Unapproved
Minnetonka Planning Commission
Minutes

April 7, 2022

1. Call to Order

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

2. Roll Call

Commissioners Maxwell, Waterman, Banks, Henry and Sewall were present. Powers and Hanson were absent.

Staff members present: Community Development Director Julie Wischnack, City Planner Loren Gordon, Assistant City Planner Susan Thomas, Senior Planner Ashley Cauley and Planner Bria Raines.

3. Approval of Agenda

Waterman moved, second by Henry, to approve the agenda as submitted with postponement of Item 8B, a resolution denying the application for a conditional use permit for a freestanding ATM for Chase Bank at 11400 Hwy 7, to the April 28, 2022 planning commission meeting at the request of the applicant; addition of comments provided in the change memo dated April 7, 2022; and moving review of a resolution approving final building plans and a sign plan amendment for Planet Fitness at 12437 Wayzata Blvd. from Item 8A of the agenda to Item 7A on the consent agenda.

Maxwell, Waterman, Banks, Henry and Sewall voted yes. Powers and Hanson were absent. Motion carried.

4. Approval of Minutes: March 17, 2022

Maxwell moved, second by Henry, to approve the March 17, 2022 meeting minutes as submitted.

Maxwell, Waterman, Banks, Henry and Sewall voted yes. Powers and Hanson were absent. Motion carried.

5. Report from Staff

Gordon briefed the commission on land use applications considered by the city council at its meeting of March 24, 2021:

- Reviewed a concept plan for Woodhaven, a subdivision of 2424 and 2440 Plymouth Road.

The State of the City address is scheduled to take place April 20, 2022 at 7 a.m.

The next planning commission meeting is scheduled to be held April 28, 2022.

6. Report from Planning Commission Members: None

7. Public Hearings: Consent Agenda

No item was removed from the consent agenda for discussion or separate action.

Banks moved, second by Henry, to approve the item listed on the consent agenda as recommended in the respective staff report as follows:

A. Resolution approving final building plans and a sign plan amendment for Planet Fitness at 12437 Wayzata Blvd.

Adopt the attached Resolution 2022-02 approving final building plans and a sign plan amendment for Planet Fitness at 12437 Wayzata Blvd.

Maxwell, Waterman, Banks, Henry and Sewall voted yes. Powers and Hanson were absent. Motion carried and the item on the consent agenda was approved as submitted.

8. Public Hearings

A. Resolution approving a conditional use permit for replacement of an accessory structure in excess of 1,000 square feet at 15518 Minnetonka Blvd.

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

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

Maxwell asked for the size of the other existing accessory structure. Raines answered approximately 240 square feet. Raines confirmed that if the proposal would be approved, then the site would have approximately 250 square feet more than the allowed amount of total square footage of detached structures on a site.

Christie Brusvan, applicant, stated that the existing barn is no longer safe and needs repairs. Rebuilding the barn would keep its charm, but in a usable and safe manner. She thanked Raines for walking them through the process and helping them with the details. She was available for questions. She appreciated the commissioners' time.

In response to Waterman's question, Ms. Brusvan answered that the barn is used for storage of the lawn mower, bikes and future additional vehicles when her children reach driving age. There is a gravel turn around area in the rear yard. The door to the barn

would be turned so that it would no longer face the neighbors and be accessible from the interior of the yard.

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

Waterman moved, second by Banks, to recommend that the city council adopt the resolution approving a conditional use permit for an accessory structure in excess of 1,000 square feet at 15518 Minnetonka Blvd.

Maxwell, Waterman, Banks, Henry and Sewall voted yes. Powers and Hanson were absent. Motion carried.

B. Resolution denying a conditional use permit for a freestanding ATM for Chase Banks at 11400 Hwy. 7.

Review of this item was postponed until the April 28, 2022 planning commission meeting.

C. Resolution denying variances to increase building height and floor area ratio requirements for a new house at 4299 Annika Court.

