

**MINNETONKA PLANNING COMMISSION  
MINUTES**

**JUNE 4, 2009**

**1. CALL TO ORDER**

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

**2. ROLL CALL**

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

Staff members present: City Planner Loren Gordon, Principal Planner Susan Thomas, Planner Jeff Thomson, Planning Technician Stephanie Scott-Sims, and Natural Resources Manager Jo Colleran.

**3. APPROVAL OF AGENDA:** The agenda was approved as submitted with an addition provided in the change memo dated June 4, 2009.

**4. APPROVAL OF MINUTES:** May 21, 2009

*Blatz moved, second by A. Thomas, to approve the May 21, 2009, meeting minutes as submitted.*

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

**5. REPORT FROM STAFF**

Gordon briefed the commission on land use applications considered by the city council at its meeting of June 1, 2009:

- Adopted a resolution approving the final plat of Lake Rose Highlands at 15407 Lake Shore Avenue.
- Adopted a resolution approving items concerning a two-lot subdivision at 18200 Old Excelsior Boulevard.
- Adopted a resolution approving the amendment of approved site and building plans for BMW Imported Autos at 15802 and 15810 Wayzata Boulevard.

Gordon reported that the third Minnetonka Mills District Study was held June 2, 2009. Approximately 60 residents attended. The developer panel answered many questions. The fourth and final meeting will be held July 16, 2009 at the

ICA Food Shelf from 6 p.m. to 8 p.m. A report will be compiled and presented to the city council for review.

Gordon noted the planning commission's next meeting will be June 18, 2009. The planning commission will have one meeting in July on the 16<sup>th</sup> and the city council will have only one meeting in July, August, and September.

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

**A. A rear yard setback variance from 40 feet to 26 feet to construct a screen porch over an existing deck at 5017 Highland Road. (02001.09a)**

Adopt the resolution on pages A6–A8 of the staff report, which approves the proposed rear yard setback variance from 40 feet to 26 feet for construction of a screen porch at 5017 Highland Road. Approval is based on the following findings:

- 1) The proposal is reasonable and would meet the required standards for a variance, because:
  - a. **UNDUE HARDSHIP and UNIQUE CIRCUMSTANCE:** The location of the home relative to front and rear property lines presents both a practical difficulty and a unique circumstance not common to other single-family residential properties. While the existing home has a significant front yard setback of 122 feet, the home has a non-conforming rear yard setback of 32 feet.
  - b. **NEIGHBORHOOD CHARACTER:** The proposed screen porch would not negatively impact the essential character of the surrounding areas:
    - (1) There are several mature trees within the rear yard of the subject property and the adjacent property to the east.

These trees would provide significant buffering/screening of the proposed porch.

- (2) The proposed porch would be located over an existing deck. As such, the porch would not encroach further into the required setback than the existing structure.

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 tree 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, 2010, unless the city has issued a building permit for the project covered by this variance or approved a time extension.
- B. A rear-yard setback variance for a sunroom addition to the home located at 15721 Woodgate Road South. (09008.09a)**

Adopt the resolution on pages A10–A12 of the staff report, which approves the proposed rear yard setback variance from 29 feet to 21 feet at 15721 Woodgate Road South. 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:** Due to the topographic condition of the site, the existing house is located at the top of the slope and further back on the property toward the rear lot line. The location of the house has decreased the owner's ability to reasonably expand their home in the rear yard while meeting the rear-yard setback requirement.
  - b. **UNIQUE CIRCUMSTANCE:** The sloping condition of the site has resulted in the location of the existing house being further back toward the rear of the property.

- c. INTENT OF THE ORDINANCE: The proposal meets the intent of the zoning ordinance provisions regarding low-density, single-family homes.
- d. NEIGHBORHOOD CHARACTER: The proposal would not alter the essential character of the surrounding residential neighborhood.

Approval is subject to the following conditions:

- 1) Prior to issuance of a building permit:
  - a. A copy of this resolution must be recorded with the County and a copy of the recorded document returned to the city.
  - b. Install a temporary rock driveway, erosion control, and tree protection 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, 2010, unless the city has issued a building permit for the project covered by this variance or approved a time extension.

