

**MINNETONKA PLANNING COMMISSION
MINUTES**

DECEMBER 1, 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: City Planner Loren Gordon, Principal Planner Susan Thomas, Planner Jeff Thomson, Natural Resource Manager Jo Colleran, Water Resources Engineer Liz Stout, and Natural Resources Specialist Aaron Schwartz.

3. APPROVAL OF AGENDA: The agenda was approved as submitted with an addition provided in the change memo dated December 1, 2011.

4. APPROVAL OF MINUTES: November 17, 2011

Adams moved, second by Lehman, to approve the November 17, 2011, meeting minutes as submitted.

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

5. REPORT FROM STAFF

Gordon briefed the commission on the land use application considered by the city council at its meeting of November 14, 2011:

- Adopted resolutions approving Redeemer Bible Church construction of an addition for 16205 State Highway 7.

The December 15, 2011 planning commission meeting has been cancelled. The next planning commission meeting will be January 5, 2011.

Adams announced his retirement from the planning commission after six years of service. He has seen a lot of change and had a lot of fun. He would like to see the city look at alternative forms of transportation to reduce the square footage of impervious surface. He recommended residents consider serving on the planning

commission. Chair Cheleen thanked Adams for asking good, insightful questions and being committed to visiting each application site.

Gordon added that since 2006, Adams has been involved in 588 recommendations or actions which include 168 variances.

6. REPORT FROM PLANNING COMMISSION MEMBERS: None

7. PUBLIC HEARINGS: CONSENT AGENDA: None

8. PUBLIC HEARINGS

A. Modified sign band for new uses located at Ridge Square North Shopping Center. (89035.11a)

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 saw this coming after approval of the Noodles sign. He asked how the city would make sure the standards and conditions would be incorporated. Thomson explained how the city administratively ties the approval to the property so staff is able to enforce the requirements. Staff answered a number of calls after the Big Top sign was installed. That information has been relayed to the Ridge Square South tenants.

Adams asked if there are other shopping centers in the city that might make similar requests. Thomson did not think of any. Most of the shopping centers are governed by sign covenants which specifically give more flexibility to large tenants already.

A. Thomas agreed that approval of the Noodles sign would lead to more signs. He asked if a sign pointing out additional parking in the rear had been installed. Thomson recalled that is a condition of approval for Noodles. He would visit the site and verify the sign is installed.

A. Thomas noted that other tenants would be able to put up similar signs. He asked if other businesses could install logo signs as well. Thomson explained that tenants of Ridge Square North with less than 4,000 square feet would be allowed to have signs within the existing sign band. Ridge Square North anchor tenants and tenants with 4,000 square feet or more would be allowed to install a

sign on a modified sign band. Thomson noted a trend that when business signs are redone that a more significant architectural facelift is done to the building at the same time. The Glen Lake Center and Minnehaven Square are examples. Improvements to the façade of the building are being done to more clearly define the sign band and give the sign identifying the entire shopping center more visibility.

A. Thomas asked how the standard size of 4,000 square feet was chosen. Thomson explained that 3,500 square feet was used for Ridge Square South. Ridge Square North is twice the size of Ridge Square South. There was a natural break at 4,000 square feet for most of the tenants.

A. Thomas did not want to lose control of the sign ordinance and allow things that the city normally would not do.

Magney asked if all of the signs must be the same color. Thomson explained that not all of the sign fascias have to be the same color. All of the sign fascias attached to the building for the same business have to be the same, solid color.

Daeges asked if two small tenants combined to equal 4,000 square feet, then would it qualify for the large sign. Thomson answered affirmatively.

The applicant was present to answer questions.

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

Adams moved, second by Sjeklocha, to approve a modified sign band for Ridge Square North Shopping Center located at 12977 Ridgedale Drive. Approval is based on the following findings:

- 1) City Code 300.30.5(b)1(e) allows the planning commission to approve a modified sign band to allow for architectural integration of tenant signs.
- 2) The signs are attractively designed to integrate into the existing building.
- 3) The signs have a proportional relationship to the scale of the building.
- 4) The signs would not infringe upon other tenants' signage.

Approval is subject to the following standards and conditions:

- 1) Only tenants with a leasable area of at least 4,000 square feet are allowed a modified sign band. Tenants with less than 4,000 square feet must be located within the existing metal sign band located below the roof canopy.
- 2) A sign fascia must be constructed over the existing canopy structure. The fascia must maintain the same height as the existing fascia structures, and must be finished with stucco, EIFS or similar exterior material.
- 3) The sign fascia must be located within the leasing lines of the tenant space. The fascia cannot extend further than two feet from either side of the wall sign.
- 4) Each sign fascia must consist of a single uniform color.
- 5) Wall signs must comply with all ordinance standards, including quantity, size, height and construction.
- 6) The modified sign band must be reviewed and approved by the property owner.
- 7) Sign permits are required.

