

**MINNETONKA PLANNING COMMISSION
MINUTES**

JUNE 3, 2010

1. CALL TO ORDER

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

2. ROLL CALL

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

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

- 3. APPROVAL OF AGENDA:** The agenda was approved as submitted with a modification and additional comments provided in the June 3, 2010 change memo.

- 4. APPROVAL OF MINUTES:** May 20, 2010

Sjeklocha moved, second by Adams, to approve the May 20, 2010 meeting minutes as submitted with the changes from the change memo dated June 3, 2010.

Adams, Lehman, Sjeklocha, A. Thomas, 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 May 24, 2010:

- Adopted a resolution reaffirming preliminary plat approval of Gagner's 2nd Addition at 18724 Ridgewood Road, a two-lot subdivision with lot-width at right-of-way variance.
- Approved items concerning a subdivision of existing properties at 2700 Oakland Road consistent with the planning commission's recommendation.
- Tabled action on an application for a resolution approving a conditional use permit and site and building plans for Minnetonka High School located at 18301 Highway 7 to June 7, 2010.

Gordon announced that two new commissioners will be at the next planning commission meeting on June 17, 2010.

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

A. A side yard setback variance for a deck addition at 2640 Cedar Green. (10015.10a)

Adopt the resolution on pages A8-A10 of the staff report, which approves a side yard setback variance from 10 feet to 5.5 feet for a deck addition at 2640 Cedar Green. 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 existing conditions of the site. Given the existing non-conforming setback of the deck, there is not an opportunity to widen the deck to meet the required side yard setback.
 - b. **UNIQUE CIRCUMSTANCE:** The existing non-conforming setback is a circumstance not common to every similar property.
 - c. **INTENT OF THE ORDINANCE:** The variance would meet the intent of the ordinance to allow reasonable use of the property. The proposed deck is a reasonable use given the existing size of the deck. The 4-foot wide deck has limited usability and functionality. The modest size increase would provide a more functional deck for the property owner.
 - d. **NEIGHBORHOOD CHARACTER:** The proposed deck would not adversely impact the character of the surrounding neighborhood. An as-built survey and aerial photos indicate that there are several decks within the development which do not currently meet the side

yard setback requirement, including the property adjacent to the north.

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. The applicant must sign an encroachment and hold harmless agreement with the city for the encroachment into the drainage and utility easement.
 - 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, 2011, unless the city has issued a building permit for the project covered by this variance or approved a time extension.

B. A side yard setback at 5509 Eden Prairie Road. (10016.10a)

Adopt the resolution on pages A12–A14 of the staff report, which approves a side yard setback variance from 50 feet to 31 feet for construction of a handicap accessible restroom at 5509 Eden Prairie 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:** The existing building has a non-conforming side yard setback. This presents a practical difficulty. Any functional addition, which maintains the internal circulation of the building, would require a variance.
 - b. **UNIQUE CIRCUMSTANCE:** The existing building is situated at an awkward angle relative to the adjacent south property line. This angle results in a unique circumstance. Due to this angle, the

proposed addition would not encroach further into the required setback than the existing building.

- c. NEIGHBORHOOD CHARACTER: The proposed restroom addition, and associated variance, would not alter the setback of the existing building nor would it negatively impact the essential character of the 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 erosion control and 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, 2011, unless the city has issued a building permit for the project covered by this variance or approved a time extension.

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

Chair Cheleen stated that an appeal of the planning commission's decision must be made in writing to the planning division within 10 days.

8. PUBLIC HEARINGS

A. Resolution denying a side yard setback variance for a garage addition at 15012 Cherry Lane. (10008.10a)

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

Scott-Sims reported. She recommended denial of the application based on the findings listed in the staff report.

Lehman noted a discrepancy in the distance of the setback. Scott-Sims explained that the survey shows the setback is 18 feet from the corner to the west property line. That is the reference staff used.

Lehman asked if the proposed garage could be located somewhere else and meet setback requirements. Scott-Sims acknowledged that the proposed garage could be located elsewhere on the property, but it may lose some of its aesthetic value.

