

**MINNETONKA PLANNING COMMISSION  
MINUTES**

**MARCH 19, 2009**

**1. CALL TO ORDER**

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

**2. ROLL CALL**

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

Staff members present: Community Development Director Julie Wischnack, City Planner Loren Gordon, Principal Planner Susan Thomas, Planner Jeff Thomson, Planning Technician Stephanie Scott Sims, and Community Development Supervisor Elise Durbin.

**3. APPROVAL OF AGENDA:** The agenda was approved as submitted with additions provided in the change memo dated March 19, 2009.

**4. APPROVAL OF MINUTES:** March 5, 2009

***Sjeklocha moved, second by Lehman, to approve the March 5, 2009 meeting minutes as submitted with the following changes:***

Page 20:     “~~Lehman~~ A. Thomas asked if he understood . . .”

Page 21:     “~~Lehman~~ A. Thomas asked for the traffic study results.”

***Lehman, Sjeklocha, Adams, and Cheleen voted yes. A. Thomas, Walker, and Blatz 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 March 9, 2009:

- Adopted a resolution approving a conditional use permit for Jimmy John’s restaurant at 14100 Wayzata Boulevard.
- Introduced an ordinance amending architectural material standards in the I-394 zoning district and referred it to the planning commission.

- Postponed action regarding preliminary and final plat approval regarding Hopaca Hollow, located at 4404 and 4412 Wilson Street, and directed the developer to return with a 4-lot plan with modifications to increase the amount of woodland preservation area on the site.
- Postponed action regarding items concerning TERRATONKA, an 8-lot subdivision of existing properties at 3100 Forest Lane and 3218 and 3200 Eldorado Trail West and directed the developer to work with staff and bring back a plan that would provide up to 7 lots and increase the amount of woodland preservation area of the site to 65 - 70 percent.

Gordon informed those present of 2 upcoming meetings. The EDA will be meeting March 30, 2009 to review the Opportunity City Pilot Program in the Boards and Commissions room at 6:45 p.m. A meeting is scheduled on April 14, 2009 to discuss a study being performed regarding the Minnetonka Mills area at the ICA food shelf building at 6 p.m.

Gordon noted that items included on the agenda of the planning commission's April 2, 2009 meeting are regarding Glen Lake Dairy Queen improvements, adding antennas to the Welsh Building on Baker Road for AT&T, and a conditional use permit for the Holland Center on Roland and Bren Road.

**6. REPORT FROM PLANNING COMMISSION MEMBERS**

Adams drove by the park and ride ramp at Interstate 394 and County Road 73 and saw a crane hoisting panels into place to finally complete the 3-year project.

**7. PUBLIC HEARINGS: CONSENT AGENDA: None**

**8. PUBLIC HEARINGS**

**A. Ordinance amending architectural material standards in the planned I-394 zoning district (09001.09a)**

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 how the conditions would be enforced. S. Thomas responded that the planning process and building permit process would provide opportunities for staff to determine compliance.

Sjeklocha asked if it is accurate that the architectural-grade metal panels and stucco systems would be added. S. Thomas agreed. She explained that those materials are being utilized more often and the city council has approved the use of them with variances over the last few years. Staff believes that the ordinance, as drafted in the late 1980s prohibited the use of metal with the intent to prevent pole barns made from metal sheets. Gordon added that the material has been improved and is much better now.

In response to Lehman's question, S. Thomas stated that the proposal strives to require a certain level of quality material and consistency in the Interstate 394 corridor.

Lehman asked if there would be enough definitiveness in the ordinance for staff to interpret its intent easily. S. Thomas assured him that staff is comfortable with the language. She provided the BMW application as an example. The ordinance would provide guidance. The developer would be contacted if more detail would be needed.

Chair Cheleen confirmed with S. Thomas that the part of the ordinance that relates to existing buildings would not apply. S. Thomas agreed with his understanding, but explained that if an existing building requested an expansion the building materials throughout the building would be required to be complimentary.

Chair Cheleen asked if the city attorney, Desyl Peterson, reviewed the proposal. S. Thomas answered that Ms. Peterson had reviewed the first draft and would review this draft prior to the council meeting.

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

***Adams moved, second by Lehman, to recommend the city council adopt the ordinance on pages A1-A2 of the staff report.***

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

**B. Items pertaining to an Existing Development Plan for Sears Imported Autos located at 13500/13502 Wayzata Boulevard (86145.08a)**

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.

Lehman asked S. Thomas to educate him regarding the residential properties being owned by a non-residential entity. S. Thomas responded that there is no restriction for a commercial property owner from purchasing residential properties as long as those residential properties continue to be used as residential properties. Sears rents the houses as living space.