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

Cauley reported. She recommended denial of the application based on the findings listed in the staff report.

Henry confirmed with Cauley that the square footage of a full basement would not be included in the FAR calculation.

Thomas stated that a neighboring house does not meet the FAR requirement because of an error that occurred during the building permit review process which failed to catch the noncompliance. Such an error does not set a precedent to allow other houses to be noncompliant with FAR requirements.

Aaron Clark, applicant, stated that:

- He is excited to have a house in Minnetonka.
- He was unaware of the FAR requirements.

Matt Duffy, attorney for the applicant, stated that:

- He appreciated the work done by staff.
- The lot is the third biggest lot in the development. The proposed house would be the third largest house in the development.

- Removing the third garage stall would make the proposal compliant with FAR requirements, but make it out of character with some of the other houses in the neighborhood. The house next door is the largest in the neighborhood. If the proposed house would be constructed to meet FAR requirements, then it would be smaller than the house next door.
- The applicant requested the builder redesign the plans to meet the 26-foot-height requirement.
- The "design needs of the family" is the reason for the variance request.
- Neighboring properties would not want a giant retaining wall and it would cause drainage problems.
- The lot is designed for a walk-out basement. A non-walk-out basement would not be practical or reasonable. If there would be no walk-out basement, then the variance would not be needed.
- There would be no neighbor facing the backyard.
- The applicants are willing to explore other options.

Mr. Clark stated that:

- He was told by a builder that it would be unlikely that the city engineer would approve a plan that would not include a walk-out basement.
- He asked if a window instead of a door to create a look-out instead of a walk-out basement would meet FAR requirements.
- A neighboring house was built on a smaller lot 857 square feet over the FAR requirement due to an error during the building permit process.
- There is another house that looks similar to the proposed house, but the other house is larger because its full basement is not included in the FAR calculation.

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

Chair Sewall confirmed with Cauley that replacing the basement walk-out door with a basement look-out window would not change the FAR calculation.

Waterman clarified with Cauley that if a significant amount of the basement would be exposed, then it would qualify as a look-out or walk-out basement and would be included in the FAR calculation.

Maxwell found this to be a tough decision. She saw no practical difference between a walk-out basement and a full basement from the neighbors' view. The rear yard abuts a highway rather than residential houses. There is only one other open lot that could request a similar variance. She would be o.k. with approving a house with a maximum height of 25 feet and a variance to allow the requested amount of square footage.

Henry appreciated the applicant explaining the situation to commissioners. He sympathizes with the applicant. He agrees with staff and following the spirit of the law because the site is zoned R-1a which allowed the property to be subdivided into more, smaller lots that would be required to have smaller houses. The difficulty was not created by the city. The city has been consistent with honoring the regulations. He favors compliance with R-1a zoning regulations.

Banks felt the responsibility is on the builder to understand the regulations and process. There is a reason why the limits are created. He sympathized with the applicant. He understood that the process is tough. He hopes the builder could make some adjustments to make the building plan meet the requirements.

Waterman agreed that this is a frustrating situation. A homeowner trusts an architect to create a building plan that meets code requirements and then the homeowner finds out that the plan is not compliant. The city code is specific for the lot. For an R-1a district, it is critical to maintain strict conformance with ordinance requirements. Overall, he regretfully agreed with staff's recommendation to deny the variance.

Chair Sewall noted that he has learned an enormous amount of information that he did not know since he bought his house 13 years ago. He agreed that regrading would be a terrible option. He favored following the FAR regulations. A large house could still be built. He welcomed the applicant and his family to the community.

Waterman motioned, seconded by Maxwell, to adopt Resolution 2022-03 denying the application for floor area ratio and building height variances for a new house at 4299 Annika Court.

Maxwell, Waterman, Banks, Henry and Sewall voted yes. Powers and Hanson were absent. Motion carried.

