

**MINNETONKA PLANNING COMMISSION  
MINUTES**

**NOVEMBER 4, 2010**

**1. CALL TO ORDER**

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

**2. ROLL CALL**

Commissioners Lehman, Magney, Sjeklocha, A. Thomas, Adams, and Cheleen were present. Daeges was absent.

Staff members present: 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 additional conditions provided in the change memo dated November 4, 2010.

**4. APPROVAL OF MINUTES:** October 7, 2010

*Sjeklocha moved, second by Adams, to approve the October 7, 2010 meeting minutes as submitted.*

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

**5. REPORT FROM STAFF**

Gordon announced that:

- The November 18, 2010 planning commission meeting has been cancelled.
- Commissioners are invited to attend a study session with the city council on November 8, 2010 after the city council meeting to discuss the Highway 7 and County Road 101 village center.
- The second public meeting regarding the Highway 7 and County Road 101 village center study will be held November 23, 2010 at the Minnetonka High School.
- Wednesday, November 10, 2010, is the Urban Land Institute Southwest Light Rail Transit Corridor Policy Makers Tour. City councils and board members are welcome to attend the workshop, tour, and reception at the end of the day. He requested commissioners RSVP to him.

- The next regular meeting will be December 2, 2010.

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

**7. PUBLIC HEARINGS: CONSENT AGENDA**

The item was not removed from the consent agenda for discussion.

***Adams moved, second by Lehman, to approve the item listed on the consent agenda as recommended in the staff report as follows:***

**A. Time extension of multiple variances at 17306 County Road 101 West. (04013.10a)**

Approve the twelve-month time extension.

***Lehman, Magney, Sjeklocha, A. Thomas, Adams, and Cheleen voted yes. Daeges was absent. Motion carried and the item on the consent agenda was approved as submitted.***

**8. PUBLIC HEARINGS**

**A. Resolution approving a conditional use permit to operate a daycare on the property at 1712 Hopkins Crossroad. (08009.10a)**

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.

Adams asked how many parking stalls would be required if the site would house an office use. Scott-Sims responded 107 stalls to meet ordinance requirements, but a variance was approved to allow a reduction to the existing 43 stalls. An office use requires less parking than a synagogue. An office use of the lower level would require 18 parking stalls. If the synagogue were closed and the upper level changed back to an office use, then only 36 parking stalls would be required for the entire site.

Lehman was pleased with the condition prohibiting snow from being stored on the paved surface of the existing parking lot. He asked if all of the current conditions are being met. Scott-Sims answered affirmatively. Staff has not

received a complaint regarding lack of parking spaces or lack of snow removal. Staff is satisfied that condition is being met.

The applicant was present to answer questions.

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

Adams felt the request is reasonable. He drives by the site on a regular basis and has never seen the parking lot full. His concerns regarding parking are alleviated. He supports staff's recommendation.

Chair Cheleen felt the location seems like a fairly ideal place to locate a daycare. The back play area is away from any other houses. It would not be seen. The drop off appears quite safe, is off the road, and appears to have plenty of room for stacking. It is a fine proposal.

Sjeklocha asked if the applicant or the synagogue need the conditional use permit. Scott-Sims explained that there are two resolutions. One for the daycare use and the second one to amend the current conditional use permit for the Sharei Chesed congregation. Both run with the property.

***Lehman moved, second by Adams, to recommend that the city council approve the following items for 1712 Hopkins Crossroad:***

- 1) *Recommend that the city council adopt the resolution on pages A10—A13 of the staff report. This resolution approves a conditional use permit for a daycare center serving up to 25 children at 1712 Hopkins Crossroad. Approval is based on the finding that the proposal meets the required conditional use permit standards and is subject to the following conditions:*
  - a. Prior to issuance of a building permit.
    - 1) Record this resolution with the county. A copy of the recorded resolution must be returned to the city.
    - 2) Submit evidence of all applicable state, county, and city licenses.
  - b. The daycare must have loading and drop-off points designed to avoid interfering with traffic and pedestrian movements.