Lehman noted the distinction to be the use of the land rather than the ownership of the property. S. Thomas agreed.

Lehman asked if the fence would create an artificial definition of change in the property line or break between commercial and residential uses. S. Thomas explained the zoning designations for commercial and residential uses. The fence appears to be a boundary between the commercial use and residential uses. A property owner may put a fence anywhere on one's property. Gordon noted that the fence is not a concern to staff. The concern is vehicles being parked between the fence and the south property line. An encroachment of the commercial use on the residential properties is prohibited.

In response to Lehman's question, S. Thomas explained that staff felt the current landscaping on the commercial property does not provide a proper buffer or screen which is required by ordinance.

Sjeklocha and S. Thomas noted that the square footage in the report needs to be recalculated.

Sjeklocha asked what plantings the 1996 master development plan requires. S. Thomas reviewed the 1996 master development plan. There were 33 trees at the time of approval and the applicant is required to replace the lost trees.

In response to Sjeklocha's request, S. Thomas pointed out the west boundary line.

Sjeklocha asked what SWPPP stands for. S. Thomas responded, "storm water pollution prevention plan." It basically deals with erosion control and inlet protection.

Sjeklocha asked how staff enforces the condition requiring the applicant to obtain a watershed district permit before a grading permit is issued. S. Thomas explained that when a building permit is issued, staff reviews it to see if one of three items is present before it issues the building permit: copy of a watershed district permit, letter from the watershed district stating that a permit is not required, or commentary from the city engineer stating that no watershed district permit is required.

Sjeklocha asked if the fence could have a gate. S. Thomas stated that a gate to provide pedestrian access would be allowed, but not one large enough to allow a vehicle to drive through.

S. Thomas agreed with Sjeklocha that a retaining wall would be needed to maintain the berm and save parking space. The planning commission could make the retaining wall a condition of approval.

Sjeklocha asked if the proposal would impact Ridgedale Center. S. Thomas answered in the negative.

In response to Sjeklocha's question, S. Thomas explained that the bullet points relate to the outdoor storage ordinance for information only. The requirements currently relate to new development only.

Chair Cheleen noted that the residential area behind Sears Imported Autos has been guided R-3, rather than R-1, as it is now. He agreed with requiring compliance to the 1996 landscape plan and including a fence or wall along the property line to preclude using the residential land for vehicle parking. Gordon clarified that the comprehensive guide plan guided the area medium density. At some point, rezoning to R-3 could be considered. It is not often that commercial properties encroach into residential areas. A buffer is required. Chair Cheleen and Gordon agreed that any future request would have to stand on its own merit. In order to be in compliance with the R-3 zoning, the property line needs to be delineated now.

Peter Beck, on behalf of the applicant, was present to answer questions. Staff presented the application well. He agreed with all of the conditions in the staff report. He acknowledged that vehicles have been parked in the residential area. It has not been going on for years. It was a unique situation that occurred over 45

days to 60 days. The BMW dealership has been sold and is relocating. The inventory level has dropped and more off-site storage for vehicles has been secured. It would not happen again.

Mr. Beck was agreeable to constructing a fence at the property line. The preference would be to put the buffering where the current fence is because it would be easier to maintain it. Keeping landscaping alive on the hill has been difficult. He requested the landscaping be located closer to the existing fence in order to have a better chance of keeping it alive and providing a nice, screen buffer. The area would be open for employee use at lunch or break time. A pedestrian gate would be beneficial in the fence to allow employees to walk from the residences to work. The removal of the BMW business is predicted to result in a 30 percent decrease in business on the site. The plan is to hold onto the residential properties to see what happens.

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

Lehman was troubled that the adjacent property owner was not the one requesting the buffer. Gordon responded that the ordinance requires the residential properties to have some relief from the commercial use. The expectation should be aligned with the needs of a residential property owner, not the owner of the commercial use. The fence needs to be moved back to the property line so it would meet the expectation of residents living in the area.

Lehman was still "troubled by a solution that has not been asked for by the impacted party." He has not heard or seen in the materials the creation of the barrier at the property line as being asked for by the residential neighborhood. Gordon stated that staff is simply trying to get back to what was approved in 1996. It required a landscape berm and provided provisions for a fence to separate commercial and residential properties. The city must implement what the ordinance and comprehensive guide plan require.

Lehman was not completely comfortable yet, but understood the rationale. S. Thomas added that when an application is received, staff visits the site to determine if the site is in compliance with ordinance and approval requirements. The site did not meet the conditions listed in its master development plan and the condition would help prevent that situation from happening again. Lehman was more comfortable with the idea of bringing the site back into compliance with the master development plan.

