

**MINNETONKA  
PLANNING COMMISSION  
MINUTES**

**AUGUST 21, 2008**

**1. CALL TO ORDER**

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

**2. ROLL CALL**

Commissioners Sjeklocha, Walker, Adams, and Cheleen were present. Blatz and Lehman were 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 as submitted with modifications provided in the change memo dated August 21, 2008. Items requiring five votes, 7A, a front yard setback variance for the construction of a deck at 16500 Creekside Circle for Ernest and Christine Denzer, 8B, a side yard setback variance for a new attached garage at 11500 Park Ridge Drive West for Richard Nelson, and 8C, a side yard setback variance for a home addition at 4546 Aspenwood Trail for Treffle and Joanne Daniels, will be postponed until the September 4, 2008 planning commission meeting.

- 4. APPROVAL OF MINUTES:** August 7, 2008

*Sjeklocha moved, second by Adams, to approve the August 7, 2008, meeting minutes as submitted.*

*Sjeklocha, Walker, Adams, and Cheleen voted yes. Blatz and Lehman were absent. Motion carried.*

**5. REPORT FROM STAFF**

Gordon briefed the commission on land use applications considered by the city council at its meeting of August 11, 2008:

- Introduced an ordinance regarding items concerning Woolman Woods.
- Continued consideration of the 2030 Comprehensive Plan until the August 25, 2008 city council meeting to allow time for staff to clarify intent on a couple land use issues.

- Adopted a resolution denying the conditional use permit for an auto repair business at 12201 Minnetonka Boulevard (Old Time Auto). The business will be allowed up to six months to cease operations.
- Adopted a resolution approving a conditional use permit for a detached garage in excess of 1,000 square feet in size.
- Adopted a resolution approving key points of the tree protection ordinance. The ordinance will be reviewed in its entirety at the August 25, 2008 city council meeting.

**6. REPORT FROM PLANNING COMMISSION MEMBERS: None**

**7. PUBLIC HEARINGS: CONSENT AGENDA**

*Adams moved, second by Sjeklocha, to postpone review of items 7A, a front yard setback variance for the construction of a deck at 16500 Creekside Circle for Ernest and Christine Denzer, 8B, a side yard setback variance for a new attached garage at 11500 Park Ridge Drive West for Richard Nelson, and 8C, a side yard setback variance for a home addition at 4546 Aspenwood Trail for Treffle and Joanne Daniels, to the September 4, 2008 planning commission meeting.*

*Sjeklocha, Walker, Adams, and Cheleen voted yes. Blatz and Lehman were absent. Motion carried.*

*Sjeklocha moved, second by Adams, to approve Item 7B as listed on the consent agenda and recommended in the respective staff report as follows:*

**B. Minor amendment to an existing master development plan and site and building plan review for an addition to the building at 5501 Feltl Road for Wunderlich Properties. (95008.08a)**

Approve a minor amendment to the existing master development plan and final site and building plans for an addition to the building at 5501 Feltl Road. Approval is based on the finding that the proposal meets all required standards and ordinances. Approval is subject to the following conditions:

- 1) Subject to staff approval, the site must be developed and maintained in substantial conformance with the following plans, unless modified by the conditions below:
  - Site plan date-stamped July 29, 2008
  - Grading plan date-stamped August 4, 2008

- Floor plan date-stamped July 29, 2008
- Building elevations date-stamped July 29, 2008

The above plans are hereby adopted as the master development plan and as final site and building plans.

- 2) A grading permit is required. Unless authorized by appropriate staff, no site work may begin until a complete grading permit application has been submitted, reviewed by staff, and approved.
  - a. The following must be submitted for the grading permit to be considered complete.
    - (1) Final utility, grading, erosion control, drainage, and site plans as required by the city engineer must be submitted for staff review and approval. The city engineer will provide the developer with a formal memorandum outlining all items and details which must be provided on the submitted plans.
    - (2) Tree preservation plan showing trees to be removed and protected in areas where construction and grading are proposed. The infiltration basin and associated grading must be located and designed to minimize tree removal and impacts on the site.
    - (2) Individual letters of credit or cash escrow for 125% of a bid cost or 150% of an estimated cost to comply with grading permit, landscaping requirements, and to restore the site. The developer may submit one itemized letter of credit, if approved by staff. The city will not release or reduce the letters of credit or cash escrow until work has been completed according to the plans approved by the city.
    - (3) A construction management plan. The plan must be in a city approved format and must outline minimum site management practices and penalties for non-compliance.
  - b. Prior to issuance of a grading permit:
    - (1) Submit an electronic PDF copy of the plans and specifications.

