He proposed that screened parking from ground-level view not be included in the requirement. He could clearly meet the idea of the

parking ratio element which is to prevent seeing a sea of automobiles with screening. A lot of product is necessary to operate, but the vehicles do not need to be in the public's view as motorists drive by. It is important to keep the inventory on the property.

- The residential neighbors behind his business would oppose a ramp.

Richard Stewart, 13910 Knollway Drive South, spoke on behalf of the residential neighbors. He stated that:

- The proposal would create a three-tiered ordinance which would be complicated.
- He opposed parking ramps. He would be greatly impacted.
- Dealerships have been taking responsibility for loading and unloading vehicles. The proposed ordinance may cause problems by "stirring the pot."
- Residents need more consideration. Delivery trucks knock down the fence behind Toys 'R Us every winter. Current ordinances should continue being enforced.
- A BMW dealership may not be the best use for the site.
- Changing an ordinance to allow a use to build, that is untested, provides a disservice to the process and residents would be hurt.
- He requested the residents receive more respect in regard to the proposed ordinance.

Mark Saliterman, owner of Wayzata Nissan, outlined his concerns in a letter. He stated that:

- The fact that there would be no ramp requirement in the ordinance is great, but effectively, by limiting the amount of parking stalls, it would force dealerships to build ramps which no one seems to support.
- His site's shared driveway would make it impossible for his dealership to comply with the landscape requirement. The entry runs so close to the property line. The driveway would have to be closed. He requested commissioners give his site consideration.

Chair Cheleen asked if the variance described on Page 6 could be used to address the landscaping for access issues. Gordon said that Item T of the

ordinance was added to address that issue specifically, understanding that there are practical difficulties with sites.

In response to Lehman's question, Gordon acknowledged that the size of the lot, parking ratio, and building size vary greatly. Based on the current ordinance, 20 percent seemed reasonable. More time could be spent considering another percentage. It would be helpful to know actual plans of the dealerships.

Lehman asked for a reaction to including the condition that if the inventory could be screened, then those parking stalls would not be included in the ratio. Gordon saw how it would make sense in regard to what the ordinance would try to accomplish by promoting a higher aesthetic quality. Gordon noted that each site has a different sized display area. Screening may also be reviewed during the site plan process that would not need to be so defined. After a trigger would be met, the site plan could be looked at to consider how parking is occurring and evaluate screening at that point.

Lehman questioned if the variance provision would be the saving grace. Gordon acknowledged each site's practical difficulties to adhere to the performance standards. Within the language of the ordinance, the city wants a good faith effort to get close to the standards. It may not always be practical to do that given different situations if a hardship is present.

No additional testimony was submitted and the hearing was closed.

In response to Schmitz' request, Gordon explained the history of the BMW proposal and proposed ordinance change. The amount of time spent working on the proposed ordinance has been fairly short. A number of performance standards in the zoning ordinance need to be brought up to current times. The ordinance would have to be approved prior to considering the actual proposal.

In response to Sjeklocha's question, Thomas understood that Sears ownership purchased property next to Sears' existing site several years ago and use the back half of the property, the building and parking area, for servicing of vehicles. That property was not included in the current ordinance's considerations because it is not being used for outdoor storage of vehicles.

Sjeklocha asked if staff had considered meeting with residents who reside adjacent to the dealerships. Gordon explained that an informational and feedback meeting was held June 24, 2008 to obtain initial concerns of the draft ordinance from the public. The public hearing is a great opportunity to obtain

residents' thoughts. It struck Sjeklocha that not only the dealerships create the aesthetic quality of the Interstate 394 Corridor, but also the residences.

Chair Cheleen was thinking along the same lines as Lehman. The 20 percent trigger for enlarging the building and purchasing property seemed acceptable.

Chair Cheleen asked how much hard surface coverage dealerships have now. Gordon provided that most dealerships currently have 90 percent or more hard surface coverage. The storm water management plan allows staff to look at innovative storm water solutions to provide infiltration by use of pervious pavers which look like they are hardscape, but have the function of infiltrating and treating water. It is an evolving practice that will take more familiarity and practice to get use to, but will happen over time. Chair Cheleen considered that replacing pavement with pervious pavers would make it more difficult to keep open emergency lanes and storage space. He favored a way to build in an expectation for dealing with runoff and increased screening.

Chair Cheleen liked the idea of limiting the number of vehicles in front of the building so it would be a more presentable project. He did not know if 1 stall for 150 square feet or site coverage requirement would be doable. Gordon agreed that the bar would be set high. The proposed performance standards would create a new level of expectation for operations on the site and how the site functions and presents itself. Each proposal would be considered on an individual basis and the variance available in situations with a hardship.

Schmitz echoed Cheleen. Expanding the building would decrease the number of parking stalls and could create parking problems for the area. Hard surface coverage would have to be decreased and landscaping added. She favored an incentive where if a business uses pervious pavers and other types of drainage or landscape improvements, then the business may be exempt from the requirement. She did not want the dealership punished for expanding. If the dealership is going to expand and impervious surface is used, then she favored eliminating the 1 stall for 150 square feet requirement or allowing more parking in the rear if it is an enclosed area. She did not want to discourage the improvement of buildings by decreasing the amount of parking stalls.

In response to Walker's question, Gordon explained that the graphic highlighted potential properties where a car dealership could locate and operate in red.

Blatz favored having more time to review the ordinance. She felt the 1 stall for 150 square feet was a strict requirement for the existing dealerships. She wanted that changed.

Chair Cheleen noted the deadline to move the proposal forward.

Lehman suggested that staff continue evaluating what they learned from the public and commissioners to present a proposal with those factors included for the July 28, 2008 city council meeting.

Chair Cheleen mentioned passing the application on to the city council without a recommendation because the commissioners have not had enough time and due to the multitude of situations involved. Issues were brought up regarding the 20 percent trigger, 70 percent site coverage requirement, number of vehicles parked per square foot, floor area ratio, buffering, making the ordinance as equal as possible for all districts including Overlay Districts 6 and 7, and making different-size businesses as equal as possible to prevent frequent use of a variance.

Gordon understood the schedule was not ideal. He summarized that primarily the existing dealer provisions are being questioned. Additional approaches include: making a motion regarding the new dealership ordinance changes; the planning commission continue considering provisions for existing businesses; or listing the considerations and passing them on to the city council.

Chair Cheleen suggested the proposal be reworked and address the issues prior to the city council meeting. The standards need to be feasible, realistic, far reaching, and able to improve the area at the same time.

Schmitz moved, second by Lehman, to recommend approval of the portion of the proposed ordinance regulating outdoor display standards for new dealerships as provided on pages A2-A8 of the staff report and additional information be provided to the city council regarding the following proposed existing dealership requirements: 1 stall to 150 square-feet of building; 70 percent hard surface; 20 percent trigger; lighting; and buffers.

Walker, Blatz, Lehman, Schmitz, Sjeklocha, and Cheleen voted yes. Adams was absent. Motion carried.

9. ADJOURNMENT

*Schmitz moved, second by Lehman, to adjourn the meeting at 10:17 p.m.
Motion carried unanimously.*

By:



Lois T. Mason
Planning Secretary