

**MINNETONKA PLANNING COMMISSION  
MINUTES**

**JANUARY 7, 2010**

**1. CALL TO ORDER**

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

**2. ROLL CALL**

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

Staff members present: Community Development Director Julie Wischnack, City Planner Loren Gordon, Principal Planner Susan Thomas, and Planner Jeff Thomson.

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

**4. APPROVAL OF MINUTES:** December 17, 2009

*Sjeklocha moved, second by Blatz, to approve the December 17, 2009 meeting minutes as submitted.*

*Adams, Blatz, Lehman, Sjeklocha, A. Thomas, Walker, 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 meetings of December 21, 2009 and January 4, 2010:

- Adopted a resolution approving items concerning Black Oaks Estates, a 7-lot subdivision of existing properties at 16611 Black Oaks Lane.
- Adopted a resolution supporting an appeal of the planning commission' s previous denial of multiple variances to install a new wall sign on the office building located at 10901 Red Circle Drive.
- Adopted a resolution denying a twelve-month time extension of multiple variances for construction of a new home at 2813 McKenzie Point Road.
- Continued review of an application regarding a conditional use permit for a telecommunications tower on the property located at

- 14451 State Highway 7.
- Introduced an ordinance for the United Health Group Phase 2 Tower.
- Adopted the resolution and ordinance approving a revised contract for private redevelopment and site plan for the proposed St. Therese housing project in accordance with the planning commission's recommendation. The applicant hopes to begin construction in April.
- Adopted a resolution approving a time extension of multiple variances for a garage addition at 17306 County Road 101 West.
- Adopted a resolution approving a time extension of multiple variances for construction of a new home at 2813 McKenzie Point Road.

Gordon announced that there will be a joint meeting with the Minnetonka and Hopkins planning commissions and city councils January 12, 2009 to discuss the Shady Oak light-rail station at the Hopkins Fire Station.

Gordon noted that the next planning commission meeting will be January 21, 2009.

**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.

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

**A. Time extension of multiple variances at 17306 County Road 101 West. (04013.09a)**

Approve the twelve-month time extension.

**B. Time extension of floodplain setback variances for the construction of a home at 4124 Skyview Road. (08011.09a)**

Approve the twelve-month time extension.

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

**8. PUBLIC HEARINGS**

**A. Conditional use permit for a drive-thru window at 4950 County Road 101. (94029.09a)**

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.

Sjeklocha asked if the hours of the drive through window would be limited. Thomson responded in the negative.

John Kohler, architect for the applicant, was present to answer questions.

Adams asked if the proposed Walgreens would replace the other one. Mr. Kohler answered affirmatively.

Walker questioned if the Walgreens would request a variance for its sign. Mr. Kohler responded in the negative.

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

***Lehman moved, second by Sjeklocha, to recommend that the city council adopt the resolution on pages A8-A11 of the staff report. This resolution approves a conditional use permit for a drive-thru window at 4950 County Road 101. Approval is based on the finding that the proposal meets the required conditional use permit standards and is subject to the following conditions:***

- 1) Complete the following prior to issuance of a building permit:
  - a) This resolution must be recorded with Hennepin County and a copy of the recorded resolution must be returned to the city.

- b) Submit a landscape plan for staff review and approval. The landscape plan must mitigate for the landscaping along the base of the building that will be removed.
- 2) Signs must be installed to control traffic along the one-way drive-aisle.
- 3) The public address system must not be audible from any residential parcel.
- 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.

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

**B. Items concerning a 3-lot subdivision of existing properties at 10500 Bren Road East. (90009.09a)**

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.

Lehman noted that there is sufficient parking on the site currently. He asked whether variances 1 and 2 are preexisting nonconformances or if the variances would be created by the division. S. Thomas explained that the variances are based purely on the location of the proposed property lines. Without the requested plat alignment, the buildings would meet setback requirements without the property line.

A. Thomas asked staff to review how long the shared access and property easement would stay with the property. S. Thomas confirmed that the easement would run with the property independent of ownership. For the easement to be amended in any way from its original approval would require a review by the planning commission and city council. Lot 1 could not exist without shared access. To eliminate it would have a substantial impact on the plat.

Walker asked how the project compares to the updated comprehensive guide plan. S. Thomas stated that the updated comprehensive guide plan made no changes specific to the Opus area. Opus is currently zoned for mixed uses. The intent for the Opus area, taking into consideration the light rail line, is to be looked at independently for comprehensive planning.

Walker questioned if the proposal would make the parcels too small to accommodate replacement of a building. Gordon provided illustrations of possible options. Assuming the use would be office, the floor area ratio would be 1:1; a foot of office space for every square foot of property. One scenario would allow 115,000 square feet of building footprint for office space. The proposed square footage would be 25,000 square feet less. The three parcels would be 90,000 square feet of building footprint. The buildings could continue to be renovated and used for allowable uses. If one building would be torn down, then, at that point in time, compliance with the footprint would have to be followed. Creating density around the station is a plus.