- (2) Submit two full size and three 11x17 sets of construction drawings and three sets of project specifications.
  - (3) Submit all required administration and engineering fees.
  - (4) Submit a SWPPP.
  - (5) Stormwater runoff must be adequately controlled to prevent impacts to the adjacent steep slopes, subject to review and approval by the city engineer.
  - (6) Install a temporary rock driveway, erosion control, tree and wetland protection fencing for staff inspection. These items must be maintained throughout the course of construction.
  - (7) Permits may be required from other outside agencies including, but not limited to Hennepin County, the Nine Mile Creek Watershed District, and the MPCA. It is the applicant's and/or property owner's responsibility to obtain any necessary permits. Copies of all required permits must be submitted to the city.
- 3) Prior to issuance of a building permit:
- a. Submit the following items for staff review and approval:
    - (1) Revised building elevations including a combination of brick and CMU block to provide consistency with the existing building materials.
    - (2) A construction management plan. This plan must be in a city approved format and outline minimum site management practices and penalties for non-compliance. If the builder is the same entity doing grading work on the site, the construction management plan submitted at the time of grading permit may fulfill this requirement.
    - (3) A landscaping and tree mitigation plan. The plan must meet minimum landscaping and mitigation requirements as outlined in ordinance. Compensation must be provided for the landscaping to be removed, and additional landscaping must be installed equal to 2% of the project costs.

- (4) Cash escrow in an amount to be determined by city staff. This escrow must be accompanied by a document prepared by the city attorney and signed by the builder and property owner. Through this document the builder and property owner will acknowledge:
    - 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
    - If compliance is not achieved, the city will use any or all of the escrow dollars to correct any erosion and/or grading problems.
  - (5) Certified as-built drawings in mylar, PDF, and CAD formats.
  - (6) A letter of credit or cash escrow for 125% of a bid cost or 150% of an estimated cost of all required landscaping.
  - (7) An illumination plan for staff approval.
  - (8) All required hook-up fees.
- 4) The property owner is responsible for replacing any required landscaping that dies.
  - 5) All rooftop and ground-mounted mechanical equipment, and exterior trash and recycling storage areas, must be enclosed with materials compatible with the principal structure, subject to staff approval. Low profile, self-contained mechanical units that blend in with the building architecture are exempt from the screening requirement.
  - 6) Areas shown as proof-of-parking must not be constructed unless the city requires such construction based on an observed need for these parking stalls.
  - 7) Construction must begin by December 31, 2009, unless the planning commission grants a time extension.

***Sjeklocha, Walker, Adams, and Cheleen voted yes. Blatz and Lehman were absent. Motion carried and Item 7B on the consent agenda was approved as submitted.***

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. An ordinance regarding Woolman Woods at 18601, 18617 and 18651 Woolman Drive. (08029.08a)**

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.

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

***Adams moved, second by Sjeklocha, to recommend that the city council adopt a resolution approving the following items regarding Woolman Woods at 18601, 18617, and 18651 Woolman Drive:***

#### **REZONING FROM R-1 to PUD**

- 1) *Recommend that the city council adopt the ordinance on pages A28–A29 of the staff report, which approves the proposed rezoning from R-1, low-density residential, to PUD, planned unit development. This ordinance is based on the following findings:*
  - a. The rezoning would be consistent with the city's guide plan; and
  - b. The rezoning would be consistent with the public health, safety, and welfare.

#### **PRELIMINARY PLAT**

- 2) *Recommend that the city council give preliminary approval to WOOLMAN WOODS, date-stamped July 28, 2008. Approval is based on the following findings:*

- a. The proposal meets the required standards and ordinances for a preliminary plat.
- b. The proposal minimizes tree loss.

