

**MINNETONKA PLANNING COMMISSION
MINUTES**

AUGUST 18, 2011

1. CALL TO ORDER

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

2. ROLL CALL

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

Staff members present: Community Development Director Julie Wischnack, City Planner Loren Gordon, Principal Planner Susan Thomas, Associate Planner Jeff Thomson, Planner Stephanie Scott-Sims, Natural Resource Manager Jo Colleran, and Water Resource Engineer Liz Stout.

- 3. APPROVAL OF AGENDA:** The agenda was approved as submitted with additional comments and changes provided in the change memo dated August 18, 2011.

- 4. APPROVAL OF MINUTES:** August 4, 2011

Magney moved, second by A. Thomas, to approve the August 4, 2011, meeting minutes as submitted with the following modification: ~~Raundhorst~~ to Rauenhorst.

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

5. REPORT FROM STAFF

Gordon made the following announcements:

- There will be a Minnehaha Creek Watershed District canoe trip Saturday, September 17, 2011.
- The Urban Land Use Institute is hosting a workshop for the Southwest Light Rail Transit Thursday, September 8, 2011. Similar projects that occurred in Dallas, Texas will be looked at. Wischnack said the workshop would be beneficial. Gordon encouraged commissioners to RSVP to Elise Durbin at city hall.

- Gordon attended a Safe Routes to Schools conference. It was an interesting conference.
- The next planning commission meeting will be September 1, 2011.

6. REPORT FROM PLANNING COMMISSION MEMBERS: None

7. PUBLIC HEARINGS: CONSENT AGENDA: None

8. PUBLIC HEARINGS

A. Resolution denying a variance and approving an expansion permit for a home addition at 15708 Wood Knoll Lane (11020.11a)

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

Scott-Sims reported. She recommended denial of the application based on the findings listed in the staff report and approval of an expansion permit in accordance with the conditions listed.

Magney was confused why an expansion permit would be needed. 942 is the 100-year flood elevation and the vertical separation is 944. Stout explained that since the proposed site is a landlocked basin, the city's floodplain ordinance requires the vertical separation to be based on the open channel overland outlet. The horizontal setback would be measured from the improved condition which would be after the pipe would be installed and a lower elevation created.

Chair Cheleen noted that 942 would be the lower elevation after the pipe would be installed. Stout agreed.

Kathy Peterson, 15708 Wood Knoll Lane, applicant, stated that:

- There were no floodplains established at the time she built her house in 1985.
- In 1996, a family room, bathroom, and deck were added to her house. It seems to be a logical and financially prudent time to add a third bedroom above the third garage stall.
- Her home and garage have never flooded. On July 23, 1987, the area had a super storm. Her residence had no flooding. The only flooded area was the end of her street, the bottom of her driveway, and the front, east part of the yard. She provided a picture from the year 2000 when she petitioned the city to install a storm drain on her street.
- Her application is to add a 16' by 15'8" bedroom with a 16' by 10'4" bathroom. She researched and discovered master bedrooms should be 19' by 18', 20' by 17', or 20' by 19' with a minimum of an 11' by 14' bathroom. The request falls well below suggested, current-market measurements.
- Staff led her to believe she had a very good chance her application would be approved. The survey, full design plan, and variance application fee has already cost her a great deal of money. So far, the city has received \$400 of the \$3,200 cost; but, if approved, the applicant would also have to pay for a building permit. She was

shocked when she read the city staff report that recommends the planning commission deny the variance application.

