

**MINNETONKA PLANNING COMMISSION  
MINUTES**

**DECEMBER 17, 2009**

**1. CALL TO ORDER**

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

**2. ROLL CALL**

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

Staff members present: Principal Planner Susan Thomas and Planner Jeff Thomson.

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

**4. APPROVAL OF MINUTES:** December 3, 2009

*Lehman moved, second by Sjeklocha, to approve the December 3, 2009 meeting minutes as submitted.*

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

**5. REPORT FROM STAFF**

S. Thomas briefed the commission on land use applications considered by the city council at its meeting of December 7, 2009:

- Adopted a resolution approving a time extension for Eddie Merlot's located at 10600 Wayzata Boulevard.
- The old Stuart Anderson's Cattle Company structure will be demolished this week.
- Adopted a resolution approving a conditional use permit to operate a motorcycle repair business located at 15700 Wayzata Boulevard.
- Adopted a resolution for a conditional use permit for a detached garage located at 5014 Woodhurst Lane.
- Reaffirmation of preliminary and final plat approval for time extension for Minnetonka Highlands at 5516 Glenavon Avenue.
- Postponed action regarding amendment of a condition of development approval for Braeburn Woods at 16400, 16408, and

16416 Hidden Valley Road to allow time for staff to meet with the applicant.

- Denied an application from the Minnetonka School District for expansion of the parking lot, but approved the addition of 27 parking stalls.
- Reviewed the concept plan for United Health Group Phase II building and adopted the Opus Area Overlay Ordinance.

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

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

**8. PUBLIC HEARINGS**

**A. Conditional use permit and variances for an accessory apartment located at 2400 Mayflower Avenue. (09034.09a)**

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

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

A. Thomas asked what happens to accessory apartments when the home is sold. He asked if the apartment could be rented. Thomson explained that the conditional use permit would stay with the property. The property owner would have to meet the conditions of approval. One requirement is that the property owner must reside in one of the units. The space could be rented to a non-related party.

A. Thomas asked if the property owner would have to submit an application to be reviewed by the city to allow a renter. Thomson responded in the negative. The conditional use permit would allow the owner to rent the unit now and in the future.

A. Thomas questioned if, depending on the rental amount, if an accessory apartment could be considered an affordable rental. Thomson said that could be an option, but not required by the conditional use permit.

Rob Daugherty, 2400 Mayflower Avenue, applicant, said that a lot of planning has gone into the apartment. The purpose for the addition is to provide a clean room location for his wife. Their former residence had severe mold issues. His wife's health has been combating the consequence of that for years. The main

house contains a foam insulation that has an organophosphate flame retardant. Increasing the amount of ventilation in the home was done to reduce the levels of organophosphate that triggers a reaction depending on how much time she is in the house. There has been some success by reducing the level of organophosphate, but it is not quite enough to prevent a reaction. This is pretty common for someone who experiences this. Their neighbor built a house out of concrete and steel for the same purpose. The residence has plenty of square footage. The rationale is to build something that has no reactive materials in it so that she can live in a healthy environment. He appreciated the commission's time and willingness to look over the proposal.

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

Chair Cheleen saw the application as pretty cut and dry.

***Blatz moved, second by Walker, to recommend that the city council adopt the resolution on pages A16-A20 of the staff report. This resolution approves a conditional use permit for an accessory apartment at 2400 Mayflower Avenue with the following variances:***

- Variance to allow for an expansion of a non-conforming use
- Variance to increase the size of the accessory apartment from 950 square feet to 990 square 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. Practical Difficulty: There is a practical difficulty due to the existing non-conforming setback.
  - b. Unique Circumstance: The size of the property, the size of the house, the significant slope, existing vegetation and distance from adjacent structures are circumstances not common to all single-family properties.
  - c. Neighborhood Character: The proposal would not adversely impact the character of the surrounding neighborhood. The apartment

would be constructed within the same footprint and height of the existing garage. The proposal would not significantly increase the mass of the structure, and would not be highly visible from adjacent properties.

Approval is subject to the following conditions:

- 1) Complete the following prior to issuance of a building permit:
  - a. This resolution must be recorded with the county, and a copy of the recorded resolution must be returned to the city.
  - b. Submit a construction management plan for staff review and approval. At a minimum, the plan must address construction access, stockpiling locations and parking.
- 2) The site must be developed in substantial compliance with the plans date-stamped November 9, 2009.
- 3) The property must be owner-occupied, with the owner residing in either unit on a continuous basis except for temporary absences throughout the period during which the permit is valid.
- 4) The apartment must comply with all applicable building, housing, electrical, plumbing, heating and related codes of the city.
- 5) The property must comply with all other provisions of the ordinance relating to single family dwelling units.
- 6) The city council may reasonably add or revise conditions to address any future unforeseen problems.
- 7) 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.
- 8) The applicant must agree to these conditions in writing.

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

9. ADJOURNMENT

***Sjeklocha moved, second by Walker, to adjourn the meeting at 6:46 p.m.  
Motion carried unanimously.***

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