

**MINNETONKA  
PLANNING COMMISSION  
MINUTES**

**DECEMBER 16, 2010**

**1. CALL TO ORDER**

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

**2. ROLL CALL**

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

Staff members present: City Planner Loren Gordon, Principal Planner Susan Thomas, and Planner Jeff Thomson.

**3. APPROVAL OF AGENDA:** The agenda was approved as submitted with modifications and additional comments listed in the change memo dated December 16, 2010.

**4. APPROVAL OF MINUTES:** December 2, 2010

*Adams moved, second by Sjeklocha, to approve the December 2, 2010 meeting minutes as submitted.*

*Sjeklocha, A. Thomas, Adams, Daeges, Lehman, Magney, 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 December 6, 2010:

- Adopted a resolution approving preliminary and final plats of Stratford Woods 2nd Addition located at 5243 Black Friars Lane.
- Adopted a resolution approving a time extension of the Applewood Pointe plat at 5709 Rowland Road.
- Adopted a resolution vacating right of way and drainage and utility easements for the Terratonka development located at 3100 Forest Lane, 3200 and 3218 Eldorado Trail.

Gordon reported that a joint city council, planning commission, and economic development advisory commission meeting was held December 13th to discuss

the village center process for the Highway 7 and County Road 101 area. Good discussion and direction was received. A public workshop will be held January 11, 2010 at the Minnetonka High School writing center at 6 p.m.

The next planning commission meeting will be held January 6, 2010.

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

**7. PUBLIC HEARINGS: CONSENT AGENDA**

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

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

**A. Expansion Permit for construction of a new home at 3217 Larchmore Avenue. (10044.10a)**

Adopt the resolution on pages A6-A9 of the staff report, which approves an expansion permit for construction of a new house at 3217 Larchmore Avenue. Approval is based on the following findings:

- 1) The applicant has met the burden of proof outlined in City Code §300.29 Subd. 7(c):
  - a. **REASONABLE EXPANSION:** The proposal is a reasonable use of the property because it would not expand the footprint or size of the existing house. The project would be a structural and aesthetic improvement from current conditions, and the increase in basement ceiling height provides a functional improvement to the living space.
  - b. **CIRCUMSTANCE UNIQUE TO THE PROPERTY:** The lot has a substandard width of 50 feet, which is a circumstance not common to every single-family residential property.
  - c. **NEIGHBORHOOD CHARACTER:** The expansion would not adversely impact the character of the neighborhood. The one-foot height expansion is a moderate increase in height and would not have a significant visual impact as viewed from surrounding properties.

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. Any delinquent city utility bills must be paid in full.
  - 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) The driveway must be paved as required by city ordinance. The location of the driveway must be relocated as to not extend onto the adjacent property. Drainage from the driveway cannot be directed onto neighboring property.
- 3) This expansion permit approval will end on December 31, 2011, unless the city has issued a building permit for the project covered by this resolution or approved a time extension.

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

## **8. PUBLIC HEARINGS**

### **A. Modified sign band for Big Top Liquor located at Ridge Square South shopping center. (10049.10a)**

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 the standards would apply to similar buildings. Thomson answered that the standards would be site specific so they would only apply to this shopping center.

Adams asked Thomson to address if the standards would meet sign ordinance requirements. Thomson explained that the tenant does currently comply with the sign ordinance. The sign ordinance does not regulate interior signs including

window signs. That is true for any tenant in any shopping center throughout the city.

A. Thomas did not have a problem with signs being designated site specific. His big concern is the approval of one sign opening the door for others. He knows others would come eventually. Now there could be four large signs plus the small tenants would have small signs. He favored looking at the big picture of the whole building and establishing a comprehensive plan. He is protective of the sign ordinance. He is leery about granting something that would deviate from the current ordinance that would open up that door because it would set a precedent. Different sized signs for large and small buildings would look odd. He has a concern with losing uniformity. Site specific might be the way to go. He supported a general, overall plan for a shopping center so it would not be done piecemeal.

