

**MINNETONKA PLANNING COMMISSION  
MINUTES**

**MARCH 3, 2011**

**1. CALL TO ORDER**

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

**2. ROLL CALL**

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

Staff members present: City Planner Loren Gordon, Principal Planner Susan Thomas, and Planning Technician Stephanie Scott-Sims.

**3. ELECTIONS**

*Lehman moved, second by A. Thomas, to elect Cheleen to serve as chair and Adams to serve as vice chair of the planning commission for 2011.*

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

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

**5. APPROVAL OF MINUTES:** February 17, 2011

*Lehman moved, second by Daegas, to approve the February 17, 2011, meeting minutes as submitted.*

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

**6. REPORT FROM STAFF**

Gordon announced that the March 17, 2011 planning commission meeting has been cancelled.

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

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

**9. PUBLIC HEARINGS**

**A. Items concerning Toys R' Us and Babies R' Us located at 14200 Wayzata Boulevard**

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.

Lehman asked if the brick enclosure would be expanded to accommodate the refuse containers. Scott-Sims said that the issue is that one of the refuse containers is too large to fit in the brick enclosure. The management company is proposing to use a smaller recycling bin that would fit in the brick enclosure. This may trigger the need for more pickups.

Sjeklocha asked if another business would have semitrailers 53 feet in length, then would the requirement apply to that business also. Scott-Sims answered affirmatively.

Sjeklocha asked if a delivery vehicle would be allowed to park on the street or in the parking lot at 6:30 a.m. and wait until the store opens. Scott-Sims clarified that there is no parking allowed on Wayzata Boulevard. A delivery vehicle could wait in the parking lot until the store opens. The noise ordinance would prohibit noise considered too loud by a reasonable person prior to 7 a.m.

Sjeklocha asked if the management company would be required to replace dead landscaping. Scott-Sims explained that the city would respond to a complaint received regarding dead vegetation and would mandate that it be replaced. The condition would not specify a time period because a plant could die at any time. After the first growing season, the owner would inform the landscaper of the dead plants to be replaced. After that, city staff would inspect the site if a complaint is received or if the owner submits a land-use application. Sjeklocha encouraged neighbors to call the police or city staff with issues related to hours, noise, parking, or landscaping as soon as it happens. Scott-Sims agreed.

A. Thomas asked why the gate hours, 9 p.m. to 6 a.m., are different than the noise ordinance which is in effect from 10 p.m. to 7 a.m. He asked why the gate would be open an hour before the nuisance ordinance would allow noise. S. Thomas explained that the requirement is included in the original PID agreement. The noise ordinance does not prohibit deliveries before 7 a.m. The noise ordinance itself would still apply and prohibit unreasonable noise prior to 7 a.m.

A. Thomas recalled conversations she has had with delivery-truck drivers to address noise complaints staff received regarding deliveries made prior to 7 a.m. He questioned if residents would be better protected if deliveries would not be allowed until 7 a.m. S. Thomas invited the tenants and property owner to respond to a proposed change in delivery time. Previous shopping center tenants S. Thomas has dealt with preferred to receive deliveries much earlier than 6 a.m. She suspects that would be a point of contention with the property owner. A. Thomas understood and agreed that if he owned the business he would like deliveries early, but he represents the resident rather than the developer.

A. Thomas asked who would be responsible for maintenance of the fence and pond. Scott-Sims answered the property owner. The owner has hired a company to maintain the pond.

Jason Vincent of Progressive Architecture, representing the applicant, clarified that the gate is set to open at 7 a.m. He agreed with Scott-Sims' report.

Sjeklocha asked how the landscaping would be maintained after the first year. Mr. Vincent said that the landscaping would be inspected after the first year. The on-site management company could conduct annual inspections.

Mark Folkerts, Kimco Realty Corporation, representing the applicant, stated that the management company hires a landscaper who critiques and makes proposals on a regular basis to replace dying trees and shrubs. He hopes to stay on top of the situation so it would not become an issue down the road.

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

A. Thomas favored a condition requiring the gate to be closed to deliveries at this property until 7 a.m. S. Thomas stated that a condition could pertain to this property. A change for properties in the Interstate 394 PID would require an ordinance revision.

Chair Cheleen noted that the noise ordinance restricts noise from 10 p.m. to 7 a.m. and the condition would restrict deliveries after 9 p.m. A. Thomas wanted to leave the 9 p.m. and change the 6 a.m. to 7 a.m.

