

**Minnetonka Planning Commission
Minutes**

May 12, 2022

1. Call to Order

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

2. Roll Call

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

Staff members present: Community Development Director Julie Wischnack, City Planner Loren Gordon, Senior Planner Ashley Cauley and Natural Resources Specialist Sarah Middleton.

3. Approval of Agenda

Waterman moved, second by Henry, to approve the agenda as submitted with an additional comment and one correction provided in the change memo dated May 12, 2022.

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

4. Approval of Minutes: April 28, 2022

Hanson moved, second by Powers, to approve the April 28, 2022 meeting minutes as submitted.

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

5. Report from Staff

Gordon briefed the commission on land use applications considered by the city council at its meeting on May 9, 2022:

- Upheld the planning commission's denial of an application for floor area ratio and building height variances for the construction of a new house at 4299 Annika Court.

The next planning commission meeting is scheduled for May 26, 2022.

6. Report from Planning Commission Members

Hanson encouraged anyone who has not visited Opus lately to go there and see all of the changes.

Henry reported that Minnetonka Sustainability Commissioner Brian Golob, Gordon, Ingvalson and Henry attended a Partners in Energy Commission meeting with representatives from Xcel Energy to work on creating new goals to decrease emissions.

7. Public Hearings: Consent Agenda

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

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

A. Resolution approving an amendment to the existing Crest Ridge Corporate Center sign plan for a monument sign at 10955 and 11055 Wayzata Blvd.

Adopt the resolution approving an amendment to the existing Crest Ridge Corporate Center sign plan for a monument sign at 10955 and 1 1055 Wayzata Blvd.

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

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

8. Public Hearings

A. Items concerning a fast-food restaurant at 15110 Hwy. 7.

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.

Banks confirmed with Raines that the setback requirement is 20 feet. The proposal would be an improvement to the site's current existing setback.

In response to Henry's question, Middleton explained that the Siberian elms on the site are an invasive species and not protected by the tree protection ordinance. All of the ash trees on the site are infested with emerald ash bore and need to be removed.

In response to Henry's question, Raines explained that leaving the setback as it is would not create additional parking stalls. The proposed 19 stalls would be sufficient parking for the site.

Brian Davies, representing Taco Bell, was available for questions.

In response to Powers' question, Mr. Davies explained that the additional building space would provide room for cold storage and preparation of food. The building would be increased in size to be as close to a standard Taco Bell restaurant as possible.

Chair Sewall asked what percent of customers utilize the drive-through. Mr. Davies answered that before Covid, 30 percent of customers entered the building and 70 percent utilized the drive-through window. Now, 9.5 percent of customers enter the building and 90.5 percent utilize the drive-through window.

In response to Chair Sewall's question, Mr. Davies explained the traffic pattern. The drive space was created wide enough to allow an exit lane.

Henry asked for the height of the building. Greg Dahling, of Finn Daniels Architects, stated that the ceiling and mechanicals above the roof would be the same, but there would be a four-foot-high parapet extending above the finished roof to screen the rooftop units and mechanical equipment. All outdoor lighting would be directed downward.

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

Hanson looks forward to supporting the proposal. The modernization of the building would be appropriate to help the business grow and give the employees a better working environment.

Waterman supports staff's recommendation. The proposal is reasonable. He did not see a downside. The site and building plan look reasonable. He is glad the applicant is willing to reinvest in the area. It would improve the existing vehicle-stacking problem and beautify the site with the landscape. The variances are minor considering the ultimate product.

In response to Henry's question, Mr. Davis explained that the site's energy efficiency would be improved by new mechanical equipment that would be high efficiency; lights would be switched to LED bulbs; adaptive refrigeration controls would be added, and timers and controls for lights and equipment would be utilized. He would be happy to have the landscape designer follow the city's pollinator-friendly ordinance.

Henry is excited about the refurbishment. He likes outdoor seating. Mr. Davis stated that he would be open to considering outdoor seating if there would be enough room on the site. Henry supports the proposal.

Chair Sewall supports improving the existing use.

Henry moved, second by Banks, to recommend that the city council adopt the resolution approving a conditional use permit with variances and a final site and building plan for Taco Bell at 15110 Hwy. 7.

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

Banks exited the meeting.

B. Items concerning Woodhaven at Minnetonka at 2424 and 2440 Plymouth Road.

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.

In response to Henry's question, Cauley explained that an applicant provides a tree inventory which is then field verified by staff. Middleton explained the natural resources application review process. She did not get to the second step in the review process of completing a site visit for this application since there were so many errors and discrepancies found in the applicant's plan during the desk-top review.

Roger Anderson, civil engineer and developer representing the property owners, stated that:

- The proposal would subdivide the property "like the rest of Minnetonka."
- He looked for a general idea of whether the application may move forward with this type of development.
- A flag lot was removed from the proposal after the city council reviewed the concept plan.
- A tree inventory takes a surveyor a long time. The changes to the tree protection ordinance in October 2021 impacted the proposal.
- The site would be appropriate for R-1a zoning.
- When a public street and stormwater improvement requirements were added to the proposal, the proposal did not meet either the tree protection ordinance requirements that existed before October 2021 or the current tree protection ordinance requirements.
- He provided a presentation on alternative subdivisions for the site.
- He thought the proposal would remove an "ordinary amount of dirt" from a steep slope.
- People are living in houses that were built before the adoption of the current steep-slope ordinance.
- He was not sure if a water main could be located where a staff member suggested it should be.
- The proposal would provide stormwater treatment and rate control.
- Other developments did not have to have wetlands and buffers delineated.