Lehman, Sjeklocha, A. Thomas, Walker, 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. Items regarding The Hampton Inn at 10600 Wayzata Boulevard (88085.11b)

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.

Lehman asked for the nature and source of the contaminant. S. Thomas explained that the property was used as a dump site for construction materials. The organics buried in the soil are decomposing and releasing methane gas.

Lehman asked if it has been determined safe to put a hotel on top of the site. S. Thomas explained how soil remediation was done and a Response Action Plan

was put together and reviewed by the Minnesota Pollution Control Agency (MPCA). The site was cleaned to a point where this type of use would be allowed. When the BMW site was developed, it dealt with a similar methane issue. A capture system is being used to allow the continual release of underground gases.

A. Thomas asked staff to elaborate on the storm water management plan. Stout explained that infiltration is not required on a contaminated site. Four separate, lined, filtration basins would capture the water, filter the water through sand and plantings, and direct the water into the storm water system. None of the storm water would infiltrate into the ground water. It would be captured and filtered through three to five feet of a sand media, a drain-tile system, the storm-water collection system, and then a regional pond. Most of the contaminated soil has been removed from the site. The storm water management plan would prevent any action between the surface water going through the filtration basins and the ground water system on site.

A. Thomas asked if a barrier is located at the bottom of the sand. Stout answered that the rain garden and filtration trench would be lined with a high density polyethylene liner.

In response to Adams' question, Stout pointed out the four filtration ponds on the site.

Adams asked how close the property line would be to the adjacent building. S. Thomas explained that the proposed parking lot would be eight feet from the property line. It would match the existing conditions. The owners of the building on the north often utilize the parking stalls. The existing eight-foot setback would be maintained. There is a cross-parking agreement in place on all five of the properties.

Adams asked where the trash enclosure would be located. S. Thomas answered that the enclosed trash area would be on the south side of the building. Adams thought the location would be odd since it would be visible from the frontage road.

Magney asked what the "N/A" on the east side represents. S. Thomas explained that the city's ordinance does not require a setback from a property line that is internal to a planned unit development adjacent to a private street. The parking areas on the east side also match existing pavement conditions. The applicant's plan does a good job of maintaining the previously existing development envelope.

Chair Cheleen reviewed that the snow-melt water and rain water traveling off of the hard surfaces would be treated and transported to the storm sewer before it would reach whatever contamination might be left. S. Thomas agreed.

Chair Cheleen asked if there would be a capture system similar to the BMW site. S. Thomas responded that the city's building officials would look at that during the building permit review.

John Hafner, applicant, stated that Mr. Torgerson regretted that he was unable to attend the meeting. Mr. Hafner thanked staff for providing guidance and advice navigating a fairly intricate set of parameters for one of the most challenging sites he has seen in 20 years. He appreciated the collaborative effort. He stated that a sidewalk and two stairs connect the parking lot to the building on the north side and a stair in the northwest corner connects the area to the adjacent parking area. Neighborhood and association meetings were held and the applicant learned that the row of parking is very important to the neighbors. He was surprised that the neighbors wanted "their parking back." The initial plan was adjusted to provide the neighbors with parking. The intention is to replace the existing sidewalk and stairs with something nicer.

Mr. Hafner said that the site would have a venting system. At this point, an active venting system is being considered. Fans might be needed to keep the air moving. He explained the different options. Torgerson Properties intends to hold the property for a long period of time and wants to do everything to best protect the guests and users of the building. The contamination beneath the footprint of the building is gone. The reason for the active venting system is that on the remainder of the site, the action plan requires excavation and replacement of the top 10 feet of contaminated soil. There is a possibility of lateral movement of methane. That is what the active venting system would prevent.

Mr. Hafner agreed that the trash enclosure is in an unlikely location, but if it would be located on the north side, then it would impact the neighbors and the east side would be out of the question, so the enclosure would be designed to appear to be part of the stone building. The trash enclosure inside the stone enclosure would not be visible.

Mr. Hafner reviewed two renderings of how the proposal would look. The proposal would create more of a corporate look than retail look. He had samples of the decorative block with him.

Adams asked how many properties Torgerson Properties owns and manages. Mr. Hafner guessed around 25 hotel properties and 10 restaurant properties. Total number of rooms would be in the 2,000 range.

Adams asked if Torgerson Properties manages the Hampton Inn down the road. Mr. Hafner answered in the negative.

Adams felt the use would be appropriate for the site and certainly better than what has been there the last 10 years. He appreciated the proposal.

The public hearing was opened.