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

D. Resolution denying the application for Weber Three, a three-lot subdivision with variances, at 2326 Oakland Road.

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

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

Waterman confirmed with Thomas that a private street would not eliminate the need for variances.

Jim MacKinnon, applicant, stated that:

- The application is for the non-road, non-cul-de-sac plan. The cul-de-sac option would not meet tree ordinance or water drainage requirements.
- The glitch is the unusual shape of the property. The shape is unique to this property. It is not something the applicant created. The lots would not have 110 feet at the 50-foot setback because of the long driveways needed for the shape of the property.
- There are 11 lots close to the site that do not have 110 feet at the 50-foot setback. Some lots only have driveway easements to the road. Some lots have only 20 feet on the road.
- The proposal would be a beautiful project.
- The city's method of measuring the lot width setback is a one-size-fits-all formula. He did not agree that one size fits all.
- The ordinance gives commissioners the right to give the applicant a variance. He supports the city approving a variance for the project.
- He creates lots and sells them to builders.

The public hearing was opened.

William Dunne, 13758 Birdsong Court, stated that:

- His main concern is the driveway easement behind his house.
- He was concerned with the two lots west of the proposed site that could be developed in the future.
- His main concern is to limit as much traffic as possible on the driveway that would be on the easement behind his property. It would be very close to his house.
- He appreciated the opportunity to speak.

Lindsay Arthur, 2400 Oakland Road, stated that:

- He appreciated the opportunity to speak.
- He supports staff's recommendation to deny the application.
- He agrees that the applicant failed to justify the variances.
- He opposes the plan which would need three setback variances and possibly a tree removal variance; include two contiguous driveways serving three houses with a shared driveway; have irregular gerrymandering lot lines; and require two awkward driveway easements. It does not have to be that way.
- He provided two drawings showing how the property could be developed into three lots without the need for variances.
- This is an opportunity to make the properties conform to current regulations by providing street access and allowing the developer to create three lots without variances.

Thomas placed Mr. Arthur's drawings included in the agenda packet on the presentation monitor.

Mr. Arthur continued:

- His plan would be a win-win for the applicant and neighbors.
- He proposed that there be one street that would go diagonally through the property from Oakland Road to the boarder of the Cohen property that is adjacent to his property.
- His Option One would require the removal of 10 trees. The proposal's two-driveway option would require the removal of 19 trees. His Option Two would require the removal of 19 trees.
- His plan would eliminate the need for the Arthur and Cohen properties to share a driveway once a street would be added. The existing shared driveway is too narrow for two vehicles to pass each other.
- His plan would eliminate the shared driveway included in the proposal. The Arthurs and Cohens have a long, respectful, trusting relationship dealing with their shared driveway, but shared driveways are definitely a potential source of irritation between neighbors when it comes to maintenance and snowplow removal.
- His proposed lots would be far less gerrymandered and would be more regularly shaped than the proposed lots.
- His proposal would eliminate the awkward driveway easement across adjoining lots included in the applicant's plan.
- A city street would be more desirable than two contiguous driveways with one of the driveways serving two houses. It would be more consistent with what is happening in the neighborhood. Bird Song, Crown Hill, Westerness and Cherry Hill developments all added a nice street when the property was developed. His plans would allow that to happen.
- He opposes the two driveways next to each other with one of them serving two houses. He would prefer one city street to end in a cul-de-sac on his property and create three lots.
- His options would correct the nonconforming nature of his property and address a commitment the city made to him when Bird Song was developed. As described in the history provided in the agenda packet, he requested a driveway easement from the Bird Song cul-de-sac be added to connect to his property when its subdivision application was being considered. The city council decided that he would get access when the Weber property would be developed. That is now. This anomaly may now be corrected.
- He has 2.34 acres of land that could accommodate three lots with minimal tree loss and would meet all city ordinance requirements.
- If the current proposal would be approved, then he would be prohibited from developing his property and his property would be relegated to the status of a nonconforming property. His property met all ordinance

requirements when it was created, but the city created its nonconforming status when it adopted new regulations in 1967.