Lehman questioned the basis for including the largest tenants in the complex in the recommendation. Thomson explained the rationale that the large tenants function as anchor tenants which have unique visibility needs compared to a smaller tenant. The 3,500 square-foot standard is based on the size of existing tenants. A tenant similar in size or larger than Panera would be allowed a modified sign band similar to the proposal.

Lehman asked if the standard could uphold a challenge and if the 3,500-square-foot size makes sense as opposed to arbitrarily trying to limit it to 4 tenants. Thomson said that the standard is based on the conditions of the site. The concept of allowing different signs is prevalent throughout many of the city's commercial sites by ordinance or covenants. Thomson provided West Ridge Market as an example.

Lehman asked if the conditions of approval would provide a standard that could be pointed to in order to show that the city is treating each location consistently. Thomson answered affirmatively.

Lehman asked what would be the rights of a business that combines two adjacent tenant spaces to create a size larger than 3,500 square feet. Thomson responded that it would be allowed a modified sign band if the space exceeded 3,500 square feet.

In response to Lehman's question, Thomson explained that each individual fascia cannot have more than a single color. The signs do not have to be the same color as each other.

Lehman asked if the ordinance requires signs to compliment and not clash with each other. Thomson said that the sign ordinance does not restrict color of signs.

Sjeklocha asked if the resolution is in the packet. Thomson explained that a resolution is not needed to act on the item.

Sjeklocha asked if the city prohibits advertising of alcohol within a certain distance of a day care. Thomson answered in the negative. The sign ordinance does not base advertising restrictions on any surrounding land uses. It does draw a distinction between advertising and identification. Staff interprets the intent of the sign is to identify the business.

Adams understood that the proposal is needed to modify the covenant for the building. A sign would still need to comply with the sign ordinance. Thomson explained that the building does not have a sign covenant. It was rescinded when Panera went in. The proposed sign and existing signs would still comply with size restrictions and standards listed in the sign ordinance. The proposal is not a variance from the sign ordinance.

Sidney Applebaum, 3679 Oakland Ridge, applicant, and Ann Rosenberg, Minneapolis, architect for the project, introduced themselves. Mr. Applebaum appreciated the commissioners' time. Thomson has been very helpful. Mr. Applebaum has fulfilled all of the requirements for the sign permit. The drawback of the current location is that it is hidden in the corner and not visible. Customers that come in tell him that they did not know there was a liquor store there. He appreciates the commission authorizing the proposed sign. He is very strict about selling alcohol to underage customers. He has a few other liquor stores in different cities and no city restricts signs on windows. If something has to be done, then he is willing to cooperate. He knows that Haskell's has liquor signs all over. Haskell's has one window as large as the building with the biggest sign he has ever seen. Byerly's does not have many windows; the building is mostly brick. This application means a lot to his company and he requests approval. The proposed sign is the same size as the existing sign.

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

Lehman asked how the approval becomes memorialized. Thomson explained that the minutes serve as the formal document which lists the standards and conditions of approval. The only difference is that it would not be filed with the county as a resolution would. The approval has the same governing function and guides any sign from now on into the future.

Lehman questioned how staff would find out the conditions and standards if a tenant submitted a sign application three years from now. Thomson explained

that the document management system pulls up all information related to the property.

Lehman was confused by the wording on page three which would require signs to have a single, uniform color. He thought it meant that the signs would be required to be the same color. He suggested it be clarified. Thomson said that "each" could be added.

***Lehman moved, second by Adams, to approve a modified sign band for Ridge Square South Shopping Center located at 12901 Ridgedale Drive with the addition of the word "each" to clarify that each sign fascia is restricted to one single, uniform color. Approval is based on the following findings.***

- 1) City Code 300.30.5(b)1(e) allows the planning commission to approve a modified sign band to allow for architectural integration of tenant signs.
- 2) The signs are attractively designed to integrate into the existing building.
- 3) The signs have a proportional relationship to the scale of the building.
- 4) The signs would not infringe upon other tenants signage.