Lisa Ulett and Jason Ulett, 15012 Cherry Lane, applicants, were present. Mr. Ulett stated that the survey was done in 1967 for a proposed site plan. It was used as an approximation for the diagram. He had the site surveyed again and the setback is actually 16.3 feet. Ms. Ulett stated that the actual structure would be 20 feet deep, not 21 feet, because the 21-foot measurement includes the overhang. The interior dimension is just under 18.5 feet. The slope of the property requires a 12-inch block wall for the rear. If the variance is not approved, the interior dimension is less than 16 feet. The proposed location positions the proposed garage as far up as possible to keep the garage aesthetically pleasing from the street and prevent the need for additional driveway which would cause the removal of a giant, silver maple tree. An average-size car would not fit in the illustrated garage without a variance.

Mr. Ulett stated that the proposed location would cause the least amount of tree and vegetation removal. The top of the driveway has an existing pad of 18 of the necessary 20 feet in width necessary. Only 2 feet of the side hill would have to be removed. There would be minimal impact on the overall forestry of the area. It would be in keeping with the oak canopy behind the house, help maintain the woods feel, be aesthetically pleasing from the street, look like part of the existing home, and cause minimal grading and drainage pattern changes. The neighbors support the proposal. Some were present in support of the proposal.

Mr. Ulett said that the yard runs north to south. On the east side, there was the potential to tuck a garage behind the house to meet all the setbacks. The problem with tucking a garage behind the house is that it would damage the root structure of two red oaks, two silver maples, and other trees that would have to be cut down in order to have a usable sized garage with enough area to turn around. There would be a large amount of grading and drainage change at that location. The other option is in the front yard. Locating the garage in the front yard would not be aesthetically pleasing and would cause drainage issues for the adjacent properties. When the house was built in 1967, the front yard was a filled-in wetland. Part of it stays moist for most of the spring. The neighbors do not support these other options.

Mr. Ulett said that the third option that was considered would be to attach the garage to the current garage – doing a side entry. It would cause significant earth

removal for the turning radius, removal of the 70-foot silver maples, and it would butt right up to the property line. It would be difficult for a normal-size car to turn into the back two stalls. It would also block access to the backyard. The usefulness of the staircase would be lost. The grade change is significant.

Mr. Ulett stated that attaching the garage from a front-entry perspective would still require a variance. The current location for this site is the most useful place.

Ms. Ulett said that she and her husband spoke to every neighbor and asked for their input. The applicants do not want to disrupt the neighborhood at all. The residents at 5220 Lee Way told her that that residence received a variance for the third-car stall. Her next door neighbor said that his lot received a variance for the third-car stall. She found out that one property did not apply and did not receive a variance for a third call stall in violation of the setback requirement.

Ms. Ulett said that her neighbor, Ann Flanagan, wrote a letter of support for the proposal. It is not easy to find a house with an acre of woods and lots of garage space in Minnetonka. She is doing a lot to the inside and outside of the house to improve its appearance from the street. The house will be repainted to match the garage. She ordered 11 windows and will be purchasing a new front door. Extensive landscaping will be done in the front and back to make it a nicer place to look at and a better place to live.

Mr. Ulett wants to preserve the woodlands in the back. The canopy is 13.3 acres in the back. He has done extensive work to remove the buckthorn by hand and replace it with native species. He drives 30 miles every day to work because he picked Minnetonka to live for the school districts after living in Arizona for 10 years.

Ms. Ulett welcomed questions.

Chair Cheleen measured his own garage which houses his full-size pickup. A two-car garage is the standard for Minnetonka. There is room on the property to build a great big storage building or garage without a variance. He visited the site and wondered why the location would not be moved two feet into the driveway so a variance would not be needed. That location would provide the same turning radius. Ms. Ulett stated that would locate the proposed garage in front of the existing garage and she would not be able to turn her Sequoia and get into the spot. Chair Cheleen said that moving forward and backing in would work. Ms. Ulett agreed. She said that if it would be moved up two more feet, it would be even more of a challenge to get into it.