- c. The daycare must have outdoor play areas located and designed in a manner which mitigates visual and noise impacts on adjoining residential areas.
  - d. The daycare must obtain all applicable state, county and city licenses.
  - e. The city council may reasonably add or revise conditions to address any future unforeseen problems.
  - f. 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.
  - g. The applicant must agree to these conditions in writing.
- 2) *Recommend that the city council adopt the resolution on pages A14—A18 of the staff report. This resolution approves an amendment to an existing conditional use permit for a religious facility and institution at 1712 Hopkins Crossroad with a variance from the minimum number of required parking stalls. Approval is based on the following findings:*
- a. The proposal meets the required conditional use permit standards.
  - b. The proposal meets the required standards for a variance, because:
    - (1) **UNDUE HARDSHIP:** The zoning ordinance requires excess parking based on the proposed configuration and size of the synagogue.
    - (2) **UNIQUE CIRCUMSTANCE:** The differing uses which demand parking at different times is a unique circumstance not common to every religious facility or office building.
    - (3) **INTENT OF THE ORDINANCE:** The proposal would provide an adequate number of parking stalls to accommodate the proposed uses.
    - (4) **NEIGHBORHOOD CHARACTER:** The parking variance would not alter the character of the surrounding

neighborhood because a sufficient number of parking stalls are provided.

Approval is subject to the following conditions:

- a. 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.
- b. The first level leasable space may only be occupied by uses permitted by ordinance and uses which would not require additional parking.
- c. Snow may not be stored within the paved surface of the existing parking lot.
- d. Any intensification of the synagogue use which results in additional parking requirements or observable parking problems would require city review of the conditional use permit.
- e. The city council may reasonably add or revise conditions to address any future unforeseen problems.
- f. Any change to the approved use that results in a significant increase in traffic or a significant change in character (additional membership or building occupancy) would require an amendment to the conditional use permit.
- g. The property owner must agree to these conditions in writing.
- h. This resolution amends and replaces City Council Resolution 2008-035 adopted on April 7, 2008.

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

- B. Resolution approving a conditional use permit for a fast food restaurant with outdoor seating area for Noodles & Company at 12977 Ridgedale Drive. (89035.10a)**

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.

A. Thomas asked if other businesses could do the same thing with their signs as the applicant is proposing if the application is approved. Thomson responded in the negative. Any of the tenants would be required to go through the sign permit review process. If the property owner proposed a long-term plan for all of the tenant signs, then the city would look at the tenant signs on a broader scale.

A. Thomas questioned if another business could point to the Noodles and Company sign to justify doing the same thing. Thomson stated that staff looks at the uniqueness of the tenant space being on the end of the building and having a little more visibility. It would be considered an end-cap tenant. The uniqueness of the space prompts approval of the sign. A. Thomas asked if the other end anchor tenant could ask for the exact same signs. Thomson stated that staff would look to see if the proposal would be architecturally consistent with the building and the existing signs.

A. Thomas asked if there would be a sign indicating that there is parking provided in the rear of the building. Thomson said that would be a good condition of approval.

Lehman asked if there would be a change in parking. Thomson responded that the layout and number of parking stalls would not change.

Lehman asked what type of barrier would protect patrons seated outdoors. Thomson stated that a railing system would surround the patio. The Panera outdoor eating area was located close to the drive aisle and access to the shopping center.

Melanie Bagley, a Noodles and Company representative, stated that all dishes are china and real flatware is used. There really is no need for a refuse container outside. The reason Noodles does not put refuse containers outside is that they attract insects including bees. She requested that condition be removed. The buses would circulate regularly after patrons leave.

Ms. Bagley requested that a skillet graphic be allowed on proposed awnings.

Adams asked what kind of liquor would be served. Ms. Bagley responded beer and wine only. Alcohol sales are generally less than 10 percent of total sales.

The operating hours Monday through Thursday are 11 a.m. to 9 p.m. and Friday through Sunday 11 a.m. to 9:30 p.m.