Scott Eisenach, 10420 Wayzata Boulevard, Hampton Inn, asked if there is a required emergency easement between properties for a fire truck. S. Thomas explained that the fire marshal reviewed the proposal and did not provide any negative feedback.

No additional testimony was submitted and the hearing was closed.

Adams moved, second by Lehman, to recommend the city council adopt the ordinance on pages A43–A50 of the staff report. This ordinance amends an existing master development plan as it pertains to 10600 Wayzata Boulevard and approves final site and building plans. The ordinance includes approval of the following variances:

- Parking setback variance from 20 feet to 8 feet.
- Parking setback variance from 20 feet to 15 feet.
- Building setback variance from 51 feet to 40 feet.
- Parking space variance from 127 to 104.
- Floor area ratio variance from 0.6 to 0.82.
- Impervious surface variance from 70 percent to 74 percent.

This ordinance is based on the following findings:

- 1) The proposal is consistent with the 2030 Comprehensive Guide Plan.
- 2) The proposal would meet the required standards and ordinances for a site and building plan approval.
- 3) The proposal would meet the variance standard:

- a. REASONABLENESS. The requested variances are reasonable. The requested variances are reasonable for a variety of reasons.
- (1) Parking setback:
 - (a) It is reasonable to maintain an existing parking setback. The proposed parking setback from the north property line maintains an existing pavement condition.
 - (b) It is reasonable for a wide boulevard area to separate a parking lot from the traveled surface of a roadway. While the proposed parking lot/drive aisle would be just 15 feet from the south property line, it would be nearly 50 feet from Wayzata Boulevard.
 - (2) Building setback: The requested building setback variance is a point intrusion. Just 635 square feet or 4% of the footprint of the building would encroach into the required setback from the south property line. The proposed building would meet minimum setback requirements from north, east, and, west property lines.
 - (3) Floor area ratio: Given its location relative to the freeway corridor and resulting land value, it is reasonable that redevelopment activity on Wayzata Boulevard would result in an increase in development intensity/density.
 - (4) Impervious surface: An impervious surface variance is reasonable, if that variance actually improves upon an existing impervious surface to green space ratio. The proposal requires an impervious surface variance from 70 percent to 74 percent. However, this 74 percent is a decrease from the conditions previously at this site.
 - (5) Parking: A parking variance is reasonable if parking studies indicate that the proposed parking spaces would meet or exceed the parking demand on a site. A parking study was conducted for the proposal concluded that parking demand at the proposed would be met by the spaces provided on the property. Additionally, a shared parking agreement allows for

“overflow” between the subject site and surrounding office properties.

- b. **UNIQUE CIRCUMSTANCE.** The subject property is a previously polluted, small site within the I-394 corridor. It has been vacant and undeveloped for seven years. This is a unique circumstance. Of the 140 non-residential properties within the PID district, there is just one other completely vacant property.
- c. **CHARACTER OF LOCALITY.** The proposed five-story hotel use would result in a visual change to both the site and the surrounding area. However, the requested variance themselves would not.
- d. **INTENT OF ORDINANCE.** The intent of the ordinance standards regulating setback, floor area ratio, impervious surface, and parking is to limit development on any particular property such that development does not negatively impact surrounding properties or existing development patterns. The proposal meets this intent. Given the location of the subject property, the requested variances would not negatively impact surrounding properties or existing development patterns. Rather, the variances allow for development of site with a land use complementary to existing land uses in the immediate area and at a development intensity reflecting current realities in a freeway corridor.
- e. **CONSISTENT WITH COMPREHENSIVE PLAN.** The proposal is consistent with the comprehensive guide plan. Within I -394 corridor the comprehensive plan notes that “higher redevelopment densities are planned to provide ... commercial opportunities.” The guide plan notes that reasonable expansion in this corridor will help the community remain competitive in the region.

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 plan dated November 18, 2011
 - Grading plan with amended submittal date November 18, 2011
 - Drainage and utility plan with amended submittal date

November 18, 2011

- Landscaping plan with amended submittal date November 18, 2011
- Building elevations dated November 18, 2011

The above plans are hereby adopted as the master development plan and as final site and building plans.

- 2) 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) An electronic PDF copy of all required plans and specifications.
 - (2) Two full size and three 11x17 sets of construction drawings and three sets of project specifications.
 - (3) Final site, grading, drainage, utility, landscape, and tree mitigation plans, and a stormwater pollution prevention plan (SWPPP) for staff approval.
 - (a) Final site plan must:
 - Consider a sidewalk on the south side of the property connecting to the existing side walk to the west.
 - (b) Final landscaping must include a 10-foot wetland buffer in the area of the existing wetland west of the site. The plans must also meet minimum landscaping and mitigation requirements as outlined in ordinance. However, at the sole discretion of natural resources staff, mitigation may be adjusted based on site conditions.
 - (4) Final stormwater management plan. The plan must include a narrative documenting compliance with the city's Design Guidelines and Standard and indicating how the applicant

will meet the city's runoff rate control, runoff volume control, and water quality treatment guidelines.

