

**MINNETONKA PLANNING COMMISSION  
MINUTES**

**OCTOBER 2, 2008**

**1. CALL TO ORDER**

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

**2. ROLL CALL**

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

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

**3. APPROVAL OF AGENDA:** The agenda was approved as submitted.

**4. APPROVAL OF MINUTES:** September 18, 2008

*Lehman moved, second by Adams, to approve the September 18, 2008, meeting minutes as submitted.*

*A. Thomas, Walker, Adams, Blatz, Lehman, Sjeklocha, 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 29, 2008:

- Adopted an ordinance approving the master development plan for BMW.
- Approved the Woolman Woods final plat at 18601 and 18617 Woolman Drive.
- Introduced the ordinance for Eddie Merlot's Restaurant.

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

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

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

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

**A. Setback variance for a screen porch addition at 5430 Tracy Lynn Terrace. (08030.08a)**

Adopt the resolution on pages A9-A11 of the staff report, which approves the proposed aggregate side yard setback variance from 30 feet to 25 feet at 5430 Tracy Lynn Terrace. 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 shape and width of the lot.
  - b. **UNIQUE CIRCUMSTANCE:** The existing nonconforming lot width is a circumstance that is not common to every similarly-situated property.
  - d. **NEIGHBORHOOD CHARACTER:** The proposed addition would not negatively impact the character of the existing residential neighborhood. The porch would not extend closer to the property line than the existing deck, and it would not be highly visible from 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.

**B. Setback variance for a garage addition at 4142 Tonkawood Road. (08046.08a)**

Adopt the resolution on pages A9-A12 of the staff report, which approves the following variances for a garage addition at 4142 Tonkawood Road:

- Minimum side yard setback variance from 10 feet to 7 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 a hardship due to the existing conditions of the site. Given the location of the house on the lot, a reasonably-sized two car garage could not be constructed on the south side of the home without the need for side yard setback variance.
  - b. **UNIQUE CIRCUMSTANCE:** The location of the house and the existing undersized garage are circumstances that are not common to every property.
  - c. **INTENT OF THE ORDINANCE:** A two-car garage is a reasonable use of the property.
  - d. **NEIGHBORHOOD CHARACTER:** The garage would not adversely impact the character of the surrounding neighborhood. The garage addition would be architecturally compatible with the house, and would maintain building lines in the area.

Approval is subject to the following conditions:

- 1) Prior to issuance of a building permit:
  - a. The site must be developed in conformance with the building plans date-stamped August 25, 2008. The plans must be revised to

reduce the garage width such that the addition would not encroach into the 7-foot drainage and utility easement along the south property line.

- b. A copy of this resolution must be recorded with the County and a copy of the recorded document returned to the city.
  - 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) 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.

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

**8. PUBLIC HEARINGS:** None

**9. OTHER BUSINESS**

Presentation by Barr Engineering regarding the city wide impervious surface analysis study.

Gordon explained that the study will overview impervious surface coverage in Minnetonka over the past couple decades to provide an understanding of how it relates to storm water facilities, ramifications of increased impervious surface, and what that means in regard to planning and engineering storm water management. The study covered a broad area. The city council reviewed the need to update environmental protection ordinances. Over the next couple of months, topics to be reviewed include impervious surface, steep slopes, grading, and erosion control. Impervious surface ordinance standards may be revised and possibly added to single family residence district standards.

Gordon reviewed the impervious surface allowable ranges for each zoning district. Staff requested discussion and feedback from commission members to help construct a new ordinance.

Bob Obermeyer of Barr Engineering walked through the presentation provided in the staff report.

Adams asked if the quality of the runoff had been monitored since 1988. Mr. Obermeyer said that had not been done as part of this study, but it was done as part of the city's nondegradation plan.

Adams asked if the ban on phosphorus fertilizer has made an impact on water quality. Janet Kiefer of Barr Engineering explained that phosphorus content was tested in 1988 and 2007. Use of best management practices prevented an increase in the phosphorus level.

In response to Adams' question, Ms. Kiefer explained that the dark column represented pollutant generated in storm water if there had been no best management practices. The numbers were based on looking at the different land uses and certain assumptions were made for each land use based on the amount of runoff and pollutant concentration. The data is not actual monitored data.

A. Thomas asked for the average percent of the impervious surface from the landsat imagery in 1988. Mr. Obermeyer stated that land use was looked at from a 2000 stand point. The 1988 standard deals with nondegradation. A. Thomas asked if the 1988 standards deal with imperviousness. Mr. Obermeyer clarified that the 1988 standards deal with imperviousness from a land use stand point. A. Thomas wanted to understand the 1988 standards to know what standard the city is trying to reach.

Ms. Kiefer explained that the table shows land use from 1988 to 2007. It shows an increase in commercial development and decrease in open space and undeveloped land. The volume, associated with the increased land uses, would increase.