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

## **8. PUBLIC HEARINGS**

### **A. Variance to allow for four wall signs on the building located at 14001 Ridgedale Drive. (07041.09a)**

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

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

Lehman noted that the city attorney reminded commissioners that the content of a sign cannot be restricted, but make sure that an application adheres to the sign ordinance. He was troubled by the finding that suggested that the city is concerned with the content of the sign. It should not matter what is listed. He

would be more comfortable if the finding stated it did not support the application to promote the public interest and limit visual pollution of signs.

Thomson clarified Lehman referred to the first finding in 3.01. Thomson explained that City Attorney Desyl Peterson provided that the city cannot regulate what the sign says. The city can address way finding and site identification. There is a nexus between regulating the number of wall signs on a building and not regulating the actual content of the sign(s). Lehman did not disagree, but he wanted the applicant to be the one to determine if the number of tenants listed on the sign should be decreased. Thomson said that the language could be revised to reflect that.

Blatz asked if there would also be a monument sign that would provide tenant identification. Thomson answered in the affirmative. There is a freestanding sign on the site. There is no regulation that would prevent tenant identification on the free-standing sign.

Chair Cheleen noted that 12 tenants in one building could each want a sign and it would create a messy, crowded appearance. The sign is used for way finding. Thomson agreed. He supplied the Children's hospital and clinic located at Interstate 494 and Highway 62 as another example. It has multiple tenants in the building, but ultimately the commission approved only the hospital and clinic logo to provide overall building identification.

Robert Grootwassink, 15382 Mason's Point, Eden Prairie, applicant, requested that if he could only have two signs, that the two signs be able to be located on the north side. Maybe CDI and ENT could add their logos at a later date. He asked if the Wayzata Pediatrics and OBGYN West signs used 100 percent of the allowable square footage. Thomson had not calculated if the signs would exceed the square footage requirement as an aggregate total. Individually, the two signs would meet size requirements. The allowable size of the sign is based on the width of the building. The provision at issue is the one that only allows one wall sign on each building elevation. There is no maximum square footage for a second sign.

Chair Cheleen understood Mr. Grootwassink's question to be if there is a maximum square footage restriction if CDI, ENT, and Wayzata Children's Clinic could all be in the same sign. Thomson explained that the site would be allowed a maximum height and length based on the width of the building. The height maximum is 24 inches. The width can be up to 25 percent of the width of the building. That would be the sum total for both signs.

Burt Benson, Chanhassen, one physician and owner of Wayzata Children's Clinic, stated that:

- Wayzata Children's Clinic has been in its building in Wayzata for 38 years. It is an independent, primary care clinic. The business is very excited to move to Minnetonka. A large number of his patients reside in Minnetonka.
- He would appreciate approval to allow the sign because the current patients need to be able to find the new location. He wanted families to be able to visually understand where the business will be relocating. He wanted the sign installed prior to the move.
- Access to the building is not straight forward.
- New patients need to be able to find the business.
- The business will be a positive addition to the community.
- He thanked the commissioners for their consideration.

Gary Colliard, 5336 46<sup>th</sup> Street, Franklin Township, is a business consultant representing ENT Associates. He stated that:

- He understood the requirements in the B-1 zoning ordinance. As a medical clinic, signs would be allowed.
- ENT and Sleep Associates are moving into a new area. They are doing marketing with a national brand category. The business needs a logo on the building. The logo would probably be 3 feet by 3 feet. It would be a great value to have a sign on the building so people would be able to refer to the business within the market.
- People would not be able to find the business without some sort of sign on the building.
- The West Marine building has a logo for the salon spa and pilates tenants. He requested that the logo be allowed to identify with people trying to find the building.
- The site has a difficult access.
- He appealed the review of the sign ordinance to allow a logo on the north side.

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

Walker asked for the zoning of the West Marine retail building. Thomson responded Planned Interstate 394 District. The underlying land use would regulate the signage. The building is guided for service commercial uses by the

comprehensive guide plan, so the retail sign regulations would apply and allow individual tenant identification.