- This is an opportunity to find a solution that would work for everyone. The current proposal does not work for the city because it would require variances. It does not work for adjoining property owners because it would allow the driveway easements to be located near the backdoors of all of the proposed lots in the Bird Song development. It does not work for him because it would not solve the anomaly created before. The proposal should be denied, not just because the variances are inappropriate, but because there are much better options that need to be worked out.
- He would be more than happy to work with city staff and developer to find a solution.
- Mr. Martineau told him that he could sell his property for a much higher price if it would be sold for development rather than a single-family house. The current proposal violates the applicant's contractual and fiduciary obligations to develop the property in a way to assist the Arthurs and another neighboring property to subdivide their properties.

No additional testimony was submitted and the hearing was closed.

Waterman appreciated that the proposal would meet tree ordinance requirements. After reviewing the data regarding how many lots over 10 years did not require variances, he agrees with staff's recommendation to deny the variances. There is no circumstance unique to the property that justifies the variances.

Banks agreed with Waterman. The property is undeveloped. The site is a blank canvas. He did not want to set a precedent to allow the creation of new lots that do not meet ordinance requirements. He supports staff's recommendation to deny the variance application.

Henry thanked the applicants and neighbors for their presentations. He supports staff's recommendation to deny the variance application.

Maxwell supports staff's recommendation to deny the variance application. An application to subdivide an undeveloped property should meet the tree protection ordinance and lot-width-at-setback ordinance requirements.

Chair Sewall supports staff's recommendation to deny the variance application.

Henry moved, second by Banks, to recommend that the city council adopt the resolution denying the application for a preliminary plat, with lot-width-at-setback variances, for a three-lot subdivision at 2326 Oakland Road.

Maxwell, Waterman, Banks, Henry and Sewall voted yes. Powers and Hanson were absent. Motion carried.

This item is scheduled to be reviewed by the city council at its meeting on April 25, 2022.

There was a five-minute recess.

9. Other Business

A. Concept plan for Mills Church properties associated with 13215 Minnetonka Drive.

Gordon reported.

David Landt, senior pastor of Mills Church, representing the concept plan, appreciated everyone staying late. He stated that:

- He appreciated Gordon's presentation. Pastor Landt provided a presentation on the history of the site. The site consists of five-and-a-half acres utilized by four organizations: Mills Church, Small World School, Peace Congregation and St. David's Center.
- He received feedback from neighbors from two meetings held in 2020 which shaped the current concept plan.
- The building is old and has accessibility and environmental issues.
- The concept plan focuses on the undeveloped portions of the property providing affordable housing.
- Twin Cities Habitat for Humanity will be the developer who will present the concept proposal.
- The homes would be owner-occupied.
- The two houses on Elm would be single-family, single-story houses keeping with the character of the neighborhood.
- The upper portion of the parking lot currently goes unused.
- There is a grade on the property that causes rain runoff.
- The plan would maintain some of the aspects of the property that have already been developed. The 40-tree apple orchard and town hall, which was recently added to the registrar of historic buildings, would be preserved.

Chad Dittman, land development director of Habitat for Humanity, provided a presentation and stated that:

- Habitat for Humanity's mission is to bring together people to create and preserve affordable homes and advance racial equity in housing and has been operating in the twin cities since 1985. There are many donors and volunteers in the community.
- There is currently a housing crisis in Minnesota and throughout the country. Incomes are not keeping up with housing costs.
- The average household size is four to five family members. Average income is $58,000 earned from being employed.

