

**MINNETONKA PLANNING COMMISSION
MINUTES**

MAY 19, 2011

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, Daeges, and Cheleen were present.

Staff members present: Principal Planner Susan Thomas, Planning Technician Stephanie Scott-Sims, Natural Resource Manager Jo Colleran, and Water Resources Engineer Liz Stout.

- 3. APPROVAL OF AGENDA:** The agenda was approved as submitted with additional information and a modification provided in the change memo dated May 19, 2011.

- 4. APPROVAL OF MINUTES:** May 5, 2011

Adams moved, second by Sjeklocha, to approve the May 5, 2011 meeting minutes as submitted.

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

5. REPORT FROM STAFF

S. Thomas briefed the commission on land use applications considered by the city council at its meeting of May 16, 2011:

- Adopted a resolution approving a conditional use permit to operate an adult day care center at 1712 Hopkins Crossroad.
- Adopted a resolution approving the master development plan and final site and building plans and a conditional use permit for construction of an automotive service and tire center at 15320 Wayzata Boulevard.
- Introduced a variance ordinance that will be reviewed by the planning commission at its next meeting.

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

7. PUBLIC HEARINGS: CONSENT AGENDA: None

8. PUBLIC HEARINGS

A. Expansion permit for construction of a two-story addition to the house at 15803 West Oaks. (11005.11a)

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 when the piped outlet would be constructed. Scott-Sims stated that there is no scheduled time frame for when a 24-inch pipe would be installed. It is not scheduled in the city's capital improvement plan (CIP) which covers the next 6 years. If the city is notified of flooding issues, then the improvement might be done sooner. No complaints have been received at this time.

Adams asked where the water would be piped. Stout explained that the subwatershed basin is located within the Purgatory Creek Watershed and water would eventually flow south and west into Purgatory Creek.

Magney asked if 941 or 942 is the current 100-year floodplain. Stout explained how the measurement is determined by the horizontal setback from the future condition. Staff believes that the more important elevation is the vertical elevation of the residence. The horizontal setback from floodplain is more the appearance of floodplain protection rather than actual protection. Many homeowners, even if the residence is elevated 5 feet above the floodplain, would have water within 4 feet of the residence and have the appearance of less protection.

In response to Lehman's question, Scott-Sims stated that staff discovered that the house was built to be in conformance with ordinance requirements at the time it was built. The residence was smaller than it is now due to further additions that have been made over the years. The only change was that the residence was positioned differently than illustrated on the proposed survey. Lehman suggested striking the comment from the project analysis to prevent confusion in the future. S. Thomas agreed.

The applicant was present for questions.

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

Adams was not real comfortable approving a proposal that is already three feet below the floodplain. He walked the property and it seemed like it would be far enough away even if there would be substantial rain.

Adams moved, second by Magney, to adopt the resolution on pages A6–A9 of the staff report as modified in the change memo dated May 19, 2011, which approves an expansion permit for a two-story, walkout addition at 15803 West Oaks. 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. The proposed addition is reasonable.
 - b. The existing house has a non-conforming rear yard setback and low floor floodplain elevation as established by the city's 1999 Water Resources Management Plan. These circumstances are unique to this property and were not created by the property owner.
 - c. The proposed addition is consistent with the character of the surrounding 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 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.
 - c. Provide a site plan showing how the site will be accessed by construction vehicles to staff for review and approval.
 - d. The property owners must enter into a "hold harmless" agreement with the city.

- 2) This expansion permit approval will end on December 31, 2012, unless the city has issued a building permit for the project covered by this resolution or approved a time extension.

Lehman, Magney, Sjeklocha, A. Thomas, Adams, Daeges, 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 director within 10 days.

**B. Conditional use permit for a brewery at 6020 Culligan Way.
(11006.11a)**

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 beer tasting would be allowed. S. Thomas explained that state law regulates tasting items at a brewery and winery.

The applicant was present to answer questions.

Adams asked how many barrels would be produced at the proposed site. Eric Biermann, Shorewood, applicant, responded that the first-year goal is 1,500 barrels.

Chair Cheleen asked if the process would create odors. Mr. Biermann said that boiling would take an hour for each batch and two batches a day would be made. It creates a pleasant aroma. An unkept brewery can have a sour smell from grains that have been stored too long. He was in the process of making arrangements to have the grains picked up within 24 hours before any organisms come back to life and create the sour smell. The grain would be stored inside until picked up.

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

Adams moved, second by S. Thomas, to recommend that the city council adopt the resolution on pages A8–A12 of the staff report. This resolution approves a conditional use permit for a microbrewery and distribution center to be located at 6020 Culligan way. 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) The grain milling room must comply with chapter 13, Combustible Dust Producing Operations, of the 2007 MN State Fire Code and applicable NFPA standards.
- 3) No outside storage, display, or accessory structures associated with the brewery are permitted.
- 4) The property owner must provide written authorization for any tours or special events hosted at the site and associated with the brewery. This authorization must be provided to the city for the property file.
- 5) The city council may reasonably add or revise conditions to address any future unforeseen problems.
- 6) 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.
- 7) The applicant must agree to the above conditions in writing.

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

C. Ordinance regarding campaign signs. (11009.11a)

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

S. Thomas reported. She recommended approval of the application.

Sjeklocha asked how school elections would work. S. Thomas explained that the ordinance refers to even-numbered and odd-numbered years regardless of what type of election would take place.

Lehman understood that the attempt is to bring the city's ordinance in compliance with state law. S. Thomas explained that the city ordinance references the statute

number so that if the statute would change, the city's ordinance would remain in compliance.

Lehman asked if there would be a way to make the terms "primary election" and "election" more in conformance with each other. S. Thomas explained that the time period covered by the Minnesota Statute references state-wide elections. The city's ordinance references the city's primary election. S. Thomas will pass Lehman's question on to the city attorney before the city council reviews the proposal.

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

Lehman moved, second by Sjeklocha, to adopt the ordinance on pages A1–A17 of the staff report.

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

9. ADJOURNMENT

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

By: _____
Lois T. Mason
Planning Secretary