Adams asked if the restaurant would be self serve. Ms. Bagley explained that a patron places an order at the counter, takes a number, and the food is brought to the table.

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

Chair Cheleen confirmed with Thomson that the conditional use permit is specific to this use. He asked if the condition would be met if one, small, empty refuse container with a flap would be provided outside. Thomson said that would comply with the condition. The requirement is a standard condition for restaurants with outdoor seating. Thomson stated that the commission could change the condition to require refuse containers or the tables to be bused as needed on the patio. Chair Cheleen approved of the solution.

Chair Cheleen asked Thomson to address the request for a skillet graphic on the sign. Thomson explained staff's interpretation of the sign ordinance to mean that awnings would not be allowed to have writing. A logo of a restaurant would not be permitted because it would be considered signage. A non-logo graphic on the awning panel would be allowed. Chair Cheleen asked if the skillet graphic could be added. Thomson stated that the only option to put any type of signage on the awnings would require the applicant to get a variance.

Chair Cheleen asked if staff's recommendation would approve the sign as shown in an illustration he pointed out. Ms. Bagley explained that the skillet would not be the entire oval with noodles and skillet above. It would be an outline or stencil of a skillet and a noodle. She understood the limitation and was suggesting options. She was aware that copy is prohibited and she could look into a graphic. She could work with the logo restriction. She would work with staff to meet ordinance requirements.

Lehman understood that a conditional use permit stays with the property. The proposed resolution would approve a fast-food restaurant. Thomson agreed a conditional use permit is not tied to the user, owner, or applicant. It is tied to the property itself. A new use would be required to meet the conditions listed in the conditional use permit. Lehman preferred keeping the requirements of a conditional use permit for a fast food restaurant including requiring a refuse container on the patio.

***Sjeklocha moved, second by Lehman, to recommend that the city council approve the following items for 12977 Ridgedale Drive with an additional condition requiring a sign indicating parking rear of the building and the applicant working with staff to determine signage in accordance with ordinance requirements:***

**CONDITIONAL USE PERMIT**

- 1) *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 2,910 square foot fast food restaurant with outdoor patio at 12977 Ridgedale Drive. Approval is based on the finding that the proposal meets the required conditional use permit standards and is subject to the following conditions:*
  - a) Complete the following prior to issuance of a building permit:
    1. Record this resolution with the county. A copy of the recorded resolution must be returned to the city.
    2. Submit a final landscape plan for staff review and approval. The plan must meet the landscape standards outlined in the zoning ordinance.
  - b) The restaurant must be developed and maintained in substantial conformance with the plans date-stamped September 22, 2010.
  - c) The restaurant must obtain all applicable food and liquor licenses from the city.
  - d) The patio must be shifted slightly to the north and a sidewalk must be provided around the patio to maintain the existing walkway from front of the building to the back parking lot.
  - e) The outdoor patio must be equipped with refuse containers and patrolled daily for litter pick-up.
  - f) The outdoor patio must not have speakers or audio equipment that is audible from adjacent residential parcels.
  - g) The outdoor seating area must be surrounded by a physical barrier that prevents access to the area except through the building. Any

- openings or gates must be required by the building code and must be equipped with self-closing and self-latching gates.
- h) The city council may reasonably add or revise conditions to address any future unforeseen problems.
  - i) 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.
  - j) The applicant must agree to the above conditions in writing.

### **SIGN COVENANT**

- 2) *Adopt the resolution on pages A17-A22 of the staff report which repeals existing sign covenants at Ridge Square North shopping center. Approval is based on the following findings:*
  - a) Elimination of the covenants is appropriate because the covenants are more restrictive than the current sign ordinance.
  - b) Signage for the property can be appropriately regulated by the provisions of the sign ordinance.
  - c) Elimination of the sign covenants ensures that future signs on the property would be subject to the current ordinance standards at the time.
  - d) Regulating signs through the sign ordinance, rather than with covenants, decreases complication for the property owner, tenants, sign contractors and city staff. It also ensures that the shopping center is regulated the same as comparable commercial properties.