Chair Cheleen asked if making the garage slightly wider or pulling it a little farther forward to allow more space between the corner and the garage and would end up with more room to turn. Mr. Ulett said that was considered. The issue is the elevation change. The front corner of the proposed garage drops 36 inches from the front corner down the front slope. The driveway would have to be rearranged to get a continuous slope into the garage. If moved up two more feet, then it would have to drop another 18 inches and would be lower than the existing grade. Ms. Ulett said that the rocks would almost be abutted. Past the rocks, the driveway steeply falls. Mr. Ulett stated that it could be done, but the problem is with the existing grade change. The grade of the area would have to be changed and lowered to provide a smooth transition into the garage, otherwise it would be driving up a hill into the garage. Ms. Ulett noted that the property line dives toward the driveway. The further down the driveway, the closer the property line gets. By the end, they are just a few feet apart. At the bottom of the driveway, there is a box elder tree at the corner. To reroute the driveway would have to accommodate the huge drop off and box elder tree. The applicants have worked long and hard considering scenarios that could be done where they would not have to request a variance.

A. Thomas visited the site and noted that the proposed location could be moved. He understood the argument of turning to get into the garage. Maybe that is the hardship. He asked for the applicants' best reason for the variance. Making backing up a little more difficult does not make any difference. A box elder tree is not a high priority for him. He asked for a good reason to justify not moving the location of the garage two feet. Ms. Ulett responded that if the location would be moved two feet forward, then a silver maple on the corner would have to be cut down. The driveway is single lane. It is difficult to get up when there is snow. It would look like the garage is an afterthought and not be as aesthetically pleasing or in keeping with the neighborhood.

Chair Cheleen clarified with the applicants that they did not plan to pull up the driveway and take a left in the garage door. A driver would go up to the existing door and back around and in. Mr. and Ms. Ulett answered positively. Chair Cheleen did not see enough room to come up the driveway. A driver would travel up the existing driveway toward the existing garage doors, back around into the turn area, and then back into the garage. Chair Cheleen did not see the difference two feet would make. The three-point turn would have to be made either way. Ms. Ulett said the difference would be the appearance of whether it would look like a planned structure or an afterthought.

The public hearing was opened.

Ann Flanagan, 15024 Cherry Lane, stated that there is a huge slope difference. The applicant's proposal is the best plan for what the applicants want to do. She had no problems with the plan. To put a garage in the front would be horrible. A garage in the back would interfere with a wonderful forest and would be much more unsightly. She planted vegetation on one of the terraces so that as the vegetation grows, the proposed garage would be screened from view. She looks down on the house and garage now. The proposed garage would be a little lower than the existing one. She understood the concerns regarding the variance, but felt the variance should be approved. She is the one most affected by the proposal because she can see it from her front step, front yard, and patio. She has no problems with it.

Margorie Zdechlik, 15036 Cherry Lane, stated that she and her husband, John, approve of the project. The main reason she likes the plan is due to the aesthetics. If the garage would be located two feet forward, it would seem out of place. It would appear to be an afterthought. The front yard would be unbelievable. It would be silly that the city would consider the front yard a better option. As a neighbor, she would appreciate the variance.

No additional testimony was submitted and the hearing was closed.

Sjeklocha asked what usually happens if the city finds out a variance was not approved for a setback requirement violation. Scott-Sims explained that it would depend on how much time has lapsed. If staff is aware of a violation somewhat quickly, then a letter would be issued stating that the variance process must be followed. In this situation, where staff learned of the situation 10 years after the fact, she was not sure there is much that can be done since there are new property owners.

Sjeklocha asked what would happen if 3 years has passed since the creation of a setback violation and the property has the same owner. Gordon explained that the look back of a building permit is 3 years. Ten years ago, building permits were not reviewed as they are now. Now, building permits and plans are reviewed and must be signed off by planning, engineering, and natural resources staff. Surveys are better today. Staff's ability to monitor things is better.

Lehman compared the application with another garage sideyard setback variance application that was geographically similar. That case was different because it was not for third and fourth stalls. He leaned toward approving the variance, but not strongly. He would like more garage space and sympathized with the applicant.

