

**MINNETONKA PLANNING COMMISSION
MINUTES**

JUNE 16, 2011

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, and Cheleen were present. Lehman and Magney were absent.

Staff members present: City Planner Loren Gordon, Principal Planner Susan Thomas, and City Attorney Desyl Peterson.

3. APPROVAL OF AGENDA: The agenda was approved as submitted.

4. APPROVAL OF MINUTES: June 2, 2011

Adams moved, second by Sjeklocha, to approve the June 2, 2011 meeting minutes as submitted with the following change:

Page 6: Sjeklocha was absent.

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

5. REPORT FROM STAFF

Gordon briefed the commission on land use applications considered by the city council at its meeting of June 6, 2011:

- Approved a 12-month extension for the preliminary plat for Dalmation Ridge on Oakland Road.
- Approved a 12-month extension for the preliminary plat for Gagner's 2nd Addition on Ridgewood Road.
- Adopted the ordinance amendment regarding campaign signs.
- Adopted a resolution approving a conditional use permit for Lucid Brewery on Culligan Way.

Gordon announced that an on-site visit will occur June 29, 2011 from 5 p.m. to 7 p.m. for Minnetonka at 169 to provide insight to the developer. Residents are also welcome.

The next planning commission meeting will be July 7, 2011. There are a number of variances on the agenda.

6. REPORT FROM PLANNING COMMISSION MEMBERS: None

7. PUBLIC HEARINGS: CONSENT AGENDA: None

8. PUBLIC HEARINGS

A. Ordinance regarding zoning variances (11015.11a).

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

Peterson reported. She recommended approval of the application based on the findings listed in the staff report.

Adams asked what business groups were concerned. Peterson explained that the car dealers were concerned with unreasonable conditions.

Adams asked when a variance would be appropriate and when an expansion permit would be appropriate. Peterson explained that a variance legitimizes the nonconformance of a location. Expansion of a nonconforming site leaves the site nonconforming. The standards for an expansion permit will be looked at again.

A. Thomas asked for the definition of an "earth-sheltered construction," as defined by state law, and asked if it applies to businesses and residential houses. Peterson responded that "earth-sheltered construction" has been included in the state law for 30 years. In the 1970s, there was a push for earth-sheltered structures that would be built into the side of a hill or have earth mounded over the top. It provided energy efficiency. A. Thomas was concerned that the state law would allow a variance to be approved to allow an earth-sheltered construction to be built into a slope that is considered a steep slope. Peterson stated that that issue could be addressed if it ever becomes necessary.

In response to A. Thomas' question, Peterson explained that a city is not allowed to grant a variance for a type of use. If a property is zoned residential, then a city may not approve a variance for a use not allowed in a residential district. There are other aspects of the comprehensive guide plan besides the land use designation. There can be phasing in the comprehensive plan that would not allow one thing to happen until something else happened.

A. Thomas questioned if the wording “will not alter the essential character of the locality” is the same as not altering the characteristics “of the neighborhood.” Peterson explained that state law previously used the word “locality.” That part of the statute did not change. The ordinance used the word “neighborhood” rather than “locality.” Both refer to the immediate area primarily around the site, not the entire city.

Sjeklocha asked if there is a reference to solar-energy systems in the statute. Gordon stated that the comprehensive guide plan requires a review of solar-access opportunities for all properties. It has been in the statute a couple decades. Peterson acknowledged that the solar and earth shelter language was put in the statute at a time when those energy efficiency options were encouraged.

Sjeklocha asked if a property owner applied for a variance and the comprehensive guide plan did not refer to that property, then would that be considered consistent with the comprehensive guide plan by default. Gordon explained that if the site would be guided for low density, residential use, then it would be zoned R-1. Applications would be evaluated on an individual basis. S. Thomas noted that the comprehensive guide plan provides general discussions regarding buffering between commercial properties and residential properties. While buffering may not be specific to a property, the general guiding principal would still be applied.

In response to Sjeklocha’s question, S. Thomas explained that when staff provides commissioners with a variance report and recommendation, the report will cover the five tests for approval of a variance and make a finding of whether an application is consistent with the comprehensive plan or not. If the application did not pass one of the five tests, then staff would recommend denial of the application. Staff and commissioners may have a different interpretation of what is consistent with the comprehensive guide plan.

Sjeklocha reviewed what she thought would be reasonable conditions. She asked for an example of an unreasonable condition. Gordon provided a hypothetical example of a commercial building located next to a residential neighborhood. The commercial building applies for a variance to add on to the rear of the structure. In order to grant the variance, the commission would require more buffering. Peterson felt mitigating the intrusion into the setback by requiring more buffering would be proportional. If commissioners would require the applicant to construct a 12-foot wall to mitigate noise from a busy road, then that would not have anything to do with the variance and would not be reasonable.

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

Adams moved, second by Sjeklocha, to recommend that the city council adopt the ordinance on pages A1-A2 of the staff report.

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

Chair Cheleen noted that the item is tentatively scheduled to be reviewed by the city council at its June 20, 2001 meeting.