### **MODIFIED SIGN BAND**

- 3) *Approve a modified sign band for the location of Noodles & Company wall signs at Ridge Square North at 12977 Ridgedale Drive. Approval is based on the following findings:*
  - a) City Code Section 300.30 Subd. 5(b)(1)(e) allows the planning commission to approve a modified sign band to allow for architectural integration of the tenant sign.

- b) The proposed signs are attractively designed to integrate into the architecture of the shopping center.
- c) The proposed signs have a proportional relationship to the scale of the building.
- d) The signs address the unique visibility of the tenant space. The tenant space is located on the end-cap of the building and functions similar to an anchor tenant of the shopping center.

Approval is subject to the following conditions:

- a) Sign permits are required for the wall signs. Prior to issuance of the sign permits, the resolution eliminating the sign covenants for Ridge Square North must be filed with the county and copy of the recorded resolution returned to the city.
- b) The signs must be constructed in substantial conformance with the plans date-stamped September 22, 2010 with the addition of a sign that meets staff's approval to indicate parking in the rear of the building.
- c) The signs graphics shown on the awnings are not allowed. A different graphic requires staff approval.

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

The city council is tentatively scheduled to review this item at its November 22, 2010 meeting.

## **9. OTHER BUSINESS**

### **A. Concept Plan for Duffy Development for 12708 and 12720 Wayzata Boulevard (10042.10a)**

S. Thomas reported.

John Duffy, 11900 Wayzata Boulevard, is the president of Duffy Development, Incorporated. He introduced Jeff Vonfelter, the development manager. They are long-term owner and managers of the company's properties. Their first project in Minnetonka was a business park in 1982. Most of their projects are residential and commercial. The site is suited for multi-family residential housing because

the area has jobs and transportation. The site is two blocks from a designated metropolitan council transportation node. A traffic study and utility study still need to be done. He does not think that will be a problem. The issue may be with the comprehensive guide plan. It is guided for commercial. However, the plan identifies the need for more high-density housing and the need to look for sites that are underutilized that could be redeveloped. It specifically refers to this location north of Interstate 394 and between Ridgedale Drive and Plymouth Road as being in need of high-density housing. He met with staff who said the proposal is worth consideration.

Mr. Duffy pointed out the city's large need for affordable housing. Ninety percent of the stock in Minnetonka does not meet affordable guidelines. He proposed work-force housing with minimum incomes of \$24,000 and maximum incomes of \$58,500. By the time the project would be completed, those amounts would increase. It is important to define the target market.

Mr. Duffy noted that the site plan includes two parking stalls more than the ordinance requires. That is more parking than the site would need due to the availability of public transit. He requested consideration for replacing the parking stalls in the northwest corner with proof of parking to utilize the space for a tot lot or green space.

Adams asked for the price of rent. Mr. Duffy estimated \$750 for a one bedroom, \$850 for two bedrooms, and \$950 for three bedrooms.

Adams asked if work-force housing correlates with quality of the building. Mr. Duffy provided a list of developments to demonstrate the impressive quality of his company's housing. His company won the Excellence in Quality Award given by Minnesota Housing. This year, his director of portfolio operations, Jane, received the highest management award the state gives.

Adams asked where his nearest residential housing development is located. Mr. Duffy responded that there are two in Maple Grove on Weaver Lake Road and County Road 30.

Adams worked on the comprehensive guide plan. He recalled discussion regarding guiding it residential. The feeling was that no developer would want to build residential there. The applicant has proven them wrong. The affordability range is needed in Minnetonka. He liked that aspect of the concept. Mr. Duffy has offered bus tours of his developments to city officials in the past.

Chair Cheleen pointed out an illustration of a brick building and asked if that material is being considered. Mr. Duffy answered affirmatively. He explained that the proposal would be a four-story building. He pointed out that as the grade drops, the underground parking would show. Right out the door is a bus stop. He hoped to locate a bus shelter close to the building. The exterior would be 100 percent maintenance free with wood-frame construction.