Adams commended Mr. and Ms. Ulett for the improvements to their property and residence. The applicants have brought the neighborhood together. It is great they gained the support of neighbors. He considered the hardship requirement. The existing garage is a very over-sized, two-stall garage. He has a lot of stuff too, but he rents space elsewhere. That is a reasonable solution. He did not hear a good explanation of a hardship. The property has reasonable use. The proposal did not meet the hardship threshold. He leaned toward supporting staff's recommendation to deny the application.

A. Thomas concurred. The applicants could build a garage and meet setback requirements. The garage would be an afterthought. He had a hard time justifying a hardship. His house has a single car garage and he knows he would be denied a variance. He supports staff's recommendation.

Sjeklocha supports staff's recommendation. The site has reasonable use and the hardship standard has not been met. She commended the owners for the improvements and stewardship of the property. She has experience removing buck thorn. The case is not compelling enough to approve a variance for this property.

Chair Cheleen said he has been on the fence. He liked the idea of storing items to keep them protected, but he was swayed mostly by Adams' comment regarding hardship. The residence already has a two-car garage. The proposal would be the best place to locate the garage, but because it is not a hardship and because this is an extra add on for convenience he felt it should be done without needing a variance. He upheld staff's recommendation.

Adams moved, second by Sjeklocha, to adopt the resolution on pages A14–A16 of the staff report, which denies the proposed side yard setback variance from 10 to 8 feet at 15012 Cherry Lane. Approval is based on the following findings:

- 1) The proposal is not reasonable and would meet the required standards for a variance, because:
 - a. **UNDUE HARDSHIP and UNIQUE CIRCUMSTANCE:** Although the existing house was built in 1967, predating the city's current zoning setback standards, it meets the current zoning setback standards. The city acknowledges that the existing house is neither sited perpendicular on the lot nor is it centered on the lot. However, it is not the location of the house on the site that prompts the current variance request, but it is the applicant's desire to construct

additional garage space on the site that brings about this variance request.

- b. INTENT OF THE ORDINANCE: The intent of the ordinance is to provide property owners with reasonable use of their property. The applicants currently have reasonable use of their property with their existing attached two-car garage. A two-car garage on a single-family residential property is the standard adopted by the planning commission as reasonable use of property.

Adams, Sjeklocha, A. Thomas, and Cheleen voted yes. Lehman voted no. Motion carried.

Chair Cheleen stated that an appeal of the planning commission's decision must be made in writing to the planning division within 10 days.

B. Lot division, with variances, for subdivision of the existing property at 5435 Woodland Road. (10014.10a)

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.

Sjeklocha asked if a residence could be built on the proposed lot without variances. S. Thomas answered affirmatively.

The applicant was present for questions.

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

Sjeklocha said that the property is beautiful. The lots would be large. She supports the proposal.

Adams moved, second by A. Thomas, to recommend that the city council adopt the resolution on pages A19–A24 of the staff report. This resolution approves a lot division, with lot area variances from 22,000 square feet to 20,000 square feet and lot width at building setback variance from 110 feet to 100 feet, at 5435 Woodland Road. Approval is based on the following findings:

- 1) Except for the requested variances, the proposal meets the required standards and ordinances for a lot division.
- 2) The requested variances are reasonable as:
 - a. PRACTICAL DIFFICULTIES AND UNIQUE CIRCUMSTANCE. Current ordinance standards would not allow the continuation of what has been the historical development pattern of the area. This conflict between current ordinance standards and clear, historical development pattern of the Woodland Road/Byscane Lane neighborhood presents both a practical difficulty and unique circumstance.
 - b. INTENT OF THE ORDINANCE. The intent of zoning regulations pertaining to lot area and width is to ensure orderly and consistent development within a community. The requested variances would meet this intent as the variance would allow for creation of lots of nearly identical size and configuration to lots both north and south of the subject property.
 - c. NEIGHBORHOOD CHARACTER. The requested variances would not negatively impact the essential character of the Woodland Road/Byscane Lane area. Rather, the variances would allow for construction of a home on what appears to be a vacant lot.

