

**MINNETONKA PLANNING COMMISSION
MINUTES**

SEPTEMBER 15, 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, Lehman, Magney, and Cheleen were present.

Staff members present: City Planner Loren Gordon, Principal Planner Susan Thomas, Planner Jeff Thomson, Planning Technician Stephanie Scott-Sims, Natural Resources Manager Jo Colleran, Water Resource Engineer Liz Stout, and Assistant Public Works Director Perry Vetter.

- 3. APPROVAL OF AGENDA:** The agenda was approved as submitted with a modification and additional comment provided in the change memo dated September 15, 2011.

- 4. APPROVAL OF MINUTES:** August 18, 2011

Sjeklocha moved, second by Magney, to approve the August 18, 2011, 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 meetings of August 22, 2011 and September 12, 2011:

- Adopted a resolution approving a conditional use permit to operate a transportation business at 5208 Mayview Road.
- Adopted a resolution approving a conditional use permit for a promotional event with a variance to allow for amplified music at 11400 State Highway 7.
- Approved items related to the Greenbrier Road sidewalk.
- Adopted a resolution approving two land use ordinances: Southwest Light Rail Transit (SWLRT) Overlay and Interim Use.

- Approved an ordinance amending the master development plan for Opus Corporate Center at 10350 Bren Road West.
- Adopted a resolution approving a conditional use permit and variance to reconstruct the garage at 3013 Lake Shore Boulevard.
- Adopted a resolution approving a conditional use permit for an accessory apartment at 3016 Groveland School Road.
- Approved a resolution approving a conditional use permit for an expansion to Bacio restaurant at Bonaventure Shopping Center, 1571 Plymouth Road.
- Approved a time extension for filing of Premier Place, a reconfiguration of the existing properties at 16229 Temple Drive South and 16103 and 16115 Temple Lane.
- Adopted a resolution vacating a public drainage and utility easement at 6001 Culligan Way.
- Adopted a resolution denying items concerning Hillside Memory Care at 5431 and 5439 Williston Road.
- Upheld the planning commission's action to deny a variance and approve an expansion permit for a home addition at 15708 Wood Knoll Lane.

Gordon announced that the Watershed District cancelled the canoe trip due to not enough water in the creek. The next planning commission meeting will be October 6, 2011.

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

7. **PUBLIC HEARINGS: CONSENT AGENDA**

Item 7B, Whole Foods minor amendment to existing master development plan, was removed from the consent agenda for discussion and separate action.

Lehman moved, second by Adams, to approve item 7A, Whole Foods Sign Plan Amendment – resolution amending the existing sign covenant for the Whole Foods/Office Depot shopping center at 1001 Plymouth Road, listed on the consent agenda as recommended in the respective staff report as follows:

A. Whole Foods Sign Plan Amendment – Resolution amending the existing sign covenant for the Whole Foods/Office Depot shopping center at 1001 Plymouth Road. (93021.11a)

Adopt the resolution amending the Circuit City Plaza sign covenant on pages A13-A16 of the staff report. This amendment allows the display of two items of information on the existing monument sign at 1001 Plymouth Road. Approval is based on the findings that the proposal would meet all ordinances and standards for sign plan review.

Approval is based on the following findings:

- 1) The sign ordinance provides that limited tenant shopping centers (commercial retail establishments with the designed occupancy of three or less tenants) may display on a freestanding sign, one tenant identification and corresponding logo per tenant. Thus, the request to have two items of information on the existing shopping center monument sign is consistent with the city's code.
- 2) The sign ordinance allows a maximum of 80 square feet of copy and graphic on a monument sign for limited tenant commercial buildings that are 66,000 square feet in size. The proposed sign meets the code.
- 3) The proposed combination of the two names on the existing sign is a good use of space and reduces the need for both tenants to have their own, dedicated sign.

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

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. Whole Foods Minor Amendment to Existing Master Development Plan. (93021.11a)

The public hearing was opened.