Adams supported the changes and conditions approved in 1996. The site is not attractive with the current fence and deteriorating landscaping. He agreed with staff that it does not meet ordinance or comprehensive guide plan requirements. He supported staff's recommendation.

Sjeklocha asked if picnic tables and equipment could be located on the residential side of the fence for employees of the business to use. S. Thomas answered that equipment used at the auto dealership would not be allowed, but a residential use such as a picnic table would be allowed.

Sjeklocha asked S. Thomas to elaborate on the three conditions on page five. S. Thomas reviewed that landscaping would be required on the slope, two percent of the cost of the project would be required to fund landscaping, and the opaque fence would assist with providing a buffer between the commercial and residential properties.

Sjeklocha supported staff's recommendation. The renovations are reasonable and address current gaps in design. She supported the fence being located at the commercial property line. She questioned if a stop time should be added for the condition requiring landscaping being replaced. Colleran clarified that the ordinance requires landscaping approved as part of an application be maintained and replaced forever by the current property owner and future property owners.

Lehman supported staff's recommendation. He noted that a condition restricting what would be allowed on the residential properties would not be relevant to the current application. S. Thomas agreed since the application related to the commercial site.

Chair Cheleen complemented staff on the recommendation and amount of time put into the application. The upgrade to the building itself would be wonderful. Consideration must be paid to the possibility of future owners. Any change of the property lines would have to stand on its own merit. He agreed that installing a fence would be an excellent idea. A pedestrian gate would make sense.

***Adams moved, second by Lehman, to recommend the city council adopt the ordinance on pages A18–A23 of the staff report with modifications provided in the change memo dated March 19, 2009, which amends the existing master development plan and adopts final site and building plans to accommodate building and site changes to the existing auto dealership site at 13500/13502 Wayzata Boulevard. Approval includes the following variance:***

- 1) Side yard setback variance from 50 feet to 44 feet.

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:** The variance is based on building code requirements applied to the existing structure, which requires provision of stairwell to access to the existing and proposed second story.
  - b. **UNIQUE CIRCUMSTANCE:** The variance would result in a minor point intrusion. Just 120 square feet of the stairwell, or 0.2 percent of the total building, would encroach into the required setback.
  - c. **NEIGHBORHOOD CHARACTER:** The stairwell addition would be made to an existing commercial building in an existing commercial corridor and would abut existing parking lots on the subject and adjacent property. The addition would not negatively impact the commercial character of the area.

Approval of the site and building plans 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 December 22, 2008
  - Building elevations date-stamped December 22, 2008
- 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 site, grading, drainage, utility and erosion control plans must be submitted for staff approval.

- (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, 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) Install a tree protection fencing as required by natural resources staff for inspection and approval. This fencing must be maintained throughout the course of construction.
  - (6) Permits may be required from other outside agencies including, but not limited the Basset Creek Watershed District. 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) 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.

- (2) A landscaping and tree mitigation plan. The plan must include:
  - Minimum landscaping required as part of the 1996 approved master development plan;
  - Additional landscaping in dollar amount as required under City Code 300.30 Subd 7(b)4.
  - An opaque fence, wall, or combination thereof should be constructed along/inside the north property lines to further screen the commercial use from the residential uses and define a separation between these uses.
- (3) A letter of credit or cash escrow for 125% of a bid cost or 150% of an estimated cost to comply with landscape plan. 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) An electronic CAD file or certified as-built drawings in microstation or DXF and PDF format.
- (6) An illumination plan for staff approval.

- c. A copy of this ordinance must be recorded with the County and a copy of the recorded document returned to the city.
- 4) Customer parking spaces must be clearly signed and may not be used for inventory vehicle parking.
- 5) Customer testing of vehicles may occur only on non-residential streets and only with a store employee.
- 6) No loud speaker paging system may be used.
- 7) Any revised illumination plan must be city code standards.
- 8) Delivery hours, including vehicle delivery, and garbage pick-up must occur only between the hours of 7:00 a.m. and 10:00 p.m.
- 9) The property owner is responsible for replacing any required landscaping that dies.
- 10) 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.
- 11) This variance will end on December 31, 2010, unless the city has issued a building permit for the project covered by this variance or approved a time extension.
- 12) Construction must begin by December 31, 2010, unless the planning commission grants a time extension.

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

The city council is tentatively scheduled to review the item at its April 6, 2009 meeting.

**9. OTHER ITEMS**

**A. Presentation of Southwest Transitway Station Area Station**

Durbin reported. She requested feedback regarding the concept plans.

Tom Dobbs, of Hay Dobbs Architects, lead consultant on the southwest transitway project, also reported. He stated that the Shady Oak station would have a park and ride that would allow a significant amount of parking, approximately 400 parking stalls. The station would have two mixed-use components adjacent to the station and commercial buffering the large parking deck.

