

**MINNETONKA PLANNING COMMISSION  
MINUTES**

**SEPTEMBER 18, 2008**

**1. CALL TO ORDER**

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

**2. ROLL CALL**

Commissioners Sjeklocha, A. Thomas, Walker, Adams, Blatz, Lehman, and Cheleen were present.

Staff members present: Community Development Director Julie Wischnack, City Planner Loren Gordon, Principal Planner Susan Thomas, Planner Josh Metzger, and Natural Resources Manager Jo Colleran.

**3. APPROVAL OF AGENDA:** The agenda was approved as submitted with additional comments provided in the change memo dated September 18, 2008.

Chair Cheleen welcomed Al Thomas to the commission.

**4. APPROVAL OF MINUTES:** September 4, 2008

*Lehman moved, second by Sjeklocha, to approve the September 4, 2008, meeting minutes as submitted.*

*Sjeklocha, A. Thomas, Walker, Adams, Blatz, Lehman, and Cheleen voted yes. Motion carried.*

**5. REPORT FROM STAFF**

Gordon briefed the commission on land use applications considered by the city council at its meeting of September 15, 2008:

- Adopted a resolution approving items concerning the Woolman Woods Addition.
- Adopted a resolution approving items concerning BMW Imported Autos in accordance with the planning commission's recommendation. The master development plan ordinance will be reviewed by the city council September 29, 2008.

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

**7. PUBLIC HEARINGS: CONSENT AGENDA:**

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

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

**A. Children's Health Care West is proposing changes to the wall signs on the building at 6050 Clearwater Drive. (89015.08a)**

Approve the sign plan amendment for Children's Health Care West at 6050 Clearwater Drive. Approval is based on the findings that the proposal would meet all ordinances and standards for sign plan review. Approval of the sign plan amendment is subject to the following conditions:

- 1) Subject to staff approval, the signs must be developed and maintained in substantial conformance with the following plans, unless modified by the conditions below:
  - Site plan date-stamped August 15, 2008
  - Sign plans date-stamped September 10, 2008
  - Building elevations date-stamped September 10, 2008
- 2) Sign permits are required for the new wall signs.
- 3) Any changes to the sign plans require an amendment to this approval.
- 4) Sign permits must be issued prior to December 31, 2009, unless the planning commission grants a time extension.

**B. Tim Dufault is requesting a front yard setback variance for the construction of a garage addition at 4732 Williston Road. (08044.08a)**

Adopt the resolution on pages A10–A12 of the staff report, which approves a front yard setback variance from 25 feet to 18.5 feet for the construction of a garage addition at 4732 Williston Road:

Approval is based on the following findings:

- 1) The proposal is reasonable and would meet the required standards for a variance, because:

- a. **UNIQUE CIRCUMSTANCE:** The subject property is a corner lot and is, therefore, required to meet two front yard setbacks. The property also fronts on a collector street which requires a 50-foot front yard setback. These are unique circumstances, as most R-1 properties are not corner lots and do not front on collector streets.
- b. **PRACTICAL DIFFICULTY:** The existing home was built in 1952, prior to the adoption of current setback regulations. Expansion of the existing garage would be very difficult without setback variances. This presents a practical difficulty.
- c. **UNDUE HARDSHIP:** Reasonable use of a residential property includes a two-stall garage. The size of a standard 2-stall garage is 576 square feet. The existing garage is 364 square feet in size. Therefore, the applicant does not have reasonable use of the property.
- d. **INTENT OF THE ORDINANCE:** With the proposed addition, the garage will measure approximately 420 square feet in size. The size of the proposed garage will not exceed that which is considered standard by city code. Therefore, the applicant's proposal meets the intent of the ordinance.
- e. **NEIGHBORHOOD CHARACTER:** Approximately 57 square-feet of the existing home is located within the required setback. With construction of the proposed addition, 74 square-feet the home will encroach into the required setback. Given the size of the encroachment, staff does not believe the proposal would alter the 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, 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) 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.

**C. Eric Winter is requesting multiple variances to construct a new home on the property at 2916 Beechwood Avenue. (86078.08a)**

Adams asked which maple tree would be removed. Colleran stated that the tree located back of the home would be removed. The tree is not structurally sound. Its removal is consistent with the new tree ordinance. It is located within the 20-foot perimeter of the structure. No mitigation would be required.

Adopt the resolution on pages A25–A27 of the staff report, which approves the following variances for a new home at 2916 Beechwood Avenue:

- Minimum lot area variance from 22,000 square feet to 17,962 square feet.
- Minimum lot width at right-of-way variance from 80 feet to 75 feet
- Minimum lot width at front yard setback variance from 110 feet to 77 feet
- Minimum aggregate side yard setback variance from 30 feet to 20 feet.