Adams asked Gordon to revisit the formula to determine the amount of required parking area. Gordon explained that a parking stall for every 250 square foot of office space would be required. A large project with efficiencies included in the building may allow the standard to be relaxed.

Adams confirmed with Gordon that the amount of square footage of the building would be restricted by the amount of parking space. Gordon agreed if each site had to support its own parking, then the size of the buildings would be very constrained.

When Adams considered that light rail would go through the area, the likelihood of redevelopment increased. That was his concern with the subdivision.

Walker asked if the proposal would create complications for the city. Gordon saw no identifiable, real hardship. The plan for the light rail would be for it to be located on the west side of the property. The station location would be north of the property. Needing more property for the station would be a hardship for the city because of the plat. The hardship may be more so if redevelopment happens because of light rail. It is hard to quantify what that might be at this time.

Bill Wolfson, broker representing the owner of the property, and Kevin Brink, representing Welsh Companies, the potential buyer, were present to answer questions.

Adams asked for the typical useful life of an office building. He was concerned the 30-year-old buildings are nearing the end of their useful life. Mr. Brink supplied that the buildings were built in the early 1980s and are in very good condition. The property report found the roofs are new and the buildings are structurally sound. He felt the buildings would last at least 55 years to 60 years. He does investment sales for Welsh Companies and this would not be an atypical redevelopment site. The reason for the division is to allow his client to own the property and be there for a very long time. The office use would not switch much in the future. As far as redevelopment, cosmetic things would be done first. It is not an old, dilapidated warehouse building that would have a higher use some day. The building would always house an office use.

Walker confirmed with Mr. Brink that the intent to divide the property into 3 parcels is to allow an acquisition of 1 of the parcels. Mr. Brink noted that the other 2 buildings house a day-care center and multi-tenant office building. From his client's perspective, purchasing the space makes more sense than leasing. Walker asked for the client's intent from a duration stand point. Mr. Brink explained that his client has been in business for 15 years and his father for 25 years. Mr. Brink's guess is that the building would accommodate his needs for as long as the foreseeable business is in play.

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

Lehman noted that dividing the property horizontally could work in this situation. S. Thomas explained that the city has condominium plats where a person owns the building itself, but not the underlying property or associated parking lots. That is not a platting process that the city reviews, it is done through the county. The Samaritan Tire project allowed for horizontal and vertical separation of building and parking lot. The future property owners were interested in owning not only the building, but the property itself. The current applicant is interested in owning the building and the property. Lehman understood it would be dependent on the representatives.

***Adams moved, second by Blatz, to recommend that the city council adopt the resolution on pages A6–A11 of the staff report, which grants preliminary and final approval to Bren Trail, date stamped November 6, 2009. Approval is based on the following findings:***

- 1) Except for the requested variances, the proposal meets the required standards and ordinances for a preliminary and final plat.

- 2) The requested setback variances are reasonable, because:
  - a. The proposed plat, and associates setback variances would meet the intent or required setbacks. Though the proposed plat would result in the creation of a property line and, as such, creation of new properties, it would not result in any visual or physical change to the existing site.
  - b. The safety of the traveling public and building occupants would not be compromised by the creation of new property lines. Similarly, these new property lines would not alter the existing building lines established by the site's existing structures.
  
- 3) The requested parking spaces variance is reasonable, because:
  - a. Proposed property lines could be "gerrymandered" to ensure existing parking is allocated according to city code requirements.
  - b. A shared parking arrangement between properties, and approval of necessary parking space variance, is more reasonable than the arbitrary creation of a "gerrymandered" property line.

Approval is subject to the following conditions:

- 1) The following items must be submitted to the city before the city releases the final plat:
  - a. A revised final plat, which includes:
    - (1) Drainage and utility easements, which fully incorporate all existing public and private utilities. These easements are generally illustrated in Exhibit A of this resolution.
    - (2) A transportation easement which fully incorporates all existing and proposed public transportation corridors. This easement is generally illustrated in Exhibit B of this resolution.
  - b. An electronic CAD file of the final plat in microstation or DXF.

- c. The following documents must be prepared by an attorney knowledgeable in the area of real estate and must be submitted for the city attorney's approval:
- (1) Title evidence that is current within thirty days before release of the final plat.
  - (2) A shared access and parking easement to benefit Lot 1 and Lot 2. The easement must state the maintenance responsibilities of each owner.
  - (3) Restrictive covenants to be recorded against the individual lots with the plat. The covenants must include the conditions that have not been met as of the release of the plat.

These documents must be recorded with the final plat, and a drawing of any easement must be attached to the easement deed.

- 2) Individual sanitary sewer and water services to individual buildings as required by the city's building and public works staff.
- 3) Unless the city council approves a time extension, the final plat must be recorded within one year of council approval of the final plat.

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

## 9. ADJOURNMENT

***Blatz moved, second by A. Thomas, to adjourn the meeting at 7:10 p.m. Motion carried unanimously.***

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