John Johansson, employee of Welsh Companies, 4350 Baker Road, and principal and regional developer on behalf of DJD Partners One, stated that DJD is the original developer of the property in question which encompasses Whole Foods and Office Depot. Michael Obermueller, attorney, was also present. Mr. Johansson provided background on the site. DJD purchased the entire site in 1993, received approvals, and did the transaction with Circuit City and Office Depot at that time. It was not an easy site. There is no loading in the rear. DJD

has been a very good neighbor the past 18 to 19 years. DJD negotiated a private reciprocal easement agreement to address specific site issues important to the neighbors and tenants of the property.

Mr. Johansson stated that Whole Foods could be a good and complimentary use for the center, but DJD does have concerns with the site plan design, access, intensity of the use in general, and parking. He tried his best to negotiate. DJD agreed with city staff and SRF. He provided a site plan. Office Depot will be downsizing to 23,000 square feet. Whole Foods would be approximately 33,000 square feet. SRF's traffic study done in September of 2010 stated that a key issue is to restrict semi-truck deliveries during peak periods. Currently, the delivery area for the proposed redevelopment is along the west side of the building. As the site is currently designed, deliveries would have to circulate on site which would conflict with the main driveway aisle in front of the building. This has potential to cause delays for motorists entering and exiting the site via Plymouth Road. An alternative to restrictive delivery periods would be to move the loading dock to the northwest portion of the building; however, this may cause significant challenges to delivery truck circulation and or significant modifications to the existing building to accommodate the loading dock.

Mr. Johansson stated that SRF has provided an updated report that points out another pressing issue that if the site remains as it is today, then there would be significant on-site queuing. DJD agrees with SRF. There was a plan that included an additional lane on the frontage road so that a vehicle waiting to turn left could be in a lane and vehicles that want to turn right on the frontage road would have a free movement. The proposal in front of commissioners would have an average delay to leave the site of 45 seconds. The average stacking throughout the day would be 110 feet. It would render many stalls inaccessible. The stacking would occur in front of Office Depot's front door. The p.m. peak hour would be 285 feet of stacking. Stacking would take up the entire main drive aisle, cross three parking lanes, and would be located in front of Whole Foods' front door. DJD feared that the findings are poignant.

Mr. Johansson stated that the right-out onto the frontage road would be a significant improvement. The 45-second delay would be reduced to 20 seconds. The 110-foot average would reduce to 80 feet and the evening peak hour stacking would be reduced from 285 feet to 170 feet. The right out on Plymouth Road would provide only slight improvement. The right out on the frontage road would provide dramatic improvement.

Mr. Johansson said that Office Depot and DJD support making the new lane onto the frontage road a condition of approval; requiring submittal of plans to be

approved by Office Depot and DJD; and the northwest loading area should be studied. DJD has hired an independent consultant to come up with ways to improve the site. He appreciated the commissioners' time.

Adams asked where he proposed the right out be located. Mr. Johansson clarified that he supports widening the existing exit and entry onto the frontage road. It was also one of SRF's suggestions in 2010. He knew the site has difficult issues.

Adams questioned if he favored eliminating semi-truck loading and moving all truck loading to the secondary truck area. Mr. Johansson had some ideas. He did not suggest that be done at this meeting. The original agreement approved 5 semi-truck loads per week. A grocery store would have more than that. Mr. Johansson did not know what he was suggesting. He has some ideas. It is important to have an independent, outside consultant review the proposal. He just finally received drawings that he could work with. A grocery store is a very intense use. Putting loading where it is not designed creates other questions such as where would the second truck go if there would already be a truck being unloaded. Mr. Johansson has been in the business 25 years and has a good sense of what would work. He wants to have professionals study the plan.

Adams asked for staff's opinion. S. Thomas explained that the site is zoned and guided for retail use. The grocery store is a retail use. If Whole Foods had chosen not to request the right out onto Plymouth Road and kept the façade the way it was, then the planning commission would not have reviewed the application. Whole Foods would have requested a building permit, done the interior work, and opened. The right out was requested by Whole Foods and studied by the city's traffic consultant who provided the opinion that the right out would be acceptable. Hennepin County also found the right out acceptable. The right out was not required, but requested by the applicant.