- She works as a substitute teacher for Minnetonka Public Schools and her husband works out of their home. She has a daughter. The process has been expensive, stressful, and a huge hassle. It would probably be cheaper to sell her home and move, but she loves the area, location, neighbors, and schools.
- This addition would make her house more marketable to sell in the future. This is not an outrageous variance request. When a homeowner upgrades his or her home, it increases the value, which, in turn, raises the taxes on the home, which goes back to the city. When one house upgrades, it motivates other homeowners to make improvements. It brings curb appeal and aesthetic beauty. It keeps the community updated with desirable homes to attract families to Minnetonka.
- The Minnetonka School District has a reputation of being one of the best school districts in the state. There are 9,018 students enrolled in the district. Of those, 1,932 students are open enrolled. There is no housing in the vicinity to accommodate families who want their children to go to Groveland Elementary School. Parents do not volunteer because the school is not close to home or work. Parents are needed as volunteers to keep the high quality of education.
- The city has a lot of seniors who want to move out of long-lived-in homes and families who want to move into the school district. The majority of homes in her area are small and old and need remodeling to bring them up to date and up to code.
- A property subdivided on her street, so three new houses are being built that have desired features.
- The city needs to work with families who want to move to Minnetonka and not make it so difficult and expensive and full of red tape to make improvements that benefit everyone. If the expense and hassle become too much, then the potential families will choose another community to live in and open enroll their kids. She did not think that was in the best interests of her community. There are no lots available to purchase in Minnetonka, unless a lot is subdivided. The only option is to encourage and support remodeling of existing houses.
- In the current economy, she would think that staff and councilmembers would want to do whatever they could to accommodate and encourage residents to make improvements to their homes that would support and grow the tax base.

- The city should simplify the process and lower the permit and application costs.
- She is not concerned about her property flooding. She is more than willing to sign a contract to state that she would not hold the city accountable if she did have flooding.
- All of her neighbors support her plans to remodel. She appreciated staff's diligence to protect wildlife and trees.
- She asked commissioners to put themselves in her shoes. It would not negatively impact anyone. It would positively impact the city and her neighborhood. A young family would not consider buying her two-bedroom, double-garage house.

Sjeklocha asked for ideas about simplifying the process. Ms. Peterson said that she went to city hall in May and spoke to Scott-Sims and Stout. She did not want to spend a whole bunch of money unnecessarily. If it would be approved, then by the time everything would be in order, it would be January before things could get going. It seems like a long period of time. She has not slept well for the last two weeks because she would wake up and envision herself in front of the commission. Sjeklocha said that the commissioners all live in Minnetonka and have been in the same position.

Sjeklocha asked if the time period made it a complex process. Ms. Peterson responded that the time period and expense in order to find out if it would be possible. \$3,200 is a lot of money that she does not have to throw away.

Sjeklocha posed a hypothetical situation where Ms. Peterson was looking at purchasing property and the real estate agent informed Ms. Peterson that some of the property is located in a floodplain. Sjeklocha asked Ms. Peterson what her reaction would be. Ms. Peterson said that it is a valid concern. She can never have decent grass in her yard because the water flows north and east and always floods out. She decided not to replace her driveway, even though it is crumbled, because it would freeze and thaw every spring. She had a little flooding on the east side. The flooding is nowhere near the west side of her property.

Chair Cheleen stated that the city must consider future owners. He asked if the pump that directs water to Sussex has made a difference in her yard. Ms. Peterson answered "no."

Chair Cheleen asked if there is currently a storm sewer. Ms. Peterson stated that the property west of hers is lower. Chair Cheleen noted that is the property that has no outlet. Ms. Peterson agreed.

Chair Cheleen asked if the addition of the black-top curb made a difference in the amount of water on her yard. Ms. Peterson answered affirmatively, except for one little indentation at some point. It spills right over at that one little spot, but it does not cause flooding. It just brings debris down the street. Chair Cheleen suggested she contact public works' staff.

Chair Cheleen asked if there would be a way to remodel the two bedrooms and make the master bedroom four feet shorter than the proposed plan. Ms. Peterson said that was considered, but it seemed too choppy.

Chair Cheleen said that it appeared that only 2/5ths of the 4-foot section that staff is suggesting be removed is actually over the setback line. Scott-Sims agreed. Chair Cheleen said that it is close to being a point intrusion. Scott-Sims concurred. He understood that staff recommends upholding the variance rules as much as possible. His personal feeling is that with some good construction, including concrete walls, and since it would be such a small intrusion, he was leaning toward seeing if this would be something the commission could approve. He invited commissioners to comment.

Ms. Peterson provided that she would be concerned about the floodplain if she was a potential buyer; however, she would also want to see if the house had ever flooded and hers has not.