Walker confirmed with Thomson that the staff recommendation would allow two wall signs on the north side of the building.

Lehman asked if a banner would be allowed for a limited time period to promote finding the new location. Thomson answered that the sign ordinance would allow a temporary sign associated with the grand opening of a business for up to 30 calendar days. There would be size restrictions related to the size of the building.

Adams felt the proposal is a good example of why the requirements are necessary. Numerous logos and signs would look junky. He did not feel the city is obligated to accommodate signs for marketing purposes. Way finding is part of the city's responsibility. In keeping with the spirit and intent of the ordinance, he opposed four signs on the building. A reasonable accommodation has been made to allow two on the north side of the building. This is a good reason why office sign requirements are different than retail sign requirements.

Blatz concurred with Adams. She asked if two monument signs would be allowed. Thomson stated that the site would be allowed one freestanding sign.

A. Thomas concurred with the commissioners. There is a reason for the sign ordinance. It helps prevent clutter and improves the look of the city when driving on Interstate 394. Naming each office building in the city could eliminate a lot of problems with all businesses trying to get their logo on the building. He understood that if he was a business owner, he would want the name of his business on the building. The sign ordinance strives to keep the buildings from looking trashy. He suggested encouraging building owners to consider naming their buildings.

Walker was empathetic to the point that healthcare has gone retail. He is in healthcare. It has been and will continue to be more and more retail. The tenants moving into the building knew its zoning, land use, and that the developer would be required to share with them signage requirements for the building. He felt that the conditions should not be compromised. He supported staff's recommendation. He suggests that the developer visit a graphic designer to come up with a concept for one name for the building.

Chair Cheleen reviewed options for the two signs.

Walker commented that if the applicant hired a graphic designer to create a plan within the bounds of staff's recommendation and resubmit an application, he would support that plan.

***Adams moved, second by Blatz, to adopt the resolution on pages A11-A14 of the staff report. This resolution denies a variance to allow four wall signs on the existing building at 14001 Ridgedale Drive and approves a variance to allow two wall signs on the north elevation of the building.***

Denial of four wall signs based on the following findings:

- 1) The proposal would not meet the intent of the ordinance. Office buildings are allowed one wall sign to identify the building or major tenant. It is not the intent of the sign ordinance to identify every tenant within an office building.
- 2) Locating four wall signs would not be consistent with other office buildings in the I-394 corridor.

Approval of two wall signs on the north elevation, for a total of two wall signs on the building, is based on the following findings:

- 1) The proposal is reasonable and would meet the required standards for a variance, because:
  - a. **UNDUE HARDSHIP & UNIQUE CIRCUMSTANCE:** The limited visibility of the west building elevation is a circumstance unique to the property.
  - b. **INTENT OF THE ORDINANCE:** Locating two signs on the building would allow appropriate and reasonable site identification.
  - c. **NEIGHBORHOOD CHARACTER:** Locating two signs on the building would be consistent with other office buildings in the I-394 corridor.

Approval is subject to the following conditions:

- 1) Prior to issuance of a sign permit, a copy of this resolution must be recorded with the County and a copy of the recorded document returned to the city.

- 2) A maximum of two wall signs may be located on the north building elevation, and no wall sign is allowed on the west building elevation.
- 3) All wall signs must comply with the size, height and illumination standards of the office sign regulations.
- 4) All wall signs must be located within the same elevation of the building face.
- 5) 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.

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

**B. Items concerning tearing down the existing house and rebuilding a new home on the property at 2618 Crosby Road. (09006.09a)**

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

Thomson reported. He recommended approval of the floodplain setback variance, wetland setback variance, and conditional use permit to allow a wooden bridge within the floodplain and denial of the floodplain alteration permit and driveway entrance variance application based on the findings and subject to the conditions listed in the staff report.

Adams asked if construction of the bridge would impact two big willow trees on the north end of the lot. Thomson said that specific construction information has not been supplied yet. The grading for the bridge and driveway would possibly impact the critical root zone of the trees.