Approval is subject to the following conditions:

- 1) The following items must be submitted to the city before the city releases this resolution:
 - a. An engineering/utility inspection fee.
 - b. An electronic CAD file of the lot division 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 current within thirty days before release of the final plat.

- (2) Restrictive covenants to be recorded against the individual lots with the lot division. The covenants must include the conditions that have not been met as of the release of this resolution.

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

- 2) Prior to issuance of a building permit for any PARCEL B:
 - a. Submit the following for items 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.
 - (2) A stormwater management plan as required by the city engineer.
 - (3) Final grading and tree preservation plan for the lot. The plan must show:
 - (a) Construction and grading limits for the home and driveway on PARCEL B in substantial conformance with Exhibit A of this resolution. Staff may approve alternate grading and construction limits if such alternate shows removal of no more than 35 percent of the High Priority Trees as defined in Exhibit A. For purposes of this condition, "removal" means physical removal of the tree or impact to 30% or more of the critical root zone of the trees as defined by City Code Section 300.28. Subd. 19.
 - (b) Location of driveway and sewer and water services to minimize impact to any High Priority or Significant trees. No trees may be removed for installation of services. One set of new services must be installed.
 - (4) A tree mitigation plan. The plan must meet minimum mitigation requirements as outlined in the ordinance. However, at the discretion of natural resources staff, mitigation inches may be decreased.

- (5) Submit cash escrow in the 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: (1) 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 (2) if compliance is not achieved, the city will use any or all of the escrow dollars to correct any erosion and/or grading problems.
 - b. Submit the following documents:
 - (1) A recorded copy of the lot division resolution, all required easements, and restrictive covenants.
 - (2) A letter from the surveyor stating that boundary and lot stakes have been installed as required by ordinance.
 - (3) A letter of credit or cash escrow in the amount of 150% of an estimated cost or 125% of a bid cost to complete required tree mitigation. Individual letters of credit are required for each lot.
 - c. Schedule and hold a preconstruction meeting with engineering, planning, and natural resources staff.
 - d. Install a temporary rock driveway, erosion control, tree protection and wetland protection fencing for each lot. These items must be maintained throughout the course of construction.
 - e. Pay a hookup fee for sanitary sewer and water.
 - f. Pay a park dedication fee of \$5,000.
- 3) Notwithstanding the requirements outlined above, all lots and structures within the development are subject to the all R-1 zoning standards. In addition:

- a. Access to all lots and houses within the subdivision must meet all minimum access requirements as outlined in Minnesota State Fire Code Section 503. These access requirements include road dimension, surface, and grade standards. If access requirements are not met, houses must be protected with an approved automatic fire sprinkler system.
 - b. Maximum floor area ratio is limited to 0.22.
- 4) During construction, the streets must be kept free of debris and sediment.
 - 5) This resolution must be recorded by the county within one year, unless the city council approves a time extension. If the council does not approve the extension, the lot division approval will be null and void.

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

Chair Cheleen noted that the item is tentatively scheduled to be reviewed by the city council on June 28, 2010.

C. Conditional use permit for an accessory apartment at 2336 Linner Road. (96005.10a)

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.

Adams asked if there would be any variances with the request. Thomson answered in the negative. All setback requirements and conditional use permit standards would be met.

Chair Cheleen felt it would be a commendable thing for the applicant to do for his parents. He asked if the apartment could be rented in the future. Thomson explained that the conditional use permit standards for an accessory dwelling require that the property owner reside in one of the units. The other unit could be rented to a non-family or family member.

John Falzone, 2336 Linner Road, applicant, agreed with all of the conditions except for requiring a buffer 16.5 feet from the wetland. He planted a 5-foot buffer. There is not much of a flat area in the backyard. An additional 9 feet of

buffer would take up the play area for the kids. He would appreciate a compromise. Thomson reviewed the wetland ordinance buffer requirement. The planning commission and city council may add the buffer requirement for a variance or conditional use permit to have a wetland buffer if there is a connection to what is being done on the property and the wetland itself. Because the addition would extend the residence closer to the wetland, staff felt a wetland buffer would be appropriate. The size and shape of the buffer area could be modified. Mr. Falzone understood that it would require the removal of turf and natural vegetation be planted. He did not want to remove turf to decrease the play area for the kids. Most of the yard is on a hill.