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

Magney struggled with this one also. It looked like the intrusion extended 3.6 feet into the northwest corner. He did not think it would be difficult to add a yard of dirt at the 942 contour and move it a little bit. It would be a garage floor. He was leaning toward approving a variance.

Sjeklocha asked if the city would be liable if it would approve development located in a floodplain. Gordon appreciated the property owner's knowledge of the history of the site. The elevation model is set up to provide consistency across the city for the flood basins. Historical knowledge from the neighbors is not a substitute for an elevation. There have been many applications recently with flood issues. For this area, the model will be updated next year.

Wischnack explained an indemnity clause or condition has been used before, but the problem is that staff would recommend against it because it would not relieve

the city of all liability. In staff's opinion, it would not do much good in the case of a major event.

Sjeklocha asked staff to explain the fees and why the process is the way it is. Gordon explained that fees are set by ordinance and reviewed by the city council each year. There is no guarantee about the outcome. If an application does not comply with the rules, then the application is subject to the decision of the planning commission or city council. Building fees are a percentage of the value of a project.

Sjeklocha noted that the survey, design, and contractor fees are variable depending on who the applicant hires. Gordon agreed. The city's fees are all known up front.

Sjeklocha asked staff to explain when the floodplain elevation was established. Stout explained that the city's first floodplain ordinance identified the city's floodplain areas in the late 1980s and early 1990s. It did not identify all of the areas that are currently in the Water Resources Management Plan. The city's first generation Water Resources Management Plan was adopted in 1999. The city's computer model was completed and the applicant's property was considered in that model.

Sjeklocha commented that to grant a variance, commissioners need to come up with reasonableness and uniqueness. She was open to the possibility, but wanted to hear how the application is reasonable and unique.

A. Thomas understood that the intrusion would be small, and it would be a garage, and it would be concrete; but, he looked for consistency. He always looks to not set a precedent. The city has a floodplain ordinance. There are probably a lot of people in the city who do not know that there is a floodplain affecting them. He urged them to check and see. That is part of being a responsible resident of the city. He knows the elevation issue could change a year from now, but, as of right now, the picture is as it is. He appreciated the applicant's comments regarding the school district and housing values, but that has no effect on the land use issue. The fees are reviewed every year and are compatible with other cities. It comes down to what is unique and reasonable. With what is available for the applicant, the footage provides a reasonable use without encroaching into the floodplain. He was for sticking to the floodplain ordinance and consistency.

Daeges echoed A. Thomas. It seemed like the numbers are small, but she was having a hard time justifying this in her mind compared with actions taken at past

meetings. She did not see how this application would be so much more unique and there would still be reasonable use of the property if the commission denied the application. She agreed with staff's recommendation.

A. Thomas moved, second by Sjeklocha, to adopt the resolution on pages A12–A16 of the staff report with the modification provided in the August 18, 2011 change memo, which denies the proposed horizontal floodplain setback variance from 20 to 16 feet and approves the proposed expansion permit to maintain the non-conforming low floor elevation of the existing house for a proposed 2-story garage addition at 15708 Wood Knoll Lane.

Denial is based on the following findings:

- 1) There are no practical difficulties in complying with the 20 foot horizontal floodplain setback requirement:
 - a. REASONABLENESS: The addition would add further improvements and value to the house which would not meet minimum flood protection standards outlined in the floodplain ordinance. This would *increase* potential property damage from flooding of the landlocked basin, and would not maintain or minimize the potential damage.
 - b. UNIQUE CIRCUMSTANCE: There are no unique circumstances prohibiting the applicants from meeting the required horizontal floodplain setback. There is a reasonable opportunity to construct the addition to meet the minimum horizontal setback requirement by reducing the width of the addition by 4 feet. Additionally, reducing the width would provide appropriate flood protection, and would meet the horizontal floodplain setback requirement.
- 2) The proposal is not in harmony with the general purposes and intent of the zoning ordinance.
 - a. The addition would add further improvements and value to the house which would not meet minimum flood protection standards outlined in the floodplain ordinance. This would *increase* potential property damage from flooding of the landlocked basin, and would not maintain or minimize the potential damage.