Adams asked if the willow trees are considered significant trees. Colleran responded that the trees are significant trees, but not high-priority trees. The trees could be removed with no replacement required because a significant tree within 10 feet of a driveway can be removed without mitigation.

Thomas asked if any other residence in the area has two access points. Thomson did not see any other houses on that portion of Crosby Road with two access drives.

Blatz asked why staff did not support the floodplain alteration permit for filling 40 cubic yards since 51 cubic yards would be mitigated on the property and the Crosby Road right of way. Thomson stated that engineering staff is not comfortable with mitigating floodplain in the road right-of-way. Thirty-eight cubic yards could be provided on the property. The floodplain ordinance's intent provides the flood storage capacity of the floodplain and the dynamic of the floodplain in terms of its grading and the flow of floodwaters on neighboring properties. The flood capacity can be maintained, but the overall grading and flow of floodwater is staff's concern.

Tom Ellison, founder of TEA2 Architects, representing the applicant, stated that:

- His firm is a strong supporter of the environment and working within city ordinances.
- Kevin Gardner, a civil engineer who did the site hydrology and floodplain analysis, was present to answer questions.
- He thanked staff for meeting with him multiple times.
- The road hugs the channel. The drive is extremely narrow. The edge of the road is washing away.
- The front yard is at or below floodplain. There is a slope that angles to the right.
- The owner requested that the floodplain issues be fixed, off-street parking be provided, site views be used to their best advantage, the house be connected to the outdoors as much as possible, the front of the house face Crosby Road, and the mass of the residence be in scale with the neighborhood.
- The scale and proportion of the footprint of the proposal is virtually identical to the surrounding residences. The scale would present itself to the street as quite small in appearance.
- The garage doors and parking area would be positioned so that landscaping would screen them completely from the street. The willows would provide a good screen.
- A drop-off parking zone would be located in front.
- The bulk of the fill would be three feet to four feet in height and reach nine feet in height close to the residence.
- The two accesses are superior to one wide drive in the front. The sum total of the area of both driveways is no more than the area of the neighbors' driveways.
- The street in front of 2612 Crosby Road is 18-feet wide. The street in front of 2616 is 24-feet wide. He reviewed the available parking for neighboring properties.

- The proposal includes 39.5 cubic yards of fill to be located below the floodplain. That is the equivalent to 3 inches of fill in the area shown on a drawing. It would not be significant since all of the fill would be compensated for on the property. There would be no impact on the floodplain. There may be natural areas that the city does not want the buildable area expanded into, but, it is clear from the site plan that any expansion of the house would be in keeping with the neighborhood.
- He did not agree with a neighbor's letter that opposed the proposal. The neighbor felt that adding fill to the floodplain would add to the problem.
- Alternative driveway options have been considered. He reviewed having a single access and using a turn around. Backing out onto Crosby Road should be avoided. The proposed scheme would have virtually the same amount of floodplain change as the previous scheme. The proposal is the best option. Two entrances would prevent backing up onto Crosby Road.
- One of staff's proposals would require cutting down two trees and it would not allow for parking. The other proposal is worse. It suggests that the applicant should use the grandfathering technique to avoid fixing the floodplain and live with mud. The proposal would make the driveway adjacent to the neighbor and the grades would work better.

Walker asked Mr. Ellison the diameter of the circular drive. Mr. Ellison responded that the outside diameter would be 60 feet. The drive would be 15-feet wide. Walker asked why it would not work. Mr. Ellison said that it would work, but the size of the circle in relation to the size of the residence would cause the circular drive to dominate the front yard.

Walker asked if a landscape architect looked at the site to determine if the proposal would save the willows. He thought it looked like the root zone would be impacted. Mr. Ellison said that the study was not finalized. Mr. Ellison said that the footing for the footbridge would be beyond the drip line of the trees. Walker asked for the intent of the bridge. Mr. Ellison said that the bridge would be just above the surface and protect the trees' roots.