A. Thomas asked what standard the city is trying to achieve. Mr. Obermeyer explained that, based on runoff generated from land use categories dealing with volume, total suspended solids, and phosphorus literature shows that certain amounts of pollutant loading will come from those land uses. He explained the calculations and comparison process. A. Thomas would appreciate a chart showing those standards. Ms. Kiefer reviewed charts that illustrate phosphorus content and volume. The nondegradation report provided figures for each land use category. A. Thomas was satisfied with those figures.

Adams confirmed with Ms. Kiefer that the data was derived through calculations, not measurement.

Gordon explained that the study uses two types of data. The data from 1988 and landsat data from an impervious surface stand point. Reaching the load amount is more scientific. The data has different collection dates so there is some work needed to determine which is more relevant for the proposed ordinance.

Sjeklocha asked why 1988 was chosen. Ms. Kiefer stated that 1988 was chosen by the Minnesota Pollution Control Agency as part of the Clean Water Act and believed it was related to when the nondegradation rule went into effect. Mr. Obermeyer added that 1988 was the year that permits were issued to states. Mr. Obermeyer stated that as development and redevelopment continues throughout the city during future years and imperviousness, volume, and pollutant loading increases it is important to remember that the city is mandated by federal law and state law to maintain 1988 standards. The Nine Mile Creek Watershed District already adopted rules that require one inch of abstraction of runoff from impermeable areas. Infiltration facilities, underground perforated pipes under parking lots, and storage tanks will be used to meet the criteria.

Sjeklocha asked if there are other accepted methods to measure imperviousness and, if so, what are the pros and cons of those methods. Mr. Obermeyer stated that Minnesota is in the forefront by using satellite imagery and coming up with the information. The only other way to do it would be to look at each site individually. Minnesota is ahead of the game by utilizing technology.

Wischnack was unaware of any other place in Minnesota doing a similar analysis, but predicted it would become common. The implementation phase of the ordinance goes to the survey accurate level of information rather than using overall landsat maps which have a certain level of error. A project would have survey-accurate data and would be able to tell distinctly what the imperviousness is on a site.

Sjeklocha asked if the location of a particular land use makes a difference in terms of pollutants or volume. Mr. Obermeyer answered affirmatively. He provided the example of a one-acre lot and a swimming pool located next to a residence with 500 feet of backyard area that could be used for infiltration compared to allowing a pool 5 feet away from a creek or wetland area. Certain land use situations would be better than others.

Sjeklocha asked if variances have been granted for imperviousness in the last few years and, if so, for what type of land uses. Wischnack stated that

impervious surface variances have been considered in the past. She recalled residential examples which were located in a shoreland district, commercial projects, and planned unit developments. Incrementally, the variances add up. There needs to be a regulation in place to safeguard against problems in the future. She knew of commercial projects and a redevelopment project where pavement was already excessive on the sites. Variances to the impervious surface were allowed, but resulted in decreasing the amount of impervious surface. All situations have different influences. The closer a site is located to water, more of a restriction may be warranted.

Adams asked what other municipalities are doing to regulate imperviousness. Gordon stated that it is very common for communities with high resource values, such as Minnetonka, with wetlands, lakes, and creeks, to have standards for all land uses. It is common to have some type of regulation that is consistent with the development patterns of the city. Minnetonka's lots are on the large end for a single family lot size. Excelsior has more small lots and would have more hard cover. Minnetonka is in good shape in terms of its percent of impervious coverage. The question is where the bar should be set.

Wischnack added that redevelopment includes residential areas. Continuous subdividing of large lots creates incremental changes that need to be considered especially in relation to water quality.

Adams realized that other municipalities regulate imperviousness. He asked if it extended to residential districts. Gordon answered affirmatively. Adams understood Minnetonka's standard to be 100 percent impervious if located outside of shoreland boundaries. Gordon agreed. It is important to set a bar to make sure Minnesota Pollution Control Agency (MPCA) standards are met and to prevent contributing adversely to flooding.

Lehman asked what thoughts or actions are needed to reach the 1988 goal. Ms. Kiefer saw the biggest challenge for Minnetonka to be volume. The city has been progressive in creating storm water ponds and regulations have been in place since the mid-1990s to mitigate for the pollutants, phosphorus, and solids, but volume will be a challenge. The plan submitted to the MPCA proposed one inch of rainfall infiltration standard for development or redevelopment. The proposal predicts that implementation of the standards will get the city to 14,637 which would not quite reach 1988 levels. The MPCA has not given the city feedback yet as to whether the proposal would be sufficient or not.

Lehman asked where the city needs to be in terms of impervious land cover to reach the 1988 goal. Ms. Kiefer stated that decreasing imperviousness and/or

utilizing best management practices will help reach the 1988 goal. She could look at calculating the 1988 goal. Mr. Obermeyer added that a medium residential lot in Minnetonka may have up to 14 percent imperviousness. From a design stand point, that is on the low side. The city is doing well there. To ask a property owner to lower the imperviousness to 10 percent would push the envelope. He was talking to engineers and developers to come up with innovative ways to deal with volume reduction. Vegetation management is another way to reduce volume. The city's total amount of imperviousness is fine right now, but it should not be increased.