Expansion permit approval is based on the following:

- 1) The applicant has met the burden of proof outlined in City Code §300.29 Subd. 7(c):
 - a. REASONABLE EXPANSION: It is reasonable for a building addition to maintain the lowest floor elevation of the existing home.
 - b. CIRCUMSTANCE UNIQUE TO THE PROPERTY: The existing house has a non-conforming minimum 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. NEIGHBORHOOD CHARACTER: 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. Submit a revised survey as part of the building permit application showing that the proposed addition meets the 20-foot horizontal floodplain setback requirement.
 - 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.
 - d. Provide a site plan showing how the site will be accessed by construction vehicles to staff for review and approval.
- 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 by a time extension.

Sjeklocha, A. Thomas, and Daeges voted yes. Adams and Lehman were absent. Magney and Cheleen voted no. 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.

Jeff Peterson, applicant, understood that one of his choices is to wait a year to see if a computer model finds the elevation is lower in which case the proposal could be built how the applicant wants it. The super storm deposited way more than 11'9" of rain in the metropolitan area and he was not concerned with flooding. Chair Cheleen explained that city staff's hands are tied. Staff needs to recommend proposals based on the city's ordinances and they did that. The commission had a split decision. That happens. He noted that the applicants could apply to the city council within 10 days and appeal his case there. He wished them luck and understood their frustration.

B. Conditional use permit for an accessory apartment at 3016 Groveland School Road (11022.11a)

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 the number of accessory apartments approved with a conditional use permit in the city is known. S. Thomas looked through the city's records and found 37 apartments integrated into single-family homes. She looked through the database covering 1940 to 2010 and provided a map illustrating where the accessory apartments exist. There was a spike in accessory apartment applications and approvals in 2004 partly due to the Portico development which houses 17 accessory apartments. The developer was proactive with providing life-cycle housing within the larger, single-family home structures. Staff sees several of them each year and expects the trend to increase.

S. Thomas noted that the 37 accessory apartments amount to 1 percent of the total number of rental units in the city.

Sjeklocha asked if there are ordinance requirements regarding a common or separate entrance. S. Thomas answered that the ordinance does not regulate that. The proposal's design includes an exterior entrance that would allow access through the garage or front porch. There would be an opportunity to access the accessory apartment from the interior if desired in the future.

Ross Clanton, 3016 Groveland School Road, applicant, stated that his in-laws are aging and his wife would be home with them during the day. He explained that the primary entrance for the structure would be the same, common, stairwell that travels throughout the house from the basement to the main floor and upstairs. There is a secondary entrance that would allow them a separate stairway down to an exterior entrance to the porch and garage. The accessory use has both. He has zero intent of ever having renters. The accessory apartment would be integrated into his house and common stairway with the main floor. He appreciated the positive feedback e-mailed by one neighbor.

The public hearing was opened.

Erik Larson, 17411 Bay Lane, thought the drawings looked very nice. It appears to fit in well with the neighborhood. In general, he did not have a problem with the

accessory apartment. The lot would have room for two houses it is so deep. He asked if the CUP is based on the provided plans or a general idea. Chair Cheleen said the CUP would be general for an accessory apartment in a residential area which could be used by any owner of the property as long as it meets the conditions listed.

Mr. Larson asked if the CUP would stay with the property if the applicant was not the owner of the property. S. Thomas answered affirmatively; unless the CUP would not be used for a 12-month time period, in which case it would expire.

Mr. Larson was curious if accessory apartments are included in the floor area ratio calculation. S. Thomas stated that when calculating the floor-area ratio of a building, the accessory apartment would be included. The McMansion policy is applied when a property owner is requesting a variance to lot area or structure. The McMansion policy is not applied if the application meets all city code requirements. A conditional use permit for an accessory apartment does not require compliance with the McMansion policy.

Mr. Larson noticed that the proposed driveway must be paved with a non-erodible surface. He questioned if the material would have to be concrete or if class five would be acceptable. S. Thomas said that engineering requires that of all new house construction. Impervious pavers would be acceptable. Chair Cheleen noted it had to do with what goes down the storm sewer.