Sjeklocha asked if there was consideration for a mixed use with commercial on the first floor and residential on top. Mr. Duffy stated there was not because there has been bad luck with mixing uses to the point that financing would not approve a loan to cover both uses. Mr. Duffy stated that funding is difficult to secure for an apartment located over a commercial use. There would be separate loans for each floor. He has done some mixed-use retail including the Robbinsdale town center, but it is almost impossible to finance them because of the bad history of mixed-use developments.

Sjeklocha asked if people want to live where there is commercial. Mr. Duffy responded that they want to live where services are available. He would like to live above a retail area, but those developments have not worked out well. Mr. Duffy stated that funding is difficult to secure for an apartment located over a commercial use. This is not a great retail site because there is no visibility from the freeway. There are a lot of vacant retail spaces.

Sjeklocha asked what else was considered. Mr. Duffy said that senior housing was considered. Seniors would not be excluded from the proposal. The majority of renters would be young families. The senior market would want more services closer to home. Financing through Minnesota Housing does not award funds for senior housing.

Sjeklocha asked if work-force housing is a term used in the housing industry. Mr. Duffy explained it covers families with 60 percent median income. Section 8 families have 30 percent median incomes. Sixty percent of median income is the highest income that the metropolitan council counts as qualifying for affordable housing. There are a lot of jobs in the area that will make it possible to fill the proposal with working families. Sjeklocha asked for the most compelling reason to change the comprehensive guide plan. Mr. Duffy said that the site is underutilized. The proposal would build a new project that would pay significant property taxes that would be good for the city. He did not think a commercial use would locate on the site for quite a while. The proposal would be the best utilization.

Adams asked if locating the access off of Marion Lane was considered. Mr. Duffy said that the idea would be to line the access up with the driveway across the street. It does not matter to him if engineering staff want to move it.

Chair Cheleen asked if each floor would have a hallway that could be seen all the way through. He learned from police officers that they favor one long hallway rather than ones set up for privacy. The short sight lines make it difficult to access the units or apprehend someone. Mr. Duffy said that his company is building the Depot in Elk River. Those plans were considered for the site as an example. That much detail has not been discussed yet.

Chair Cheleen confirmed with Mr. Duffy that each unit would have one stall of underground parking. Chair Cheleen asked how many other stalls would be needed. Thomas explained that city ordinance requires two parking stalls per unit. The proposal would meet parking requirements. Staff would agree with Mr. Duffy's comments regarding all of the surface parking being unnecessary. Staff does advocate for proof of parking in many situations to enhance green areas when appropriate. Chair Cheleen liked the idea of a tot lot or green space for kids. When he visited the area he saw a need for a place for kids to play. The only other residential housing he saw in the area was apartments to the north and three or four houses in the northwest corner located quite a distance away.

Adams asked where the closest public park is located. Mr. Duffy said there is one north about half a mile away. Gordon noted there is a school a half mile north of the site that would have facilities.

S. Thomas requested commissioners' reactions to the proposal to change the comprehensive guide plan. A. Thomas' gut reaction was that he would not have a problem supporting the concept. Something needs to be developed. There are quirks to be worked out. It is located up a hill off the freeway. He did not have a problem supporting the change.

Adams recalled discussing multiple residential housing for the site at the comprehensive guide plan meetings. The proposal would address a housing need for the city. He would support a comprehensive guide plan change for the proposal and felt the metropolitan council would also.

Chair Cheleen recalled the corridor discussion. It was left that way because both sides of the site house commercial uses. Lower-end, work-place housing up to a middle income level is needed by the city. He would qualify for the housing starting out as a school teacher. It is not a place to live ones whole life. It just happens to be a site that is guided for commercial, but could be changed to meet

the goal of providing affordable housing. A developer is hard pressed to find property in Minnetonka he or she can afford to develop as affordable housing. He can see how the proposal makes sense.

Mr. Duffy found the comments useful.

Chair Cheleen invited audience members to comment. No one responded.

## 10. ADJOURNMENT

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

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