Mr. Ellison noted that the applicant has 80 feet of frontage on the street; the neighbor on the north has 50 feet; and the neighbor on the south has 37 feet.

Lehman and Mr. Ellison discussed the sizes and maneuverability of surrounding driveways. Lehman asked if Mr. Ellison considered eliminating the drive that

extended through the willow trees and widening the single access point. Mr. Ellison explained the problem with backing. Lehman described a scenario that would not require backing onto Crosby Road. Mr. Ellison did not understand the resistance to having two accesses. He assumed it would be for safety reasons, but he was unable to see the negative. The narrow approach leaves a tighter landscape façade on the street. Parking is the issue for the floodplain fill, not the two accesses. The width of the two driveways equals the width of neighbors' driveways.

Gordon clarified that ordinance regulations allow more than one driveway dependent on the size of the property. Public works and public safety aspects are taken into consideration. A number of curb cuts on a street impact how the street interacts with the driveway, drainage, curbing system, and utility corridor. It usually creates a propensity to increase the amount of hard surface cover.

Mr. Ellison said that there are four double-access driveways on Crosby Cove across the channel.

In response to Blatz' questions, Mr. Ellison responded that the driveway would be made with pavers and his engineer found that the proposal would not cause a significant issue with the flood flow due to the state of the current situation.

Adams noticed that the proposal would have 38 percent hard surface coverage. Thomson explained that the shoreland ordinance allows staff to approve a reduction in hard surface coverage when a bituminous driveway is replaced with pavers based on the proven infiltration rate of the system. The current plan shows an infiltration rate of 85 percent, but that has not been verified by engineering staff.

Adams recalled a house that was being reconstructed and its access was in a floodplain. The driveway had to be a certain height above the floodplain. He asked for the height of the proposed driveway accesses. Thomson remembered the McGinty Road project. It is a similar situation because the front yard and drive were located in the floodplain. That request was to widen the driveway a little and raise it one foot above the floodplain elevation. As a condition of approval, the proposed driveways would be required to be one foot above the floodplain elevation. Fill would be needed for any new driveway. Thomson clarified that because the road is below the floodplain elevation, the ordinance does allow the property to make the connection of the driveway with the road.

Chair Cheleen understood the idea of wanting to have the floodplain alteration permit and the two driveway accesses. He was also concerned with backing out

onto Crosby Road. Chair Cheleen described stopping the pervious pavers before the turn and there would be room for 5 vehicles to park. The vehicles would all be able to back up and pull out face-forward onto Crosby Road. It would decrease the number of pervious pavers needed and floodplain alteration needed and keep the bridge, which is a wonderful amenity. Mr. Ellison stated that the bridge would not be suitable for primary access. Mr. Ellison stated it would be very tight. The engineering to create a bridge that would support a truck would be beyond the bridge's intent. Mr. Ellison reviewed the options. Backing a boat onto a 13-foot wide street is pretty tricky.

The public hearing was opened.

Jim Ramstad, 2618 Crosby Road, was present with his wife, Katherine Mitchel-Ramstad, applicants, thanked the commissioners for their service to the city. He stated that:

- Backing out of his driveway is totally unsafe. It is a horrendous problem.
- Right now there is no place for his extended family to park.
- He wants to be treated equally with the neighbors who have ample parking.
- A resident should not have to live with flooding and mud in the front yard every season. Elevating the front yard 3 inches, a total of 39 cubic yards, is reasonable.
- He will never tear down the willow trees.

No additional testimony was submitted and the hearing was closed.

Lehman disclosed that he had received a letter from Congressman Ramstad for his service on the park commission.

Walker commended the architect for a thorough analysis. He did not agree with all of the points. The site would be packed. He was torn. Fill would be needed to provide access. The only question in his mind is the second drive. As long as it would not set a precedent, he supported the two accesses. The two accesses would provide a turn around and a greater aesthetic quality. He supported the proposal.

Lehman agreed with Walker. He now understood the intent of the bridge. In this situation, due to the unique circumstances, the application is reasonable.