Chair Cheleen said that there have been many trucks longer than 53 feet on the site because 53 feet is standard. Updating the requirement makes sense.

Chair Cheleen felt that the tenant would contact the owner to replace dead vegetation because it would impact the look of the business.

Chair Cheleen asked if the applicant agreed with adding blacktop above the curb line to keep the ground from being dug up. Scott-Sims stated that is a condition of approval. Chair Cheleen suggested that the fence be upgraded and increased in height.

***Lehman moved, second by Sjeklocha, to recommend that the city council adopt the resolution approving the following items concerning 14200 Wayzata Boulevard with additions provided in the change memo dated March 3, 2001 and a change to require the gate to be closed for deliveries from 9 p.m. to 7 a.m.:***

Site and Building Plan

- 1) *Recommend that the City Council adopt the resolution on pages A25 – A30 of the staff report approving final site and building plans for a combined TOYS R' US and BABIES R' US store at 14200 Wayzata Boulevard. Approval is based on the finding that the proposal meets all required standards and ordinances. Approval is subject to the following conditions:*
  - a. Subject to staff approval, the site must be developed and maintained in substantial conformance with the following plans, unless modified by the conditions below:
    - Site plan date-stamped January 21, 2011.
    - Landscaping plan date-stamped January 21, 2011.
    - Building elevations date-stamped February 10, 2011.
  - b. Prior to issuance of a building permit:
    - (1) Submit the following items for staff review and approval:
      - (a) A construction management plan. This plan must be in a city approved format and outline minimum site management practices and penalties for non-compliance. If the builder is the same entity doing grading work on the site, the construction management plan submitted at the time of grading permit may fulfill this requirement.

- (b) A landscaping and tree mitigation plan. The plan must meet minimum landscaping and mitigation requirements as outlined in ordinance. However, at the sole discretion of natural resources staff, mitigation may be decreased based on any of the following: the health of trees removed; the ability to appropriately install trees and other shrubbery given existing vegetation and/or topography.
  - (c) Cash escrow in an 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:
    - 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
    - If compliance is not achieved, the city will use any or all of the escrow dollars to correct any erosion and/or grading problems.
  - (d) An electronic CAD file or certified as-built drawings in microstation or DXF and PDF format.
  - (e) A letter of credit or cash escrow for 125% of a bid cost or 150% of an estimated cost of all required landscaping.
  - (f) An illumination plan for staff approval.
- (2) All required hook-up fees.
- c. The property owner must install additional drive surface along the curb line on the north side delivery and loading area as approved by staff.

- d. The gate must be closed to prevent deliveries from being made from 9 p.m. to 7 a.m.
- e. The property owner is responsible for replacing any required landscaping that dies.
- f. All rooftop and ground-mounted mechanical equipment, and exterior trash and recycling storage areas, must be enclosed with materials compatible with the principal structure, subject to staff approval. Low profile, self-contained mechanical units that blend in with the building architecture are exempt from the screening requirement.
- g. Construction must begin by December 31, 2012, unless the planning commission grants a time extension.

Amendment of Master Development Plan

- 2) *Recommend the city council adopt the resolution on pages A31 – A34 of the staff report which amends the Ridgedale Festival Master Development Plan, amending the building elevation plans and removing all standards and restrictions associated with “50-foot wheelbase” vehicles. Approval is based on the following findings:*
  - a. The proposed amendments would meet the site and building plan review standards outlined in the zoning ordinance.
  - b. It is not the city’s current policy to restrict the size of delivery vehicles accessing commercially-designated properties. Rather, the size of delivery vehicles is subject to Minnesota Department of Transportation restrictions, which is the appropriate regulatory authority.

The Minnetonka Code of Ordinances includes several provisions to protect property owners from real or perceived adverse impacts of surrounding land uses. These provisions apply to all properties in the city. It is appropriate to regulate Ridgedale Festival under these provisions rather than more strict requirements.

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

Chair Cheleen stated that the item is scheduled to be reviewed by the city council at its March 7, 2011 meeting.

**10. OTHER ITEMS**

**A. Review of the Planning Commission Bylaws and Policies**

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

Gordon reported.

Lehman asked if variance provisions are part of the bylaws. Gordon stated that the variance provisions would remain, but not be used until the law is rewritten.

***Lehman moved, second by Sjeklocha, to approve the planning commission bylaws and policies for 2011.***

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

**11. ADJOURNMENT**

***Lehman moved, second by Magney, to adjourn the meeting at 7:15 p.m. Motion carried unanimously.***

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