Mr. Larson was concerned that the driveway would be very long. It might be kind of nice not to force the applicant to do it that way. Chair Cheleen said that would be between the city and the homeowner. That is in the city code already and cannot be addressed by the planning commission.

Mr. Larson asked if the driveway would have to be 20 feet wide. S. Thomas was clear that these rules apply to all new houses constructed in Minnetonka. A residence must meet minimum fire access requirements. Those requirements have to do with grade and width of driveway. If a property is unable to meet the fire access requirements, then an automatic fire sprinkler system must be installed in the residence. These rules apply to all new house construction.

No additional testimony was submitted and the hearing was closed.

Sjeklocha moved, second by Daeges, to recommend that the city council adopt the resolution on pages A8–A11 of the staff report with the modification provided in the change memo dated August 18, 2011. This

resolution approves a conditional use permit for an accessory apartment at 3016 Groveland School Road. Approval is based on the following findings:

- 1) Accessory apartments are consistent with the housing goals of the Comprehensive Guide Plan. Such units add to the diversity of housing types, sizes, and prices in the community.
- 2) The proposed accessory apartment proposal meets the required conditional use permit standards outlined in City Code §300.16 Subd. 3(d).

Approval 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 property owner must reside in either the accessory apartment or the primary home on a continuous basis except for temporary absences.
- 3) The proposed driveway must be paved with a non-erodible surface.
- 4) A final grading and tree preservation plan must be submitted with the building permit application for staff review. The plan must minimize grading impacts to trees.
- 5) All fire access requirements must be met. If access requirements cannot be met, the home and accessory apartment must be equipped with an approved, automatic fire sprinkler system.
- 6) The city council may reasonably add or revise conditions to address any future unforeseen problems.
- 7) 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.
- 8) The applicant must agree to the above conditions in writing.

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

Chair Cheleen stated that the tentative date for the city council to review the application is September 12, 2011.

C. Conditional use permit for an expansion to the existing Bacio restaurant at Bonaventure Shopping Center, 1571 Plymouth Road (86104.11a)

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.

John Ferrier, of CSM Corporation, applicant, stated that he agrees with staff's report. He was present for questions.

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

Magney moved, second by A. Thomas, to recommend that the city council adopt the resolution on pages A10-A13 of the staff report. This resolution approves an amendment to the conditional use permit for an 866 square foot expansion to the existing restaurant at 1571 Plymouth Road. 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) There must be no expansion or other changes to the exterior of the building.
- 3) The city council may reasonably add or revise conditions to address any future unforeseen problems.
- 4) 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.
- 5) The applicant must agree to the above conditions in writing.

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

Chair Cheleen stated that the tentative date for the city council to review the application is September 12, 2011.

D. Resolution approving variances and an expansion permit for home additions to the property at 12600 Lake Street Extension (10026.11a)

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.

A. Thomas was concerned it looked like the house would not be very far from the wetland. The diagram showed that the back porch would end up 14 feet from the water. He asked if the pond has ever overflowed its banks. Stout explained that the pond does have a 15-inch piped outlet. The outlet elevation is set 2.5 feet below the 100-year flood elevation. There was no history of significant flooding in the neighborhood.

A. Thomas confirmed with Stout that the water level would remain consistent unless there would be a structural failure of the pipe.

Jeff Louwagie, 12600 Lake Street Extension, applicant, said that he has resided in the house with his wife and children for 15 years and the previous owner lived there 25 years. According to himself and the previous owner, the residence has never flooded. The roof and siding need replacing. He provided pictures of the site. The back porch is too small. The proposal would allow more light in the living room and make enough room for a table on the porch.

Chair Cheleen saw the proposal as cut and dry. It would be a nice improvement to the property.

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

Daeges moved, second by Sjeklocha, to adopt the resolution on pages A11–A17 of the staff report with the modification provided in the change memo dated August 18, 2011, which approves multiple variances and an expansion permit for a front entry addition, front stoop addition, front window improvements, a rear yard 3-season porch and deck at 12600 Lake Street Extension.