- Research done in 2015 shows how homeownership improves many facets of life including education, health and financial success.
- The two buildings are guided for institutional use and the rest of the site is guided for low density residential. The zoning is an R-1 district.
- There are two existing single-family lots. He reviewed the existing site.
- The concept plan consists of two single-family houses and two six-unit townhome buildings in the southwest corner of the property.
- He noted the flexibility given in the comprehensive guide plan for the provision of affordable housing.
- He anticipated utilizing planned unit development (PUD) zoning.
- Twin Cities Habitat for Humanity is listed as one of the tools for affordable housing.
- The entrance to the townhomes would access Inverness Road.
- Water management and retention is one of the goals of the project.
- The trees would be preserved as much as possible, including the apple orchard, but some would be removed. Landscaping requirements would be met.
- He provided a 3D rendering of the proposal. The buildings would be set into the grade. The front of the buildings would be two stories on the street side and garages would be below grade in the rear.
- Additional trees would be planted.
- He provided renderings of the proposed single-family house at 13201 Minnetonka Blvd. He hoped to build that house this summer.
- Detailed plans for the single-family house at 3522 Elm have not been settled on yet.
- He provided a picture of similar townhome buildings Habitat for Humanity built in Woodbury. Each building would have six townhomes.
- He was available for questions.

Chair Sewall invited the public to share their comments on the concept plan.

Mel Koenig, 13108 Inverness Road, stated that:

- He was o.k. with the single-family houses.
- He was o.k. with the townhouses, but not the way they would be arranged. He would like them to run along Baker Road.
- The traffic on Inverness backs up from Minnetonka Blvd. to Hwy. 7. Drivers do not even like letting a bicyclist cross there. Drivers speed on Inverness.
- There are many kids who live in the area.
- He would like a park or green space in the middle.
- He would like the driveway entrance setback from the property.
- The surrounding area has single-family houses.

Holly Bayer, 13016 Inverness Road, stated that:

- She supports the alternative plan to have the townhouses on Baker Road.
- She does not oppose affordable housing. She understood the need for it.
- She wants the history preserved. There are no structures above two stories in the area.
- She wants the plan to consider the architecture and aesthetics of the neighborhood.
- It is nearly impossible to make a left turn onto Inverness Road because the vehicles are backed up. Twelve families would cause too much traffic.
- She appreciated Habitat for Humanity speaking with her and decreasing the density.
- The area has single-family residences and one-story buildings.

David Hoyt, 3629 Farmington Road, stated that:

- He was worried with the change in zoning allowing multi-family residences to be built if the church would be torn down.
- He supports affordable housing and Habitat for Humanity.
- He supports the R-1 single-family houses on the property which would not disrupt the neighborhood or change its appearance to an incongruent look.

David Pitera, 3740 Farmington Road, stated that:

- He likes the aesthetic of the neighborhood.
- The homeowner would own the house, but the land would be owned by a trust.
- He was concerned what would happen if the church would have a financial setback.
- He supports affordable housing, but the townhouse buildings would be too large and out of place.

Joyce Block, 13705 Minnetonka Drive, stated that:

- She encourages a traffic study be done on Baker Road. It is hard to get onto Baker Road from Minnetonka Drive, especially at rush hour.
- The height of the townhouse buildings would be out of proportion with the neighborhood.

Theresa Traut, 12919 Inverness Road, stated that:

- She has no opposition to affordable housing.
- Townhouses would impact the neighborhood. She prefers single-family houses.
- She was concerned with the impact on traffic and the environment.

- It would be nice to have affordable townhomes seniors could move into, but she was concerned additional multifamily-residential housing could be added in the future.

Aili Langseth, 3514 Kohnens Circle, stated that:

- Supports the concept plan.
- Affordable housing is a great way to use the land that is mostly empty a lot of the time.
- She understood the concerns with traffic. She has a nine year old who runs around outside with neighbor kids.
- She saw this as a way to get more neighbors and diversity into the neighborhood.
- She supports the proposal.

Mike Ramsden, 13627 Inverness Road, stated that:

- He was concerned with the process because plans never end up being followed to create what they are supposed to be.
- He was concerned that the site would change if the church would no longer be there.
- The zoning should stay R-1. He did not agree with rezoning things.