- (5) Individual letters of credit or cash escrow for 125% of a bid cost or 150% of an estimated cost to comply with the 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.
- (6) 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 a 10-foot wide conservation easement in the area to be determined by natural resources staff and a drawing of the easements. The easement must be drafted by an attorney knowledgeable in the area of real estate and is subject to the review and approval of the city attorney.
- (2) Submit all required administration and engineering fees.
- (3) Install a temporary rock driveway, erosion control, tree and wetland protection fencing and any other measures identified on the SWPPP for staff inspection. These items must be maintained throughout the course of construction.
- (4) Cash escrow in an amount to be determined by city staff. This escrow must be accompanied by a document prepared by the city attorney and signed by the builder and property owner. Through this document the builder and property owner will acknowledge:
 - The property will be brought into compliance within 48 hours of notification of a violation of the construction management plan, other conditions of approval, or city code standards; and
 - If compliance is not achieved, the city will use any or

all of the escrow dollars to correct any erosion and/or grading problems.

- c. Permits may be required from other outside agencies including, Hennepin County, the Basset Creek Watershed District, and the MPCA. It is the applicant's and/or property owner's responsibility to obtain any necessary permits.
- 3) Prior to issuance of a building permit:
- a. Submit the following items for staff review and approval:
 - (1) A construction management plan. This plan must be in a city approved format and outline minimum site management practices and penalties for non-compliance. If the builder is the same entity doing grading work on the site, the construction management plan submitted at the time of grading permit may fulfill this requirement.
 - (2) Cash escrow in an amount to be determined by city staff. This escrow must be accompanied by a document prepared by the city attorney and signed by the builder and property owner. Through this document the builder and property owner will acknowledge:
 - The property will be brought into compliance within 48 hours of notification of a violation of the construction management plan, other conditions of approval, or city code standards; and
 - If compliance is not achieved, the city will use any or all of the escrow dollars to correct any erosion and/or grading problems.
- If the builder is the same entity doing grading work on the site, the cash escrow submitted at the time of grading permit may fulfill this requirement.
- (3) An electronic CAD file or certified as-built drawings for public infrastructure in microstation or DXF and PDF format.

- (4) Unless submitted in conjunction with a grading permit, submit a letter of credit or cash escrow for 125% of a bid cost or 150% of an estimated cost of all required landscaping.
 - (5) An illumination plan for staff approval.
 - (6) A recorded copy of the required conservation easement.
- b. All required hook-up fees.
- 4) The property owner is responsible for replacing any required landscaping that dies.
 - 5) 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.
 - 6) Construction must begin by December 31, 2012, unless the planning commission grants a time extension.

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

Chair Cheleen stated that the city council is tentatively scheduled to review and act on this item December 19, 2011.

C. Ordinances amending various environmental sections of city code. (08053.11a)

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

Gordon reported. He recommended approval of the application based on the findings and subject to the conditions listed in the staff report.

Sjeklocha asked if there are any major changes from the last meeting. Gordon answered in the negative. Enforcement and silt fences were addressed at the last meeting. Best practices and common-sense approaches would be used in regard to silt fences.

Adams volunteered to still serve on the silt-fence patrol. He understood that a lot of the proposed changes are being done to adhere to state statutes, FEMA rules, and county regulations. Adams asked for the difference between a "floodplain" and a "floodway." Gordon explained that a floodplain district outlines the boundary of the floodplain. A floodway is usually a tributary or creek in which water flows through the floodplain district.

Adams said that Section 7F looks like it is new and looks like it would require a legal document any time a property owner would build within a floodplain. It looked to him like its intent would be to absolve the city of any liability in the event that the property would flood. He asked if it would be a new legal document. Gordon confirmed that would be new language. It acknowledges that the city would not be liable for future events.

Adams recalled variance applications on Skyview Road requesting to build in the floodplain. Colleran agreed. In the past, it was referred to as a hold harmless agreement. Now it would be included in the ordinance.

A. Thomas questioned how the proposal would match with DNR wetland buffer requirements. Colleran explained how the layers of wetland, floodplain, and shore land regulations can overlap each other. All of the codes must be followed. The most restrictive regulation applies. It would be written in each individual code that the other regulations must also be met.

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

Sjeklocha moved, second by Lehman, to recommend that the city council adopt the ordinances on pages A1–A43 of the staff report.

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

9. ADJOURNMENT

Adams moved, second by Sjeklocha, to adjourn the meeting at 7:40 p.m. Motion carried unanimously.

By: _____
Lois T. Mason
Planning Secretary

Planning Secretary