B. An ordinance amending the telecommunication ordinance (97031.11a)

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

S. Thomas reported. She recommended approval of the application based on the findings listed in the staff report.

A. Thomas asked if there would be a need to require location of antennas in watertowers. S. Thomas responded that there are a couple of occasions within the ordinance that directs cellular providers to watertowers and other tall structures. Antennas proposed to be located on structures such as watertowers, other antennas, and high-powered transmission lines are administratively reviewed and approved. There is also a provision in the ordinance that requires a provider to show that what is being proposed is the best alternative. If there is a watertower in the search area for an antenna and the watertower has the physical capacity to hold an antenna, staff would direct the applicant to the watertower. The ordinance as written directs providers to existing structures.

A. Thomas asked if the city keeps track of how many towers would fit inside each watertower. S. Thomas answered affirmatively. A study was done to determine the remaining amount of space for antennas and associated equipment for each watertower.

Daeges asked how the proposal would impact existing, external antennas. S. Thomas replied that the amendment would not impact existing external antennas. If an applicant would want to add an antenna to a tower, the application would be reviewed administratively.

Chair Cheleen supports the recommendation. He asked if there is a provision or maximum that limits the diameter of a tower. S. Thomas answered in the negative. That is the one drawback of the internally-mounted antenna. The diameter of the base of the one that will be located south of city hall will be 3.5 feet. There is a 90-foot tower on the Cargill campus that is 3.5 feet wide at its base and does taper. Chair Cheleen has one by his house and it is an improvement over what was there. Gordon noted that hypothetically, if the city received a monopole application with a pole diameter of 10 feet, staff would probably not view it as stealth design.

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

Sjeklocha moved, second by Daeges, to recommend that the city council adopt the ordinance on pages A1–A6.

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

9. OTHER BUSINESS

A. Concept plan for reuse of an existing building at 11525 Excelsior Boulevard.

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

Gordon reported. Staff recommends the planning commission provide comment and feedback to assist the applicant with future direction that may lead to the preparation of more detailed development plans.

Adams asked if construction of lightrail has a set schedule. Gordon stated that the project is moving forward on schedule. The train operations will likely start in 2017.

Adams asked if the proposal would start prior, at the same time, or post construction of the light rail. Gordon stated that is a good question. He noted a parcel that would provide access to the station. There probably would be some redevelopment before the station would be built and more after the LRT is operational. There is a timing issue to get the basic infrastructure in place such as a street connection from Excelsior Boulevard down to the station area. Things will progress once that backbone is established. Review of the proposal now will

allow feedback to the developer and allow features that are important to staff to be incorporated into the application.

Sjeklocha questioned why a neighborhood meeting has not been held. Gordon explained that there typically is not a neighborhood meeting for a site plan review of a site approximately one acre in size. Staff brought it to the commission to receive initial feedback on issues to be considered. The project is not yet ready for a neighborhood meeting.

Sjeklocha felt this site plan is different than ones she has seen. Whoever decides to develop the property can develop the property regardless of what the future may hold in terms of redevelopment. Gordon noted that a site and building plan review, conditional use permit for a drive through, and variances for the parking layout would all be part of a land use review in the future. He was seeking comments regarding those items to help shape the project.

Sjeklocha asked what role the city plays. She asked if the city plays more of a community-interest role as well as a development-interest role in this particular project or is that always true anyway. Gordon answered affirmatively. This project is similar to how village centers are treated where there is a broader fabric that creates a need for a site and use to integrate. The lightrail corridor connects communities from Minneapolis to Eden Prairie. Staff's approach is more cautious to do things as well as possible not to discourage development, but have development fit in a manner consistent with planning efforts. Street networks and sidewalks will play a significant role for the station area to function correctly.

Sjeklocha confirmed with Gordon that there are two transit centers planned in Minnetonka: Shady Oak Road and Opus stations.

Adams asked if the concept plan has been discussed with Hopkins. Gordon answered in the negative. If it goes forward, then that would occur at an administrative level.

Chair Cheleen noted that concept plans are driven economically and some of the items included in the 2007 plan could take years to come to fruition. He understood the point of trying to make everything fit in, but he questioned if the proposal is realistic and its timeframe for completion. Gordon agreed that the 2007 vision is an aggressive view of redevelopment for the area around the Shady Oak Station. The 2007 plan is dependent on a number of demographic trends that were peaking and did not continue. The market reality of the plan is less than staff would view it today. That is part of what the city is trying to understand to put more realistic truth into the plan to match the current economy.

None of the plans are definite. There will always be some need to adjust or adapt to some situation that the plan did not anticipate. The real key to implementing the plan would be sticking with basic principles that would guide developers to get a pretty consistent image, but not down to grade-level detail.