A. Thomas agreed that the second access through the willow trees created discussion. Fill would have to be added to the site regardless of the accesses. He liked the diagram with the back-up area. Crosby Road has consistently had water problems. There are only two houses past the site. There is not a lot of traffic. He backs out of his driveway and never had a problem. He is a little torn. The willow trees would look a little odd cut in an arch. On that road, in that particular spot, one access is equal to the neighbors. There is a lot of stuff on the front part of the lot on a small, narrow site. He was concerned with the two access points.

Blatz was also torn with the two access points. Backing up is tight on a narrow road, but at the same time, there is light traffic. The property is unique. The surrounding properties do have wide driveways and turnarounds. The proposal does a good job of mitigating the flood plain and parking issues. It is a unique circumstance for the neighborhood. She was leaning towards supporting the proposal.

Adams felt the project made a compelling argument for mass transit. The proposal is trying very hard to accommodate vehicles. When he visited the site and saw the width between the willow trees, he thought it would not work. He could not see a UPS truck or Ford Expedition making it through. It is a problematic site. He backs up out of his driveway on a street that is busier than Crosby Road, but he does not have an open-water channel across the street either. He can understand the concern. He will reluctantly support the request for the driveway entrance variance. He had doubts about how it would work out. The root system may be compromised anyway. He supported the proposal.

Chair Cheleen agreed that the proposal is a good plan. Initially, he did not like the idea of two accesses because of the ordinance. There is still the issue that it has been done on Crosby Cove. He was concerned with the survival of the willow trees, but the bridge itself is a nice amenity. The trees would be nice even if the willow trees would not be there. Keeping the width of the driveways to a minimum would increase the looks of the site. He supported the proposal and requested a commissioner provide reasons for supporting the proposal. Staff does an excellent job in reasoning and following the ordinances to make recommendations.

Walker supported approval of the fill to provide access in an emergency situation and general access to the site. The second drive eliminates the need to back up onto Crosby Road.

***Walker moved, second by Adams, to recommend that the city council adopt the resolutions approving the following items concerning tearing down the existing house and rebuilding a new home on the property at 2618 Crosby Road:***

**FLOODPLAIN SETBACK VARIANCE**

- 1) *Recommend that the city council adopt the resolution on pages A16-A20 of the staff report, which approves the proposed floodplain setback variance from 20 feet to 13 feet at 2618 Crosby Road. Approval is based on the following findings:*
  - a. The proposal is reasonable and would meet the required standards for a variance, because:
    - (1) **UNDUE HARDSHIP:** The location of floodplain on both the front and back of the property presents a practical difficulty in constructing a new house on the lot.
    - (2) **UNIQUE CIRCUMSTANCE:** The proposal would be a point intrusion into the required setback. Only a small portion of the corner of the garage would extend into the setback requirement.
    - (3) **INTENT OF THE ORDINANCE:** The variance meets the intent of the ordinance to provide adequate floodplain protection. The variance would not obstruct the flow of floodwaters or impact the amount of floodplain capacity.
    - (4) **NEIGHBORHOOD CHARACTER:** The variance would not adversely impact the character of the neighborhood. The proposed house would be positioned on the lot similarly to surrounding properties. Furthermore, the house to the southeast has a nonconforming floodplain setback of 16 feet.

Approval is subject to the following conditions:

- a. Prior to issuance of a grading or building permit:
  - (1) Final grading, drainage, erosion control, and tree protection plans must be submitted and approved by the city staff.

- (a) Drainage must not be directed toward adjacent properties to the northwest or southeast.
  - (b) Final plans must include spot elevations, and top and bottom elevations of proposed retaining walls.
  - (c) All retaining walls must not be located within city right-of-way.
- (2) Construction plans and specifications of all proposed stormwater management facilities must be submitted. The plans must comply with the city's stormwater management Rule A Criteria. The plans must be reviewed and approved by city staff.
  - (3) Submit a construction management plan outlining parking, construction access, and stockpile and material storage locations.
  - (4) 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.
  - (5) Submit 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:
    - (a) 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
    - (b) If compliance is not achieved, the city will use any or all of the escrow dollars to correct any erosion and/or grading problems.
  - (6) A copy of this resolution must be recorded with the County and a copy of the recorded document returned to the city.