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 nonconformities of the existing lot. The substandard lot width provides a practical difficulty in complying with the aggregate side yard setback requirement.
  - b. **UNIQUE CIRCUMSTANCE:** The existing nonconformities of the lot are circumstances unique to the property that are not common to every single-family property.
  - c. **INTENT OF THE ORDINANCE:** A single-family home is a reasonable use of the property. The site is zoned for low density residential uses and has been previously developed and improved since 1916 with a single-family home.

- d. NEIGHBORHOOD CHARACTER: The proposal would not adversely impact the character of the neighborhood. The site was previously developed as a single-family home, and the new home would be setback similarly as surrounding properties.

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) 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.

***Sjeklocha, A. Thomas, Walker, Adams, Blatz, Lehman, and Cheleen voted yes. Motion carried and the items on the consent agenda were approved as submitted.***

## 8. PUBLIC HEARINGS

### **A. Sunrise Senior Living is proposing to construct additional parking stalls on the property at 18605 Old Excelsior Boulevard. (03069.08a)**

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

Gordon reported. He recommended approval of the application based on the findings and subject to the conditions listed in the staff report.

In response to Adams' question, Gordon pointed out the property line and location of the proposed parking stalls.

Walker requested Gordon explain the dramatic change in grading adjacent to the TSP property. Gordon noted that the sidewalk would be modified slightly. A slide showed the sidewalk which would be shifted back, toward the building. Gordon

identified where the proposed stalls would be located. The Sunrise parking area would have a slope. The most dramatic shift in topography would occur on the west, where it would be minimally impacted.

A. Thomas asked why Old Excelsior Boulevard did not have “no parking” signs if there is a problem with parking. Gordon stated that the police department has not received a complaint regarding parking along Old Excelsior Boulevard in three and a half years. Only during construction had complaints been received.

A. Thomas recalled that there may have been an issue with staff parking on the grass. He felt it was an ongoing problem. Adding a condition requiring “no parking” signs should be considered. Chair Cheleen stated that a condition could be added to require “no parking” signs.

Gordon agreed that a condition requiring “no parking” signs could be added. Staff could confer with police department and public works staff to see if it would be feasible. A softer recommendation would be to direct staff to look into the possibility. Gordon did not recall why the “no parking” signs were removed.

Chair Cheleen asked if leaving some of the bushes or moving them slightly to the left or to the west would be feasible. Gordon agreed there would be enough room. It would be a fairly simple alteration.

Cheryl Levy-Shilkrot, 18605 Old Excelsior Boulevard, executive director of Sunrise Senior Living, thanked everyone. She had received tremendous support from staff. Gordon did an awesome job explaining everything. She stated that:

- Staff does not park on the street. The vehicle would be towed. There is a fire hydrant there also.
- She did not mind the addition of “no parking” signs.
- Her mission and the vision of Sunrise Senior Living is to champion the quality of life for seniors.
- The facility is at full capacity. There are more care managers than originally anticipated.
- TSP has a tremendous amount of parking and does not use the west parking area. Sunrise Senior Living rents 10 spaces on the west side from TSP.
- Sunrise would use off-site parking for big events, but there is no place for entertainers or visitors to park.
- She pleaded for approval of the application.

Chair Cheleen passes the site every day and has noticed the Sunrise buses in the TSP parking lot. Ms. Levy-Shilkrot stated that TSP is fine with Sunrise visitors using their parking area on late Saturday and all day Sunday, so Sunrise plans events around its availability.

Chair Cheleen asked for assurance that landscaping and a retaining wall would be done for the two stalls on the west.

John Dietrich, RLK Incorporated, 6110 Blue Circle Drive, represents Sunrise Senior Living. He agreed with all of the conditions of approval. He stated that the slope of the two parking stalls would be four percent. It would not be a problem.

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

A. Thomas directed staff to monitor parking on Old Excelsior Boulevard and if it is determined necessary, then have "no parking" signs installed.

***Adams moved, second by Lehman, to approve a minor amendment to the existing master development plan and final site and building plans for a parking lot expansion at 18605 Old Excelsior Boulevard. Approval includes the following variances:***

- 1) *Parking setback variance from 20 feet to 5 feet from the west property line.*
- 2) *Parking setback variance from 20 feet to 6 feet from the north property line.*

Approval is based on the following findings:

- 1) The proposal would meet all ordinances and standards for a site and building plan approval.
- 2) The proposal would meet the required standards for a variance, because:
  - a. **UNDUE HARDSHIP:** There is an undue hardship due to the small size of the lot, the narrow depth, and pie shape of the lot. These site constraints were recognized during the original approval of the project.

- b. UNIQUE CIRCUMSTANCE: The characteristics of the lot are circumstances not common to every similarly-situated property.
- c. NEIGHBORHOOD CHARACTER: The variances would not adversely impact the character of the neighborhood. The parking stalls would not impact access and site circulation, and the stalls on the east side of the lot would be screened from surrounding properties.