- He acknowledged that the proposal does not meet tree ordinance requirements. He would like some guidance on that.
- He was happy to answer questions.

Amy Logue, representing the property owners, stated that:

- The new tree and steep slope ordinances significantly reduce the value of the land due in large part to shifting the responsibility of preserving trees onto her, her father, and a few property owners who have undeveloped parcels in Minnetonka.
- The new tree ordinance represents a tree tax imposed on her family after the owners paid property taxes for nearly 100 years and four generations.
- She requested the development be allowed to proceed as presented last fall.
- She appreciated everyone's time and was happy to answer questions.

Powers questioned why the application did not provide definitive, verifiable information. He respected the owner requesting a decision and for being in a very difficult position. He could not make a decision without definitive information on the required technical plans that are required with an application. There has always been a steep-slope ordinance. The proposal would not have met the tree protection ordinance requirements prior to changes being made in October 2021 .

Mr. Anderson stated that the trees have been located and it is known how many would be affected by the proposal. The impact of a public road on a 20-percent slope is "subjective as far as I am concerned." He stated that he did not know how to communicate the information. He would like to hear comments on how this proposal could move forward or other ideas.

Powers thought Mr. Anderson sounded like he was discussing a concept plan review. Mr. Anderson thought the city council reviews concept plans. He requested commissioners make a decision on this serious proposal. He was happy to answer questions.

Hanson agreed with Powers. He has never seen such disconnect between the plans submitted to go with an application provided in the agenda packet. He could not provide feedback on information that was not accurate.

Mr. Anderson asked commissioners to provide comments. He said that one comment could be that the proposal would remove too many trees. He understood that the commission could recommend denial or approval to the city council or continue the public hearing.

Chair Sewall asked if the applicant would prefer to table action on the item. Mr. Anderson said that would be fine with him. Wischnack requested that Mr. Anderson go

on record agreeing to provide more information to staff before the next review of the application if action is tabled to a future meeting. Mr. Anderson said that was fine. He will work with staff separately.

Chair Sewall asked what would change or be different if action on the item would be tabled. Mr. Anderson said that he would have to approach it from a different avenue. He said that he could start by looking at what could be done that would be in compliance with ordinance regulations.

Chair Sewall asked Mr. Anderson if he would be open to tabling action on the item with the expectation that Mr. Anderson would provide complete and accurate information. Mr. Anderson answered "correct."

Gordon noted that it is difficult to table action on an item at this point unless the concept changes significantly.

Henry preferred to conduct the public hearing and vote tonight.

Hanson preferred to table action on the item and give the developer one more chance to provide the five items requested on Page 77 of the agenda packet. The application could request a variance to the tree protection ordinance, but that information is not provided.

Waterman thought commissioners should provide some comments. He leaned more toward tabling action on the item.

Powers stated that the proposal would not meet the requirements of the previous or new tree protection ordinances. The changes to the ordinance were done for a reason and he supports them.

The public hearing was opened.

Susan Bieniek, 12830 Woodridge Trail, stated that:

- She lives in Minnetonka because of the tree protection ordinance and lot size requirements.
- She knew that the property would be developed someday. She feels for the property owner and wants her to be able to develop the property.
- The proposal would clear the adjacent property of trees and install a water basin. The site has never had standing water.
- There are trees identified on the plan for removal that are on her property, located on her side of the fence, including one huge tree.
- She agrees with Powers that today's ordinances need to be enforced.
- She opposes the current design of the plan because it would be too drastic for the topography and cause water drainage issues.

Eddie Nack, 12910 Forest Meadow Drive, stated that:

- She gets a lot of water runoff from Plymouth Road and the houses on the street. She has a river flowing through her street every time it rains. She was concerned that would continue.
- She is concerned with turning left onto Plymouth Road since the traffic cannot be seen from the right and the traffic on the left goes from two lanes to one lane and goes up a hill. She supports a traffic light being added.

No additional testimony was submitted and the hearing was closed.

Cauley explained that an application would be required to include a detailed stormwater management plan that would be required to protect water quality, rate and volume. Staff acknowledged in the staff report that the proposal includes the removal of trees not located on the proposal's property, but on Ms. Bieniek's property. The staff agrees with Ms. Bieniek.

Cauley stated that Hennepin County had not expressed intent to add a stoplight on Plymouth Road at Forest Meadow Circle.

Henry stated that the proposal does not meet several criteria. It is in violation of the tree-protection ordinance and steep-slope ordinance. He does not support the proposal.

Waterman felt that the proposal was too far outside the margins of the tree protection and steep-slope ordinances. He does not support the application as currently platted. The proposed design would not work. He supports either denying or tabling the item.

Powers acknowledged that the site might need a variance to construct more than two houses, but it is currently too far off. He supports denying the current proposal.

Chair Sewall agreed with Powers. The site may require a variance to have more than two houses. He did not support the current proposal. It is too far from ordinance requirements.

Mr. Anderson agreed to sign a 120-day waiver to no longer require the city to take action on the application within 120 days.

Hanson moved, second by Waterman, to table action on Item 8B, items concerning Woodhaven at Minnetonka at 2424 and 2440 Plymouth Road.

Waterman, Hanson, Powers and Sewall voted yes. Henry voted no. Banks and Maxwell were absent. Motion carried.

9. Adjournment

Powers moved, second by Hanson, to adjourn the meeting at 8:35 p.m. Motion carried unanimously.

By: _____
Lois T. Mason
Planning Secretary