S. Thomas explained that staff understood that only small trucks would deliver to the northwest corner.

S. Thomas stated that staff's recommendation would allow the right out and right in to be done, but are not required. The parking stalls are in substantial conformance with the plan already approved by the planning commission. Regarding the frontage road, one of the conditions of approval is a signalization and optimization study to accommodate an on-site queuing issue.

Gordon added that restriping the drive aisle to accommodate a left out, right out, and inbound lane onto the frontage road would be an alternative to the

improvements provided in the SRF report. The optimization study has been prepared and submitted to MNDOT to change the signal timing to allow more traffic to flow west bound out of the site onto Plymouth Road. A follow up would be done after the store is operational to evaluate the situation.

Gordon noted the safety concerns related to conflicts in the traffic pattern when receiving deliveries. The large trucks would unload on the southwest corner of the loading ramp area. Staff felt the functionality of the site would be fine. Some of the specific site concerns are simply between the property owners.

Lehman asked how Whole Foods would be different from Circuit City. Mr. Johannson stated that the original approval that would be changed addressed the understanding that it is an intensified use. The right out onto Plymouth Road, which has caused a lot of consternation among the property owners, done the right way, would add some benefit that addresses the intensification issue. It would help get vehicles off the site. It would keep them from queuing on the site. The problem with the right out is that it would cause problems with an intersection onto Plymouth Road. The small trucks are approximately 33 feet long. The area between the vehicles parked in the northwest area is 25 feet. Ten to 16 small trucks, still 33 feet long, would have to back into or out of there. He thought there might be a better, safer way. It is an intensification of use putting loading where it is not designed for loading. The initial request also included cart corrals which would take up stalls. It is a change in use. There would be a food and restaurant service that would intensify the use. He appreciated that some of the issues are private. He was present to say that the proposal would be an intensification of use and there are a couple of things that need to be addressed.

S. Thomas appreciated Mr. Johannson expressing his concerns for the public record. However, she reminded commissioners that the project has been approved. The staff recommendation this evening would allow, but not require, the right out and the additional parking stalls, which staff believes are in substantial conformance, to be striped.

Chair Cheleen appreciated Mr. Johannson's concerns. The commission must vote approval or denial on whether or not the master development plan would allow the option right out. If it would not be optional, then it would remain as it is now. S. Thomas said that if the commission chose to deny the recommendation, that would mean that Whole Foods would not be able to open until the right out would be constructed. It does not negate the previous approval.

Chair Cheleen noted that the property owners must work out the private issues.

Sjeklocha noted that Paster Enterprises made the request for changing the parking stalls. Mr. Johansson stated that more parking is needed. The stalls would be added to an area that SRF said has significant problems and significant revisions need to be made. Adding stalls to the back where it requires a 33-foot truck to go down a 25-foot lane and turn around and back into a 10-foot wide loading berth with a compact on one side and a car on the other. He would like the SRF report which states that the site needs significant study followed. He would like that study to occur. It has to happen.

Sjeklocha asked for clarification that Paster Enterprises owns this part of the property. Mr. Johansson responded affirmatively.

Chair Cheleen appreciated the adjacent property owners' needs to discuss parking and traffic flow issues. The commission needs to decide whether to allow Whole Foods to open since it would be in compliance with the existing master development plan.

Mr. Johansson stated that the report SRF submitted September of 2011 said that there would be minor impact on the site if the right out onto Plymouth Road would not be installed. That statement assumes that the frontage road has been widened. The approval from last fall said that SRF said that Whole Foods would be an intensified use. The city needs to address traffic issues. One of the ways would be with a right out. SRF said that there would be problems on the site. There better be a study. That study did not happen. The little bit that has happened is incorrect. There was a report two weeks ago that said that not putting the right out would cause a minor impact. It is maybe o.k. for Whole Foods to open, but that minor impact comment assumes that the frontage road is widened. He wanted to make sure he was clear on the record on that.

Gordon noted that the September 9, 2011 SRF report recommends three lanes at the access point at Wayzata Boulevard. He drew a right-out lane, a left-out lane, and an in-bound lane. He heard Mr. Johansson say that there would be an improvement of another lane near the sidewalk. Mr. Johansson showed Gordon the lane he suggests would be left of the green lane, to serve as a bypass lane. There could be vehicles backed up for an hour at the semaphore. Chair Cheleen said widening the entrance would have nothing to do with the roadway itself. Mr. Johansson said it gets back to his comment that the bulk of SRF's report deals with public roadways not on site. On site comments have not been addressed. Gordon said there may be adequate room to add another lane if the applicant chose to do that.