Vicki Vandell, a civil engineer with Loucks and Associates, stated that the client, CVS, has in no way approved the site to move forward. She was present to collect feedback to find out if this is something CVS would like to do after reviewing what commissioners and staff would like to see at the location. That is why a neighborhood meeting and formal submittal of an application has not occurred at this point. Gordon provided a good description of the proposal. She stated that:

- The north and south walls would remain.
- A drive through would be located in the southeast corner.
- She provided examples of the exterior façade.
- The proposal would enhance the area.
- The north side asphalt would be resurfaced and striped to provide three rows of parking.
- The west side would go all the way to the property line or the existing sidewalk. The amount of green space would increase.
- The benefits of the project would include decreasing the size of the building by approximately one third; increasing the buffer along Shady Oak Road; increasing green space on the site over all; providing a great service to the community; and revitalizing the look of the corner.
- The use is allowed in the district, with a conditional use permit for the drive through.

Ms. Vandell requested feedback from commissioners.

Adams asked if CVS would lease the building. Ms. Vandell stated that has not been determined. Adams asked what would be the payback period for the changes to the site. John Lemander, with CVS, stated that generally a lease is a minimum of 25 years with a guarantee of 5 year increments after that. It has not been determined whether CVS would lease or purchase the proposed site.

Sjeklocha asked if CVS has built near a transit station. Mr. Lemander stated that they are located next to transit stations in Chicago, New York, and Boston.

Sjeklocha asked if this store would be developed differently because of its proximity to a transit station. Mr. Lemander stated that the neighborhood is

already developed and would have more impact on how the site would be developed than its location to transit. It is more common for CVS to be located near established neighborhoods.

Chair Cheleen asked if a driver would circle the building and exit through the entrance to use the drive through. Ms. Vandell stated that there is a cross-access agreement between the two parcels so a driver would be able to exit traveling north onto Excelsior Boulevard.

Chair Cheleen asked how the height of the drive through and its façade would work. Lowell Zitzloff, property owner, stated that the building is one story. The building height would be reduced by one-third of the square footage. More green space and parking would be added to exceed ordinance requirements. The look of the building is dated. It needs a facelift from someone who can maintain it. Mr. Zitzloff stated that he usually goes to the residents and talks with them about what he is doing. He gets names on a petition if they are excited about what he is doing. The business owners he talked to were very positive. He learned that Walgreens did a study and found the site desirable. Ms. Vandell stated that the building would have a taller exterior appearance.

A. Thomas would like developers to meet parking ordinance requirements and do green space instead of extra parking. There is enough asphalt around. He would like to see a rain garden or green area where people could sit and take their medicine.

A. Thomas wants to think of the future and plan how the proposal would blend in traffic wise, with the light rail, and provide green space. It would do more harm than good to stick something in there that would stick out. He wants to bring things in that are cohesive. If this is what needs to go in there, then we need to figure out a way to blend it into the overall plan. This is the first step of locating a business there that will draw other businesses in as interested parties see the concept plan. He is worried about the cohesiveness and green space that will be there for years.

Adams asked if there is a precedent for how development is guided in areas before a development is on the map. He was thinking of Glen Lake. He asked how the city helps property owners plan for the future. Gordon responded that is the key issue to plan for the future and getting a result that will work with investment today. At some point redevelopment will occur for this area, probably near to when the light rail gets established. What happens from now into the next six years is the question. Some of it would be more dependent on completion of the light rail. The question is how to allow things to incrementally happen that are

consistent with a long-term vision, do not hamper redevelopment, and allow property owners to reinvest in their properties.

Adams said, in an ideal world, the proposal for the site might be for mixed use. It is hard to say if a single-story, commercial property fits in with what the future will hold. He does not want to keep property owners from reinvesting in their property.

Sjeklocha suggested that CVS create a prototype for a store that would be located near a transit station. She encouraged bike racks and bike storage. She asked if it would be possible to reduce the building's height. She asked what would be the mix within the store. She was in a retail store in Pittsburgh that had a pharmacy, coffee shop, and most of the things she would eat 99 percent of the time. She asked if a broader, one-stop-shop type of store would be a possibility.

Chair Cheleen acknowledged that the building is in need of revamping and updating. He liked the idea of more green space. He agreed that creating a green space and providing better walkability and bikeability would encourage access to the site by patrons of the transit station two blocks away. The proposed site needs improvement now. He predicted there would not be much development until the station is established and the trains are running. There is no reason to wait. He agreed with cutting the building down and using as much creativity as possible to make it look good. The façade would not be so permanent that it could not be changed if necessary. If the development is there and the need is there and the economic driving force of more people is there, then the money will be there to do the change. It would be nice to plan with some forethought access for walking and biking traffic.

Mr. Zitzloff added that he owns the property adjacent on the east side. He was looking at updating that building also. He appreciated all of the input and the concern for green space. He was just involved with establishing a bike store and the operators of the bike store were very excited about the city having a concession stand at the beach to attract the bike traffic. He admired the foresight of staff and commissioners. He wants to do everything he can to be proud of the area and make it look nice.

Chair Cheleen wished Mr. Zitzloff well with the proposal. It will be reviewed by the city council July 11, 2011.

10. ADJOURNMENT

*A. Thomas moved, second by Adams, to adjourn the meeting at 8 p.m.
Motion carried unanimously.*

By: _____
Lois T. Mason
Planning Secretary