Approval is subject to the following conditions:

- a. Prior to final plat approval, complete the following:
  - (1) Show the following on the final plat:
    - (a) Full 100-foot right-of-way on both proposed cul-de-sacs.
    - (b) A minimum 10-foot wide drainage and utility easements adjacent to the public right-of-way(s) and minimum 7-foot wide drainage and utility easements along all other lot lines.
    - (c) A minimum 20-foot drainage and utility over all existing or proposed public utilities.
    - (d) Drainage and utility easements over the 928.1 elevation associated with the existing and created wetland on the north side of the site.
    - (e) Drainage and utility easements over 100-year elevations.
  - (2) Pay a park dedication fee of \$5,000 per newly created lot, for a total of \$30,000.00.
  - (3) If the developer is petitioning the city to construct the public improvements, the city council must order the improvements.
  - (4) Drainage and utility easements and maintenance agreements for the wetland, infiltration basins, and any other stormwater mitigation facilities.
  - (5) Existing right-of-way must be vacated in conjunction with final plat approval.

- (6) The wetland zoning overlay must be removed/rezoned from that part of the existing wetland filled to accommodate construction of a public roadway. Required first reading of an ordinance for this rezoning must take place prior to city action on the final plat.
  - (7) Rename "Timber Ridge Court".
- b. The following items must be submitted to the city before the city releases the final plat:
- (1) An engineering and administration fee.
  - (2) An electronic CAD file of the final plat in microstation or DXF.
  - (3) The following documents must be prepared by an attorney knowledgeable in the area of real estate and must be submitted for the city attorney's approval:
    - (a) Title evidence that is current within thirty days before release of the final plat.
    - (b) Conservation easements over wooded areas in substantial conformance with the preliminary utility/conservation easement plan, date-stamped July 28, 2008, and a drawing of the easements. The easement may allow:
      - (i) Removal of hazard, diseased, or invasive species.
      - (ii) Hand grading in those areas labeled as such on the preliminary utility/conservation easement plan, date-stamped July 28, 2008. No tree removal or root disturbance is allowed in conjunction with this hand grading.
      - (iii) Location of a monument sign, public utilities, including ponding areas, and creation of wetland mitigation area.

- (c) Conservation easement 25-feet upland of the edge of all delineated and created wetlands and a drawing of this easement.

The easements and drawings must be recorded with the final plat.

- (d) Documents establishing a homeowners' association. The association must be responsible for maintaining any common areas.
- (e) 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.
- (f) A development agreement in a form acceptable to the city attorney.

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. A grading permit is required. Unless authorized by appropriate staff, no site work may begin until a complete grading permit applicant has been submitted, reviewed by staff, and approved.

- (1) The following must be submitted for the grading permit to be considered complete.

- (a) Final street, utility, grading and drainage, site plan, and tree mitigation plans as required by the city engineer must be submitted for staff review and approval. The city engineer will provide the developer with a formal memorandum outlining all items and details which must be provided on the submitted plans. These include, but are not limited to:
  - (i) The site plan must include 25-foot wetland buffers upland from the delineated edge of all

existing and created wetlands. No grading is permitted in the required wetland buffers except as needed in areas of proposed wetland impact and mitigation.

- (ii) Detail regarding construction of the mitigated wetland.
  - (iii) A soils recommendation by a qualified soils engineer verifying that the Minimum Standard Street is adequate. The recommendation must be based on soil borings. Borings must include infiltration rates of site soils.
  - (iv) Retaining wall at wetland culvert under westerly cul-de-sac must be minimized with use of additional grading.
  - (v) All retaining walls must be field stone.
  - (vi) Storm sewer pipe must be directionally-drilled from the northerly to southerly ponding areas.
  - (vii) Watermain installed on the east side of the development must be directionally-drilled.
  - (viii) Pretreatment structures (grit chambers) are required.
- (b) A Stormwater Pollution Prevention Plan must be submitted for staff review and approval.
  - (c) Individual letters of credit or cash escrow for 125% of a bid cost or 150% of an estimated cost to comply with grading permit. The developer may submit one itemized letter of credit, if approved by staff. The city will not release or reduce the letters of credit or cash escrow until work has been completed according to the plans approved by the city.