The public hearing was closed.

Adams moved, second by Sjeklocha, to adopt the resolution on pages A18–A22 of the staff report, which amends the existing Circuit City Plaza master development plan as it pertains to the property at 1001 Plymouth Road.

Approval is based on the following findings:

- 1) The proposal would meet all ordinances and standards for a site and building plan approval.
- 2) The proposal would not result in building or site design changes substantially inconsistent with the previously approved master development plan.
- 3) The proposed access/egress reconfiguration would improve vehicle queuing issues that may impact the site in the area of the existing frontage road access.
- 4) With installation of appropriate medians on Plymouth Road, the proposed access/egress reconfiguration would not negatively impact the function of the roadway.

Approval of the site and building plans is subject to the following conditions:

- 1) 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 and Utility plan dated January 5, 2011
 - Grading plan dated November 3, 2010
 - Building elevations dated November 3, 2010
- 2) The site plan may include, but is not required to include, access/egress reconfiguration resulting in a right-out onto Plymouth Road.
- 3) A grading permit is required. Unless authorized by appropriate staff, no site work may begin until a complete grading permit application has been submitted, reviewed by staff, and approved.
 - a. The following must be submitted for the grading permit to be considered complete.

- (1) Final site and grading plans and specifications and associated calculations for staff approval. The final plans must include installation of required medians on Plymouth Road and illustrate truck turning radii.
 - (2) Final drainage and utility plans, specifications, and associated calculations for staff approval.
 - (3) A final landscape plan for staff approval. The plan must provide for relocation of vibernum and replacement of trees lost to reconfiguration of the Plymouth Road access and egress. The landscape plan must meet minimum landscape and mitigation requirements as outlined in city code.
 - (4) Individual letters of credit or cash escrow for 125% of a bid cost or 150% of an estimated cost to comply with grading permit, landscaping requirements, and to restore the site. The developer may submit one itemized letter of credit, if approved by staff. The city will not release or reduce the letters of credit or cash escrow until work has been completed according to the plans approved by the city.
 - (5) A construction management plan. The plan must be in a city approved format and must outline minimum site management practices and penalties for non-compliance.
- b. Prior to issuance of a grading permit:
- (1) Submit an approved permit from Hennepin County for a right-out egress onto Plymouth Road.
 - (2) Submit an electronic PDF copy of the plans and specifications.
 - (3) Submit two full size and three 11x17 sets of construction drawings and three sets of project specifications.
 - (4) Submit all required administration and engineering fees.
 - (5) Submit a SWPPP.

- (6) Submit 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 contractor 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.
 - (7) Install a temporary rock driveway, erosion control, and tree protection fencing for staff inspection. These items must be maintained throughout the course of construction.
 - (8) Submit copies of the existing, executed cross access and cross parking agreements.
- c. Prior to tree removal, proposed grading limits must be staked in the field for staff inspection. Staff may determine that trees proposed to be removed, can be saved with careful trimming.
- 4) Any compactor area on site must be surrounded by an enclosure, including walls and roofing, acceptable to city staff.
 - 5) Following construction, submit certified as-built drawings in microstation or DXF and PDF format.
 - 6) The property owner is responsible for replacing any required landscaping that dies.
 - 7) 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.

- 8) Construction must begin by December 31, 2011, unless the planning commission grants a time extension.

Sjeklocha, A. Thomas, Adams, Daeges, Lehman, Magney, and Cheleen voted yes. Motion carried and Item 7B was approved as submitted.

Chair Cheleen stated that an appeal of the planning commission's decision must be made in writing to the planning division within 10 days.

8. PUBLIC HEARINGS

A. Conditional use permit to construct an accessory apartment at 4827 Arlington Drive. (Project No. 11026.11a)

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.