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 August 1, 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.
      - (a) The final site plan must remove the three parking stalls located along the access drive. The plan must include four additional stalls on the north side of the eastern parking lot.
    - (2) A landscaping and tree mitigation plan. The plan must meet minimum landscaping and mitigation requirements as outlined in the ordinance. Any landscaping that is impacted by the proposal must be mitigated in a location approved by

city staff. Landscaping required for the original site improvements as shown on the approved landscape plan dated June 18, 2004 and approved tree mitigation plan dated June 9, 2005, that has died, is in poor condition, or absent must be replaced.

- (3) 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.
- (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) 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) 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.
  - (6) Permits may be required from other outside agencies including, but not limited to Hennepin County, the Riley Purgatory Bluff 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.
  - (7) Certified as-built drawings in mylar, PDF, and CAD formats.
- 3) The property owner is responsible for replacing any required landscaping that dies.
  - 4) 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.
  - 5) Construction must begin by December 31, 2009, unless the planning commission grants a time extension.

***Sjeklocha, A. Thomas, Walker, Adams, Blatz, Lehman, and Cheleen voted yes. 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.

**B. Dragon Jade is requesting a conditional use permit for an outdoor seating area. (08045.08a)**

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

S. Thomas reported. She recommended approval of the application based on the findings and subject to the conditions listed in the staff report.

Adams asked if Dragon Jade has a liquor license. S. Thomas stated that an application for a liquor license has been applied for and will be reviewed by the city council.

Walker asked if the patio garden needs to have an exit in case of an emergency. S. Thomas responded affirmatively. She explained that the fire marshal will review the application. The outdoor area would be required to be fully enclosed in cases where alcohol is allowed. There is a self-locking gate which would allow for exit in case of an emergency.

Sjeklocha asked if the setback variance needs to be approved prior to the proposal being built. S. Thomas explained that the setback requirement is from an area guided for residential use, not its present use.

In response to Sjeklocha's question, S. Thomas explained the language regarding the city council having the authority to add or modify conditions to address future, unforeseen problems.

Blatz asked for the distance between the property line and condominiums. S. Thomas estimated 80 feet from the property line, across the parking lot and patio area to the nearest condominium.

Blatz asked if the two other mixed use properties in the city had residential and commercial uses next to each other and, if so, what the distance is between them. S. Thomas responded that the Westridge Plaza area is bordered by a townhouse development. The Exchange building has a commercial use located directly below residential housing.

Blatz noted an error in a condition which required the outdoor seating area to exceed 415 square feet. S. Thomas agreed that the condition should restrict the patio from exceeding 415 square feet.

A. Thomas asked if "regularly" needs to be defined. S. Thomas explained that the ordinance is vague and requires litter pickup to be done periodically. The commission may amend the condition.

Walker asked if a semi-private screen may be required for the north side of the terrace. It would help reduce noise transmission. S. Thomas agreed that could be added. The proposal includes plantings on the north side of the building.

The applicant was present to answer questions.

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

***Walker moved, second by Thomas, to recommend that the city council adopt the resolution on pages A10–A16 of the staff report with conditions that require visual screening a minimum of eight feet in height and the width of the north outdoor seating area; site clean-up of trash collection be done daily; and correction of 2A to read “Not exceed . . .” This resolution approves a conditional use permit for an outdoor seating area at 14432 Excelsior Boulevard. Approval includes the following variance:***

- *Residential setback variance from 200 feet to 10 feet.*

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:** The discrepancy between the approved mixed use, commercial and residential, of the Glen Haven Center site and the required setback between these uses presents a practical difficulty.
  - b. **UNIQUE CIRCUMSTANCE:** The combination of commercial and residential uses at the Glen Haven Center site is found in only two other PUD developments within the city. As such, this circumstance is unique.
  - c. **NEIGHBORHOOD CHARACTER:** Glen Haven Center is an existing commercial area. The addition of an outdoor seating area would not negatively impact this commercial character.

Approval is subject to the following conditions:

- 1) Prior to issuance of a building permit:
  - a. The applicant must agree to these conditions in writing.
  - b. This resolution must be recorded with Hennepin County and a copy of the recorded resolution returned to the city.

- 2) The outdoor seating area must:
  - a. Not exceed 415 square feet in total size.
  - b. Be located in general conformance with the proposed site plan date stamped August 13, 2008.
  - c. Be surrounded by a decorative metal fence, subject to staff approval.
  - d. Be equipped with refuse containers and patrolled daily for litter pick-up.
  - e. Provide visual screening a minimum of eight feet in height and the width of the north side of the outdoor seating area.
- 3) Speakers or audio equipment which is audible from adjacent parcels is not permitted.
- 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) A violation of the conditions of this conditional use permit may render the permit null and void.

***Sjeklocha, A. Thomas, Walker, Adams, Blatz, Lehman, and Cheleen voted yes. Motion carried.***

The city council is tentatively scheduled to review the item at its October 13, 2008 meeting.

9. ADJOURNMENT

*Sjeklocha moved, second by Thomas, to adjourn the meeting at 7:25 p.m.  
Motion carried unanimously.*

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