Approval is subject to the following standards and conditions:

- 1) Only tenants with a leasable area of at least 3,500 square feet are allowed a modified sign band. Tenants with less than 3,500 square feet must be located within the existing metal sign band located below the roof canopy.
- 2) A sign fascia must be constructed over the existing canopy structure. The fascia must maintain the same height as the existing fascia structures, and must be finished with stucco, EFIS or similar exterior material.
- 3) The sign fascia must be located within the leasing lines of the tenant space. The fascia cannot extend further than two feet from either side of the wall sign.
- 4) Each sign fascia must consist of a single uniform color.
- 5) Wall signs must comply with all ordinance standards, including quantity, size, height and construction.

- 6) The modified sign band must be reviewed and approved by the property owner.
- 7) Sign permits are required.

***Sjeklocha, A. Thomas, Adams, Daeges, Lehman, Magney, and Cheleen voted yes. 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. Conditional use permit for educational facility to occupy the existing building at 5959 Shady Oak Road and parcel 36-117-22-32-0056. (10047.10a)**

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 confirmed with S. Thomas that the conditional use permit would stay with the property. S. Thomas added that the city would not have to review a change in educational use as long as the facility operates under the same conditions listed in the permit. The conditions include a limit on the number of students and staff allowed at one time on site.

Chair Cheleen asked if the site would be vacant for a year, then would the conditional use permit no longer apply. S. Thomas agreed that it would not apply after one year of vacancy.

Adams found it curious that the site is made up of two parcels. He asked if the two properties are owned by the same entity. S. Thomas answered affirmatively. There would be joint ownership of the two properties.

S. Thomas noted that a representative of the Charter Schools Development Corporation was planning on being present at the meeting, but his flight was delayed. He will attend the city council meeting.

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

Adams supported the creative reuse of the building. He would like to see more of that happen. He has been watching the property remain vacant for a couple of

years. He asked what Charter Development Corporation is. Gordon explained that the corporation is based in Washington D. C. and is a non-profit organization that starts schools where there is a need to establish funding and structure. When the school is operational, it would transfer ownership.

Adams asked if the facility would meet state law requirements regarding oversight. Gordon was not familiar with how a school operates within state legal requirements. Adams acknowledged that his question is not a land use issue. Gordon stated that the use would have to be compliant with state law.

Lisa Christianson and Kate Shamblat, representing the applicant, explained that the facility would be a charter school. The Hopkins School District is its current authorizer. The organization would have a new authorizer by the end of January. Charter School Development Corporation is in business to help charter schools find facilities because that is a challenge nationwide.

A. Thomas suggested that if all 50 parking stalls are not required, then some could be turned into proof of parking and could provide a location for a playground. S. Thomas stated that staff agrees. A playground plan would still need to be submitted and approved by staff.

***Sjeklocha moved, second by Lehman, to recommend that the city council adopt the resolution on pages A11-A15 of the staff report and the correction provided in the change memo dated December 16, 2010. This resolution approves a conditional use permit for an educational facility to occupy the existing building at 5959 Shady Oak Road and parcel 36-117-22-32-0056. 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:
  - Submit a plan for any outdoor recreation space for staff review and approval.
  - Submit a bus access/turning plan for staff review and approval. The plan must have an auto turn or equivalent analysis of the proposed bus route from Red Circle Drive into the site, along the internal route, and back onto Red Circle Drive. The plan may require removal of some parking spaces.
  - Record this resolution with the county. A copy of the recorded resolution must be returned to the city.

- 2) Student enrollment is limited to 350 students and 41 staff. City staff may approve an increase to these limits if supported by corresponding parking and traffic studies.
- 3) An automatic fire sprinkler system must be installed in the building as required by the fire marshal.
- 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.

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

## 9. ADJOURNMENT

***Adams moved, second by A. Thomas, to adjourn the meeting at 7:25 p.m. Motion carried unanimously.***

By:   
Lois T. Mason  
Planning Secretary