Adams asked why a condition of approval would require the gravel driveway to be paved. Thomson explained that the city's current driveway ordinance states that a driveway must be paved. The driveway is nonconforming since it was constructed before the ordinance requiring paving. The ordinance states that if the driveway is causing drainage issues or washing out, then the city engineer can require the driveway to be paved. The condition states that staff would inspect the site to see if there are issues with the street and if there are, then the driveway would be required to be paved.

The applicant was present for questions.

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

A. Thomas moved, second by Daegas, to recommend that the city council adopt the resolution on pages A14-A18 of the staff report. This resolution approves a conditional use permit for a 660 square foot accessory apartment at 4827 Arlington Drive. 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:

- 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 grading and erosion control plan for staff review and approval.
 - 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 existing driveway must be paved with bituminous, concrete, blacktop or equivalent paving material in compliance with the city's driveway ordinance if the city engineer determines that existing driveway is causing a maintenance problem on the public street.
 - 3) The accessory apartment must be constructed and maintained in substantial conformance with the plans date-stamped August 9, 2011.
 - 4) The owner of the property must reside in either unit on a continuous basis except for temporary absences throughout the period during which the permit is valid.
 - 5) The accessory apartment must comply with all applicable building, housing, electrical, plumbing, heating and related codes of the city.
 - 6) All other provisions of the city code relating to single family dwelling units must be met.
 - 7) The city council may reasonably add or revise conditions to address any future unforeseen problems.
 - 8) 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.
 - 9) The applicant must agree to the above conditions in writing.

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

Chair Cheleen stated that the item is tentatively scheduled to be reviewed by the city council October 3, 2011.

B. Conditional use permits for pedestrian improvements in Minnetonka Mills Park. (Project No. 11027.11a)

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.

Adams noted a drop from Minnetonka Boulevard to the river. He tried to imagine how a boardwalk would work on the slope. Vetter explained how the boardwalk would be offset. There would be no fill. The building code would determine if railings would be needed.

The public hearing was opened.

John Knight, 13511 Minnetonka Drive, complemented the plan. He lives across the boulevard. It would make the area safer. He asked if the sidewalk on Minnetonka Boulevard would remain. S. Thomas understood that the sidewalk would remain. Knight did not think the sidewalk is safe. It is adjacent to the busy road. He understood it is a county road. It is good that the city council and planning commission took residents' feedback into account. There were concerns regarding the parking lot, but that was fixed. The plan looks good. He is excited to have it as part of the neighborhood and use it.

Chair Cheleen noted staff taking notes on the comments regarding the sidewalk to research the situation further.

No additional testimony was submitted and the hearing was closed.

Adams walked the area. He was glad the city was able to acquire the beautiful property. He was looking forward to the project's completion.

Adams moved, second by Lehman, to recommend that the city council adopt the resolution on pages A12–A14 of the staff report. This resolution approves the following conditional use permits for pedestrian improvements at Minnetonka Mills Park:

- Conditional use permit for boardwalk within the shore impact zone;
- conditional use permit for boardwalk within a wetland buffer;

- conditional use permit for public recreational use within the shore impact zone; and
- conditional use permit for public recreational use within a wetland buffer.

Approval is based on the following findings:

- 1) The proposed improvements would not adversely impact public health, safety, or welfare. Rather, they are intended to increase enjoyment of the community's natural and historic resources.
- 2) The proposed improvements would meet all minimum conditional use permit standards. These standards are outlined in the "Supporting Information" section of this report.
- 3) The proposed improvements are consistent with the previously approved concept plan for Minnetonka Mills Park.

Approval is subject to the following conditions:

- 1) No work may be done under these conditional use permits which requires floodplain fill or results in wetland impact.
 - a. Boardwalk supports located within wetland buffers must each be less than two feet in diameter.
 - b. Any grading work within floodplain areas must result in disturbance of less than 1,000 square feet or 20 cubic yards.
- 2) Existing wetland buffer areas must be maintained.
- 3) Prior to construction, install tree and wetland protection fencing and any other erosion control measures as required by natural resources staff. These items must be maintained throughout the course of construction.
- 4) Impervious materials, including crushed rock, may not be applied to earthen trails, without obtaining a floodplain alteration permit.