Lehman asked how not allowing the amount of impervious surface to increase would be achieved by an ordinance and what would be the action taken to get to the 1988 level. Gordon stated that consideration is needed when planning commissioners look at MPCA requirements, the benchmark, and plan where the city will be in 20 years. The engineering way of addressing problems includes utilizing storm water ponds, infiltration, and creating means to decrease the loads. The land use perspective also needs to help reduce impervious surfaces.

Wischnack did not see the intention to be regulating a certain percentage. The intent is not to penalize property owners who have impervious surfaces, but to provide a ceiling so that problems will be prevented. It is hard to pick a number.

Walker asked how slopes would be factored into the process. Mr. Obermeyer stated that slopes would be factored into engineering calculations since steep grades have more water runoff than flat areas.

Walker questioned how the issue could be included in the comprehensive guide plan update and what impact it would have on density. Wischnack responded that the proposed 2030 comprehensive guide plan includes a water resources plan that identifies a whole new storm water plan. The density proposed in the land use plan is reflected in the management plan. The maximum amount of density expected is taken into account. A range and maximum amount of impervious surface is used.

Walker asked if super dense areas such as Ridgedale and Opus are contrary to the proposal. Wischnack stated that the plan expects more development. The proposal hopes to manage the development location, type, and how it is done. Ridgedale is approximately 97.5 percent impervious surface. When there is a redevelopment opportunity, the floor area ratio will be high compared to other developments. The improvement of the storm water management system to the entire site will be phenomenal. The storm water pond on the north is nothing special. Any improvement is better than what is being done right now. A

redevelopment project allows the dollars needed for the infrastructure to be improved. Lehman stated that the developer bears the cost of revitalizing the system. Wischnack concurred. Redevelopments can be complicated because they flow into another system. The General Mills Credit Union had an underground storage tank. Even though it had large water shed, some complicated methods were utilized to meet the storm water runoff requirements.

Walker did not see much of a difference between 1986 and 2002 as presented in figure 2.3. Wischnack pointed out the change. Watersheds take care of cross jurisdictional areas.

Chair Cheleen asked if residential property would be a major focus. He thought of a couple properties that use rain gardens and holding tanks in commercial areas. The ordinance will need to be specific. Gordon explained that the surface water management plan assumes the amount of imperviousness on the site. The current practice is to help with the engineer's solution. Determining what that might be is the issue. If land is developed without controls, then hardcover can add up over time and contribute to changes in assumed conditions. Infiltration ponds are being required today. Expectations are needed for each land use category.

Chair Cheleen recognized the need for the proposed ordinance to work toward lowering total amounts of impervious surface and improving water quality.

Wischnack provided that Minnetonka consists of 7,600 net acres of low density residential development. Medium density consists of 257 net acres.

Chair Cheleen asked if commissioners had provided staff with enough direction. Wischnack noted commissioners requested more clarity regarding degradation plans and how it fits into the scheme of things with impervious surface. Any maximums should be fair and appropriate and not too onerous on property owners. Gordon took from the meeting that location and individual situations vary the regulations regarding impervious surface. More than just the zoning category needs to be considered.

Chair Cheleen asked if it would be feasible to create data that could be used for a certain percentage of impervious coverage based on the size of the lot. A large house on an acre lot would need a different amount of storm water treatment than a small house on a small lot. It depends on the conditions.

Wischnack provided an example of a property owner who was slightly over the allowed amount of impervious surface and questioned if some type of storm

water treatment mitigation could offset the additional impervious surface. The point is to get to a better end result. Wischnack asked if commissioners preferred a qualitative review rather than a strict number. Chair Cheleen favored a little of both.

Lehman understood that a straight forward number may not be the best regulation. Reducing the runoff numbers is the priority. Utilizing a calculation similar to the mcmansion policy which considers each property's floor area ratio and applies its appropriateness with the surrounding neighborhood may be best. His idea was to consider the impervious land cover on the lot and definitely not let it increase. The goal may be to work toward an objective rather than a number.

Sjeklocha stated that a comparison of land uses in terms of impact might be an important feature. She asked how a residential regulation would compare to other land designations, would it be incidental or significant. Actual examples would be helpful. She questioned how often the success of the ordinance would be measured and what it would cost to figure that out. Wischnack asked if Sjeklocha referred to site by site analysis. Sjeklocha meant the impact on each land use designation, if it is incremental or significant. Wischnack understood.

Blatz favored mitigation to decrease imperviousness and increase use of best practices. A tax credit for commercial benefit may be used as an incentive for decreased imperviousness and use of best practices.

## 10. ADJOURNMENT

***Blatz moved, second by Lehman, to adjourn the meeting at 8:00 p.m.  
Motion carried unanimously.***

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