- (d) If the developer is constructing any public improvements, the following must be submitted for staff review and approval:
    - (i) Final street and utility plans.
    - (ii) A signed agreement with the city. This agreement must guarantee that the developer will complete all public improvements and meet all city requirements.
    - (iii) A letter of credit or cash escrow in the amount of 125% of a bid cost or 150% of an estimated cost of the improvements.
    - (iv) The city will only reduce or release the letter of credit or cash escrow upon receipt of as-built drawings and a letter certifying that the streets and utilities have been completed according to the plans approved by the city.
  - (f) A construction management plan. The plan must be in a city approved format and must outline minimum site management practices and penalties for non-compliance. The management plan must be accompanied by a cash escrow, in the amount to be determined by city staff, and a waiver document prepared by the city attorney and signed by developer. Through this document the developer 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.
- (2) Ponding areas, public utilities, and associated grading and facilities must be located to maximize tree preservation. Staff may require adjustments in locations of these improvements in order to do so. Inch-for-inch mitigation is required for high-priority trees removed in conjunction with required ponding.

- (3) Prior to issuance of a grading permit:
  - (a) Install all measures in accordance with the SWPP for staff inspection. These items must be maintained throughout the course of construction.
  - (b) The final plat must be released by the city and filed with Hennepin County for recording.
  - (c) A copy of approved MPCA NPDES, MPCA sanitary sewer extension, and MN Department of Health watermain extension permits. The city engineer and natural resource manager may also require submission of approved permits from other regulatory bodies.
- (4) The stormwater ponding areas must be constructed prior to commencement of grading work and any public improvements. Upon project completion, all accumulated sediment must be removed. A certified as-built of the pond contours is required for final acceptance.
- d. Prior to issuance of a building permit for any of the lots within the development:
  - (1) Submit the following documents:
    - (a) A recorded copy of the rezoning ordinances.
    - (b) The preliminary plat, all required easements, and restrictive covenants.
    - (c) A letter from the surveyor stating that boundary and lot stakes have been installed as required by ordinance.
    - (d) A letter of credit or cash escrow in the amount of 150% of an estimated cost or 125% of a bid cost to complete required tree mitigation. Individual letters of credit are required for each lot.

- (e) Certified as-built drawings in mylar, PDF, and CAD formats.
  - (g) As-built topography survey for infiltration basins, mitigated wetland areas, and all utilities in CAD format.
- (2) For each building permit, submit the following items for staff review and approval:
- (a) A construction management plan. This plan must be in a city-approved format and outline minimum site management practices and penalties for non-compliance.
  - (b) Final grading, drainage, and tree preservation plan for the lot. The plan must:
    - (i) Comply with the preliminary grading plan as depicted on the preliminary plat.
    - (ii) Preserve trees designated for preservation at the time of preliminary plat approval;
    - (iii) Show sewer and water services to minimize impact to any significant trees. No trees may be removed for installation of services. One set of new services must be installed.
    - (vi) Staff may require adjustments in the location of the proposed house, driveway, grading and utilities to maximize tree preservation.
  - (c) A tree mitigation plan. Mitigation must be provided for trees removed beyond a 20-foot perimeter to the proposed building footprint, and a 10-foot perimeter of the proposed driveway. Inch-for-inch mitigation is required for Woodland Preservation Areas and High-Priority Trees removed outside of these perimeters and in all infiltration and ponding areas. Significant trees removed outside of these areas must be mitigated tree for tree.

- (d) 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 builder and property owner. Through this document the builder and property owner 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.
- (3) For each building permit, the following items must be completed:
  - (a) Schedule and hold a preconstruction meeting with engineering, planning, and natural resources staff.
  - (b) Proof of subdivision registration and transfer of NPDES permit.
  - (c) 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.
  - (d) Install heavy-duty fencing, which may include chain-link fencing, at the conservation easement. This fencing must be maintained throughout the course of construction.
  - (e) Pay a hookup fee for sanitary sewer and water.
- e. Notwithstanding the requirements outlined above, all lots and structures within the development are subject to the following:
  - (1) Minimum setbacks for principal structures:

	<b>MINIMUM SETBACK</b>
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<b>Front</b>	25-feet
<b>Side</b>	10-feet interior to PUD
	15 feet exterior to PUD
<b>Rear</b>	20% of lot depth or 40 feet, whichever is less