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

Chair Cheleen stated that the item is tentatively scheduled to be reviewed by the city council October 3, 2011.

C. Expansion permit for multiple gable expansions of the existing roof line at 5016 Westmill Road. (11029.11a)

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.

Lehman appreciated staff reminding commissioners what commissioners should and should not act on. In response to his question, Scott-Sims explained that the addition on the north side of the residence could still be built as well as the detached garage. Both meet setback requirements as proposed. The gables would not be able to be added as proposed because the gables would not meet the setback requirements. The roof structure would have to be modified to accommodate setback requirements. Denial would not completely end the project, but it would require the project to maintain the existing roof line.

Magney was confused by elevations provided in the packet from a previous design. Scott-Sims explained that the plan he referred to would meet all ordinance requirements. The applicant felt it would not be as attractive as the proposal.

Adams noticed that the backyard is soft. He asked why there is not a delineated 100-year floodplain for the site. Colleran answered that if the wetland is clearly beyond the 35-foot setback requirement, then the city does not require delineation to be done. Most delineations cost from \$700 to \$1,000. Staff visits each site and looks at soils, hydrology, vegetation, and slope. In this case, the wetland is 44 feet away. It is well beyond the 35-foot setback. Staff determined delineation would not be necessary.

Adams asked if the proposal would meet the side yard setback. Scott-Sims stated that the city requires an aggregate side yard setback of 30 feet with no less than 10 feet on either side. The proposal would meet setback requirements.

Adams said the structure appears large. He asked if it would meet the mcmansion policy. Scott-Sims explained that the mcmansion policy only applies when the city is considering a variance request. This request is for an expansion permit. Staff did run mcmansion numbers for comparison. The highest floor area ratio in the area is .17. The proposal would increase the residence's floor area

ratio from .11 to .19. The mcmanion policy does not apply in this situation because it is not a variance request.

Adams asked if applying the mcmanion policy to expansion permits is being considered. Scott-Sims stated that staff has considered adding expansion permits to the mcmanion policy, but that has not been done at this time.

Michael Nelson, 5016 Westmill Road, applicant, stated that one of the reasons he and his wife purchased the residence is because of the lot size. He has spent a considerable amount of money on 10 different builders to come up with a plan that would look nice and give them the desired expansion. All of the builders tacked on a garage on the south side and a box on the north side which would meet all of the setbacks. It was not until he met with the Rutledge Group who noted the slope and came up with angling the addition and moving the garage to the end. This would allow the overall length of the residence to be shortened and be more balanced. He liked the idea of a house with a lot of character. Part of the reason behind the design is while the other designs were fairly simple, they were very expensive, and cost at least 20 percent more than the proposed plan even though the proposed plan has much more curb appeal. The reason was because the other plans would have had a lot more excavation around 3 sides of the house and be more destructive around the house. The Rutledge Group utilized the slope, minimized excavation, and built off one side. He has spent considerable effort to get to this point. He provided the plan that would meet ordinance requirements to show that something bland could be done, but that plan would be longer and 20 to 25 percent more expensive which the applicants cannot afford. The proposal would provide more curb appeal, better balance, good use of the terrain, and it is affordable.

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

Adams agreed with Mr. Nelson that the gables would make the addition more attractive. He was more troubled by the fact that the proposed design is out of scale with the rest of the houses in the neighborhood, but that is not being considered.

Adams moved, second by Sjeklocha, to adopt the resolution on pages A15–A18 of the staff report with the modification provided in the change memo dated September 15, 2011, which approves an expansion permit for gable additions and frost footing at 5016 Westmill Road. 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: Gables are a reasonable roof modification on residential homes, as gable roof expansions would maintain the existing front yard setback and would not expand the home further into the required setback.
 - b. CIRCUMSTANCE UNIQUE TO THE PROPERTY: The existing house was built in 1965, prior to the adoption of the city's zoning ordinance. The existing house has a non-conforming front yard setback. Any modification to the front of the home would require either an expansion permit or a variance.
 - c. NEIGHBORHOOD CHARACTER: The proposed gables would maintain the residential character of the 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.
- 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.

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.

9. ADJOURNMENT

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

By: _____
Lois T. Mason
Planning Secretary