Chair Cheleen asked if the turf would have to be removed and replaced with natural vegetation. Thomson responded that staff could work with the applicant. Standard turf is not typically considered natural vegetation.

Chair Cheleen asked if there would be a feasible way to change the length or distance of the wetland buffer legally. Thomson responded positively. The wetland buffer condition is an option, not a requirement. The planning commission could remove or change the distance and shape of the wetland buffer.

Chair Cheleen asked Mr. Falzone what distance he would like. Mr. Falzone stated that right now the buffer is 6 feet to the turf. Thomson suggested that staff work with the applicant to determine the exact location of the wetland buffer prior to its city council review. Chair Cheleen agreed.

The public hearing was opened.

Lori Knudson, 2330 Linner Road, had no problem with the proposal, but was looking for information regarding what would happen in the future when the property is sold. Thomson explained that the conditional use permit will stay with the property no matter who owns it. One of the units could be rented, but the owner would always have to live in one of the units. The provisions for parking and single-family characteristics would have to be maintained.

No additional testimony was submitted and the hearing was closed.

Adams commented that the property is beautiful and has been updated and well maintained by Mr. Falzone. He was willing to strike the requirement for a wetland buffer from the motion and have Mr. Falzone work with staff before this is reviewed by the city council. He had no problem with the proposal.

A. Thomas had no problem with making a change to the wetland buffer requirement, but he did not want to remove it. The proposal would increase drainage and water runoff of the property. He would be willing for staff to meet with the applicant and come up with a size that would allow utilization of the backyard and provide a wetland buffer. He would not support deleting the wetland buffer requirement. He was fine with a condition requiring staff and the applicant agreeing on a new buffer area prior to the city council meeting.

Chair Cheleen concurred with A. Thomas. He supports a suitable buffer size that meets the needs of both sides.

Sjeklocha moved, second by Adams, to recommend that the city council adopt the resolution on pages A12-A16 of the staff report. This resolution approves a conditional use permit for a 846-square foot accessory apartment at 2336 Linner Road. Approval is based on the finding that the proposal meets the required conditional use permit standards and is subject to the following conditions with submittal of a wetland buffer plan to be reviewed and approved by staff:

- 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. Final plans must meet all wetland and floodplain setback and low floor requirements.
 - c. Submit a conservation easement for staff review and a drawing of the easement area. Submit a drawing of wetland buffer area for staff review and approval.
 - d. 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) The accessory apartment must be constructed and maintained in substantial compliance with the site plan, floor plans, and building elevations date-stamped May 3, 2010.

- 3) The structure must be owner occupied. The property owner must reside 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 building, housing, electrical, plumbing, heating and related codes of the city.
- 5) All other provisions of the ordinance relating to single family dwelling units must be met, unless specifically amended by this resolution.
- 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 the above conditions in writing.

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

Chair Cheleen noted that the item is tentatively scheduled to be reviewed by the city council on June 28, 2010.

D. A conditional use permit to operate a part-time preschool program at 131 Cheshire Lane. (10013.10a)

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

Scott-Sims reported. She recommended approval of the application based on the findings and subject to the conditions listed in the staff report.

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

Adams visited the site and found it to be a reasonable use. Mini-Hops has been an asset to the community for over 20 years. Having a preschool alternative would be great for the community. He supported the proposal.

Adams moved, second by Lehman, 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 preschool program for Mini-Hops Gymnastics at 131 Cheshire Lane. 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) A maximum of 12 students per preschool class, for a maximum enrollment of 48 students.
- 3) Provide a minimum of 51 required parking stalls.
- 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, Lehman, Sjeklocha, A. Thomas, and Cheleen voted yes. Motion carried.

9. ADJOURNMENT

A. Thomas moved, second by Lehman, to adjourn the meeting at 7:55 p.m. Motion carried unanimously.

By: *Lois T. Mason*
Lois T. Mason
Planning Secretary