Mike Mahady, 3700 Baker Road, stated that:

- Affordable housing is needed.
- He did not support changing the R-1 zoning to accommodate one project.
- He was concerned what would happen with the church property if the church would close.
- He would have no problem with single-family houses.

Larry Sharpe, 3726 Farmington Road, stated that:

- He supports single-family-housing zoning staying that way.
- He was concerned with the church selling its land to create high-density residential housing.

Chair Sewall thanked everyone for sharing their comments.

Waterman stated that:

- The proposed townhomes would be better on the site than large apartments. He would not support a large, multi-family-apartment building.

- He likes the two single-family houses. The proposed density could work. The area has single-family housing.
- He appreciated the effort to keep the height of the townhomes to a minimum on the Baker Road and Inverness Road side. The drop in grade for parking would face into the property, so it would not affect neighbors as much.
- The proposal could be a great use of the land.
- There is definitely a need for owner-occupied affordable housing.

Banks stated that:

- He appreciates Pastor Landt and Mr. Dittman working with staff and neighbors since 2020.
- He appreciates the neighbors' feedback that includes being supportive of affordable housing, but concerned with the size of the proposed townhouse buildings; rezoning allowing more-dense developments in the future; and traffic.
- The site would be perfect for multi-family density.
- He likes the entry being located on Inverness Road. Connecting to Baker Road would be worse.
- Two single-family residences would be a great addition.
- Affordable housing is needed.

Henry stated that:

- He supports affordable housing.
- Twelve townhouses would be too dense.
- The building design is o.k. He suggested villa-style houses or all R-1 single-family houses.

Maxwell stated that:

- She appreciated Pastor Landt and Mr. Dittman's presentation and them meeting with the neighbors.
- Affordable housing for the site makes a lot of sense.
- Twelve townhouses would be too dense.
- Moving the structure further internally into the site might decrease its appearance near the street.
- She agreed with the access connecting to Inverness Road.
- She would like to see data on the exact height of the proposed buildings compared to the single-family houses across from Inverness Road.

Chair Sewall stated that:

- The use would be appropriate.

- The mass of the buildings would feel out of place for the area.
- He agreed with more density than R-1, but not such large buildings.
- He agreed with the access being located on Inverness Road.
- The future of the church property is not in the purview of this concept plan.
- He loves the two affordable single-family houses. It is nice to see diversity in affordable housing stock which is terribly cost-prohibitive right now. It should be one of many feathers in Minnetonka's affordable-housing cap.
- Overall, the concept plan is a good starting point. The good news is that the concept plan is typically as bad as a proposal gets and most proposals usually get better with each review.
- He appreciated everyone being respectful.

Gordon stated that the city council is scheduled to review this item on April 25, 2022.

10. Elections

Henry moved, second by Waterman, to elect Sewall to serve as chair of the Minnetonka Planning Commission for 2022.

Maxwell, Waterman, Banks, Henry and Sewall voted yes. Powers and Hanson were absent. Motion carried.

Henry moved, second by Maxwell, to elect Hanson to serve as vice chair of the Minnetonka Planning Commission for 2022.

Maxwell, Waterman, Banks, Henry and Sewall voted yes. Powers and Hanson were absent. Motion carried.

Banks moved, second by Maxwell, to elect Henry to serve as planning commission liaison to the Minnetonka Sustainability Commission for 2022.

Maxwell, Waterman, Banks, Henry and Sewall voted yes. Powers and Hanson were absent. Motion carried.

11. Planning Commission Bylaws and Policies

Waterman moved, second by Maxwell, to adopt the Minnetonka Planning Commission bylaws and policies provided in the staff report for 2022. Motion carried unanimously.

12. Adjournment

Banks moved, second by Waterman, to adjourn the meeting at 10:03 p.m. Motion carried unanimously.

By: _____
Lois T. Mason
Planning Secretary