- (2) House type and location must be in substantial conformance with the preliminary grading plan date-stamped July 28, 2008.
- (3) Pool and/or other accessory structure location must be in substantial conformances with the preliminary grading plan date-stamped July 28, 2008.
- (4) Lot 9 must take driveway access from the easterly cul-de-sac.
- (5) Construction on Lots 1, 5, and 6 must incorporate techniques to mitigate for hardsurface runoff, subject to the approval of the city engineer.
- (6) Pools or other similar accessory structures may be built at the time of house construction if such structure is indicated on the preliminary grading plan, date-stamped July 28, 2008. Pools or other similar accessory structures may be built at the time of house construction if not shown on the preliminary grading plan, date-stamped July 28, 2008, if such structure would have no greater tree impact than that shown on the grading plan and if that structure is outside of the required conservation easement.
- (7) Minimum lowest floor elevation is 2 feet above the 100-year elevation as determined by the city engineer.
- (8) Maximum floor area ratio within the plat is 0.5. Individual lots may exceed this standard. However, the total floor area ratio of the subdivision may not.
- (9) Maximum hardsurface coverage is 50%. Individual lots may exceed this standard. However, the total hardsurface coverage of the plat may not.

- (10) All portions of first-story walls as measured by an approved route around the exterior of the house must be within 150 feet of the street. If access requirements cannot be met, the house must be protected with 13D automatic fire sprinklers.
- f. During construction, the streets must be kept free of debris and sediment.
- g. 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 ITEMS

- 3) *Recommend that the city council adopt the ordinance on pages A30–A32 of the staff report, which modifies the boundary of a Wetland Overlay District. This ordinance is based on the following findings:*
- a. The rezoning would be consistent with the purpose of the Wetlands Protection Ordinance.
- b. The rezoning would be consistent with the city's water resources management plan and the goals and policies of the city's comprehensive guide plan; and
- c. The rezoning would not negatively impact public health, safety, and welfare.
- d. Wetland area will be created compensatory to the amount filled.
- 4) *Recommend that the city council adopt the resolution on pages A33–A36 of the staff report, which approves:*
- *Wetland and Floodplain Alteration Permits for temporary impact to 2,987 square feet of an existing wetland.*
  - *Wetland setback variance from 25 feet to 0 feet for construction of a public street.*

This resolution is based on the following findings:

- a. The proposed public streets are with the general location of an existing driveway on the site.
- b. The proposed public streets have been located to minimize impact on the existing wetland and floodplain.
- c. The proposed area of fill is minimal at just 189 square-feet.
- b. Compensatory wetland and floodplain area in the amount of 500 square feet will be created.

Approval is subject to the following conditions:

- a. Prior to issuance of a grading permit:
  - (1) Document the existing conditions of the area of temporary impacts, as outline in the Wetland Conservation Act Rule 8425.0520 subpart 5, including ground elevations, contours, inlet dimensions, outlet dimensions, substrate, plant communities, and hydrologic regime.
  - (2) Obtain approval and comply with the requirements of the Wetland Conservation Act.
  - (3) Obtain approval from all other appropriate agencies.
  - (4) Submit 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
- b. Complete restoration of those areas proposed to have temporary wetland impact must be completed within six months of issuance of a grading permit.
- c. Wetland monitoring reports must be provided annually by the developer, for a period of five years or until the city accepts the mitigated wetland.
- d. The developer must submit a cash escrow or letter of credit in the amount to be determined by natural resource staff to ensure compliance with the wetland monitoring schedule.

***Sjeklocha, Walker, Adams, and Cheleen voted yes. Blatz and Lehman were absent. Motion carried.***

Chair Cheleen stated that the item is tentatively scheduled to be reviewed by the city council at its September 15, 2008 meeting.

**B. Side yard setback variance for a new attached garage at 11500 Park Ridge Drive West for Richard Nelson. (08034.08a)**

This item was postponed until the September 4, 2008 planning commission meeting.

**C. A side yard setback variance for a home addition at 4546 Aspenwood Trail for Treffle and Joanne Daniels. (08036.08a)**

This item was postponed until the September 4, 2008 planning commission meeting.

**9. ADJOURNMENT**

***Sjeklocha moved, second by Walker, to adjourn the meeting at 6:43 p.m. Motion carried unanimously.***

By: \_\_\_\_\_  
Lois T. Mason  
Planning Secretary