- b. The lowest floor elevation of the house must be a minimum of 2 feet above the designated floodplain elevation.
- c. The lowest floor elevation of any attached decks, patios, and outside stairways must be a minimum of 1.5 feet above the designated floodplain elevation.
- d. The house must be protected with 13D automatic fire sprinklers as required by the fire marshal.
- e. Permits may be required from other outside agencies, including but not limited to the United States Army Corps of Engineers, Minnesota Department of Natural Resources, Minnehaha Creek Watershed District, and the Lake Minnetonka Conservation District. It is the applicant's and/or property owner's responsibility to obtain any necessary permits.
- f. 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.

**WETLAND SETBACK VARIANCE**

2) *Recommend that the city council adopt the resolution on pages A21–A24 of the staff report, which approves the proposed wetland setback variance from 20 feet to 17 feet at 2618 Crosby Road. Approval is based on the following findings:*

- a. The proposal is reasonable and would meet the required standards for a variance, because:
  - (1) **UNDUE HARDSHIP & UNIQUE CIRCUMSTANCE:** There is an undue hardship due to the location of the public street. The edge of Crosby Road is located 17 feet from the edge of the adjacent wetland. A driveway connection with the road could not be constructed without the need for a setback variance.
  - (2) **INTENT OF THE ORDINANCE:** The variance would meet the intent of the ordinance to preserve and protect the

environmental, aesthetic and hydrologic functions of the city's wetlands.

- (3) NEIGHBORHOOD CHARACTER: The variance would not adversely impact the character of the neighborhood. The driveway would connect to the street similarly to the other properties along Crosby Road.

Approval is subject to the following conditions:

- a. Prior to issuance of a building permit:
  - (1) A copy of this resolution must be recorded with the County and a copy of the recorded document returned to the city.
  - (2) 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.
- b. 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.

#### **FLOODPLAIN ALTERATION PERMIT**

- 3) *Recommend the city council adopt a resolution which approves a floodplain alteration permit for filling 40 cubic yards of floodplain for a new driveway at 2618 Crosby Road. This resolution is based on the following findings:*
  - a. Existing conditions require that floodplain fill occur to provide appropriate access to an existing lot of record.

#### **DRIVEWAY ENTRANCE VARIANCE**

- 4) *Adopt a resolution which approves the proposed variance to allow two driveway accesses at 2618 Crosby Road. Approval is based on the following findings:*

- a. The proposal would meet the required standards for a variance. The physical conditions of the property are similar to surrounding properties which all have driveways equal in width to what the two driveways would have.
- b. The strict application of the ordinance would cause unnecessary hardship on the property owner or tenant.
- c. The narrowness of Crosby Road creates a potential safety hazard for egress from the site. Incorporation of a circular two driveway design would minimize the potential for safety hazards on Crosby Road.

#### **CONDITONAL USE PERMIT**

- 5) *Recommend that the city council adopt the resolution on pages A32-A36 of the staff report. This resolution approves a conditional use permit for a wooden bridge within the floodplain at 2618 Crosby Road. Approval is based on the finding that the proposal meets the required conditional use permit standards and is subject to the following conditions:*
  - 1) Prior to issuance of a building permit, record this resolution with the county. A copy of the recorded resolution must be returned to the city.
  - 2) The bridge must not be located within the right-of-way of Crosby Road.
  - 3) The bridge must be located outside the floodway and meet the standards of City Code Section 300.24 Subdivisions 7 & 9.
  - 4) The city council may reasonably add or revise conditions to address any future unforeseen problems.
  - 5) Any change to the approved use that results in a significant increase in traffic or a significant change in character would require a revised conditional use permit.
  - 6) The applicant must agree to the above conditions in writing.

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

9. ADJOURNMENT

*Blatz moved, second by Adams, to adjourn the meeting at 8:40 p.m. Motion carried unanimously.*

By:



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Lois T. Mason  
Planning Secretary