Adams noted the significant change. He did not see as much of a change in the Hiawatha area as is being proposed for the Shady Oak area. He asked if it would be realistic to change all of the land uses and how long it would take. Mr. Dobbs stated that the overall planning study looked at two phases. The first phase would occur prior to the station opening. The second phase would occur after the station opening. The illustration showed a long-term plan approximately 10 years to 15 years after opening of the station. Case study analysis and best practices nationwide are used to determine the relative absorption and change occurring at stations at new lines and establishments that are being expanded. Over the course of time, it would evolve.

Adams was concerned that bare land would remain for a long time. The proposal would require the demolition of a number of commercial businesses and rerouting of streets. Mr. Dobbs explained that there have been two meetings with neighbors who expressed interest in being participants. He has developed recommendations for land use that will be turned over to each respective city to incorporate into its comprehensive plan as the city sees fit. There is a time line and continuum that needs to be determined. Acquisitions would be necessary and create issues. The Opus station would require minimal new infrastructure; it would not require the significant amount of change necessary for the Shady Oak station.

Wischnack explained that a subset of property owners in the area were contacted to provide a focus group before the proposal would be shared with the entire public. Some of the more significant landholders were contacted. Our metropolitan area has not seen a suburban light rail transit line. She requested Mr. Dobb provide an example on what has been happening in other areas.

Mr. Dobb stated that there would still be across the board market demand and pressures that occur in any sort of real estate market. Just because the transit line comes in, it would not guarantee that change would occur. It would be considered similar to other transportation systems. The regional demographics

would be taken into account. There would be a natural tendency to develop near the station. As development occurs, it can be accommodated in a cohesive manner over the course of time.

Lehman understood the conceptual plan, but acknowledged that the location of the station is inaccessible at this point. He asked what would need to be done in order to open the line at the proposed Shady Oak location. The Federal Transit Authority and Hennepin County are in dialogue regarding the requirements. The line would have to have those elements that are required for operation. The train platform would need to be accessible. It could be accommodated by a walkway. A platform may be a bit inconvenient. Those are design-level decisions. One would want to have a reasonable amount of infrastructure change that would allow for the park and ride, transit platform, and for some other amenities at the station. The county would have to acquire property in order to do that.

Chair Cheleen asked how the Hopkins Comprehensive Guide Plan fit in with the Shady Oak station. Wischnack stated that provisions were included in Minnetonka's Comprehensive Guide Plan that refer to the future light rail and station plans. The idea would be that the future light rail plan would be rolled into the comprehensive guide plan. If the infrastructure happens, then the land use plan could happen.

Chair Cheleen noted that funding would be economically driven. The comprehensive guide plan could be amended as the light rail plan is developed.

Mr. Dobb identified the Opus station as an office park in a very natural setting. That feel would be continued in the plan. It would be an intensification of office use. The goal would be to create a more cohesive and robust residential district in Opus that would connect to the station. He went over the conceptual development plan for the Opus station. The roadway system within Opus is good and can accommodate more traffic. He did not foresee significant changes.

Chair Cheleen asked if the Opus station would need additional parking. Mr. Dobbs responded that the identified need had been determined to be 100 parking stalls. Opus is seen as a destination itself rather than as a park and ride.

Mr. Dobbs noted that there will be two more public opportunities for input. The dates and locations have not been set. They will be posted on [eminnetonka.com](http://eminnetonka.com).

Wischnack commented that three separate committees will be meeting to discuss the station study: citizen advisory committee, technical advisory committee, and policy advisory committee.


Chair Cheleen questioned where the funding would come from. Wischnack noted that the stimulus package may provide funding for some of the pieces and implementation of the southwest light rail project would move up quicker. The bonding bill may provide some funding for preliminary work and broad-based transit planning numbers. The local component is part of the capital improvement planning.

Mr. Dobbs provided that the Draft Environmental Impact Statement (DEIS) looks at cost factors and ultimately decides where the line and stations would be located. As the DEIS and Stationary Master Planning (SMP) are completed, they would then go to the federal government. The federal government matches local funds. The stimulus dollars would accelerate the timeline of the project.

Sjeklocha asked who completes the DEIS. Mr. Dobbs stated that the county is charged with undertaking the DEIS and SMP plan. His firm was hired by the county to do the SMP and HDR has been hired to do the DEIS. The two consulting firms are working concurrently on the two initiatives. Wischnack clarified that the Hennepin County Rail Authority approves the DEIS. The policy advisory committee recommends an action.

## 10. ADJOURNMENT

***Lehman moved, second by Adams, to adjourn the meeting at 8:30 p.m. Motion carried unanimously.***

By:   
Lois T. Mason  
Planning Secretary