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: It is reasonable to horizontally and vertically expand an existing non-conforming structure within the existing, non-conforming setbacks.
 - b. CIRCUMSTANCE UNIQUE TO THE PROPERTY: The existing house was built in 1959 and has a legal, non-conforming front yard setback which is unique to this property. Any addition to the front of the house would require an expansion permit and/or variance. These circumstances are unique to this property and were not created by the property owner.
 - c. NEIGHBORHOOD CHARACTER: The proposed additions are consistent with the character of the surrounding single-family residential neighborhood.

- 2) There are practical difficulties in complying with required R-1 single family residential setback and floodplain and wetland setback requirements:
 - a. REASONABLENESS:
 - Many of the homes in this area have non-conforming front yard setbacks.
 - A front porch is a reasonable use of property. It provides a covering from weather elements and adds aesthetic improvements to the front building elevation.
 - It is not uncommon for a property owner adjacent to a body of water to want to build an outdoor space in order to enjoy the view. This is common in the residential areas throughout the city and the proposed porch and deck would maintain the character of both the surrounding neighborhood and the city.

 - b. UNIQUE CIRCUMSTANCE:
 - The existing house was built in 1959 and has a legal, non-conforming front yard setback which is unique to this property. Any addition to the front of the house would require a variance.

- The rear of the house almost totally consists of wetland and floodplain, which likely pushed the location of the existing house closer toward the front of the property.
- The wetland pond and associated floodplain comprise much of the rear yard, leaving little buildable area on the property. This is unique to this property.
- The existing house was built in 1959 and has non-conforming setbacks from the floodplain. Thus, any addition to the rear of the home would require wetland and floodplain setback variances. This is also unique to this property.

c. CHARACTER OF LOCALITY:

- Many of the homes in this area have non-conforming front yard setbacks.
- It is not uncommon for a property owner adjacent to a body of water to want to build an outdoor space in order to enjoy the view. This is common in the residential areas throughout the city and the proposed porch and deck maintain the character of both the surrounding neighborhood and the city.

3) The proposal is in harmony with the general purposes and intent of the zoning ordinance.

- a. The intent of the residential zoning regulations is to provide a district for single family detached dwellings in those areas where such development is consistent with the low density residential designation of the comprehensive plan and compatible with surrounding land use characteristics. The intent of the setback requirements is to (1) ensure that residential neighborhoods retain a low density, residential characteristic, and to (2) recognize, preserve and protect the environmental, aesthetic and hydrologic functions of the city's wetlands, lakes, creeks, public waters, and drainageways by regulating the use of wetlands, floodplain, and shoreland and their adjacent properties.

The proposed additions would meet the intent of the ordinance:

- A front entry, porch, and deck on a residential property are consistent with the residential character of a low density area. Furthermore, the proposed porch and deck would not impede the functions of the adjacent floodplain and wetland on the property nor increase the flooding potential of adjacent livable areas.
 - The zoning ordinance recognizes the use of covered porches by providing a reduced front yard setback. However, due to the nonconforming front yard setback, there is not an opportunity to construct a front porch on the house without the granting of a variance.
- 4) The proposed variances are consistent with the comprehensive plan. The proposed front entry, porch and deck would not negatively impact the surrounding, existing residential neighborhood. Rather, they would be consistent with the surrounding homes and similar homes that abut bodies of water throughout the city.

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. Submit a conservation easement for staff review and approval over the existing and newly created wetland buffer areas and a drawing of the easement area. The buffer must be 6 to 8 feet wide as measured from the delineated wetland edge or from the approximate wetland boundary, subject to city staff review.
 - c. No site work can take place until the city has formally approved the wetland delineation.
 - d. Submit an updated survey showing the delineated wetland edge as approved by the city and all proposed additions, including property setbacks from the delineated wetland edge.
 - e. 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) These variances and expansion permit will end on December 31, 2012, unless the city has issued a building permit for the project covered by the variances and expansion permit or approved a time extension.

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

9. ADJOURNMENT

*Sjeklocha moved, second by Daeges, to adjourn the meeting at 7:50 p.m.
Motion carried unanimously.*

By: _____
Lois T. Mason
Planning Secretary