

**Minnetonka Planning Commission
Minutes**

May 26, 2022

1. Call to Order

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

2. Roll Call

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

Staff members present: City Planner Loren Gordon, Assistant City Planner Susan Thomas and Planner Bria Raines.

3. Approval of Agenda

Henry moved, second by Powers, to approve the agenda as submitted with modifications provided in the change memo dated May 26, 2022.

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

4. Approval of Minutes: May 12, 2022

Powers moved, second by Banks, to approve the May 12, 2022 meeting minutes as submitted.

Banks, Hanson, Henry, Powers, Waterman 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 23, 2022:

- Adopted a resolution approving the final plat of Monson Meadows at 5500 Rowland Road and an adjacent, unaddressed parcel.
- Adopted a resolution approving a conditional use permit with variances and a site and building plan review for a fast food restaurant at 15110 Hwy 7.
- Introduced an ordinance regarding items for a licensed daycare at 3520 Williston Road.

The next regular planning commission meeting is scheduled to be held on June 9, 2022.

6. Report from Planning Commission Members: None

7. **Public Hearings: Consent Agenda**

No item was removed from the consent agenda for discussion.

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

A. Conditional use permit for an accessory dwelling unit at 14326 Excelsior Blvd.

Recommend that the city council adopt the resolution approving a conditional use permit for an accessory dwelling unit at 14326 Excelsior Blvd.

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

8. **Public Hearings**

A. Expansion permit for garage and living space additions at 3326 Shores 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.

Chris Nelson, 3326 Shores Blvd., applicant, stated that:

- Some hardships in the family delayed the project.
- He made some changes to the design to improve the floor layout.
- He and his family will continue to live in the house.

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

Chair Sewall noted that the proposal conforms to ordinances more now than when it was approved by the commission in 2020.

Waterman supports the staff's recommendation. The proposal meets the spirit of the neighborhood. The expansion does not require a variance. He appreciated the proposal being more in conformance than it was previously.

Powers visited the site. The proposal would be very tasteful. He likes it. The house is very nice.

Henry supports the proposal. He appreciates the thoughtful additions and wishes the applicant well with the renovation.

Powers moved, second by Banks, to adopt the resolution approving an expansion permit for a garage and living space additions at 3326 Shores Blvd.

Banks, Hanson, Henry, Powers, Waterman and Sewall voted yes. Maxwell was 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 ten days.

B. Preliminary plat for a two-lot subdivision at 2326 Oakland Road.

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

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

Henry confirmed with Thomas that the proposal does not need a variance. Thomas explained that the stormwater storage chambers proposed in the plan would meet stormwater management requirements, but staff recommends the applicant consider rain gardens instead to make it easier for future property owners to maintain. The separate chambers are based on the grades and where the driveway runoff would travel to prevent runoff from going directly into the wetland.

Chair Sewall asked if a future property owner could remove a rain garden. Thomas explained that a stormwater management agreement would be recorded with the county and require all property owners to maintain the rain garden. The city would have the right to inspect the site to ensure that the stormwater management features are functioning properly.

Powers asked if the driveway location could be modified to save more trees. Thomas answered that natural resources staff review the plans to ensure it meets tree protection ordinance standards. The curvy driveway is an existing driveway.

Henry supports saving the large oak trees, specifically numbers 154, 155, 271, 272, and 275. Thomas answered that the preliminary plat includes hypothetical-house footprints and grading. Staff could work with the applicant on the footprint of the actual house when a building permit is reviewed.

Jeff Martineau, representing the applicant, stated that:

- The proposal worked to stay within the tree protection ordinance regulations. He would take into consideration preserving the large oak trees when placing the houses.

- He has utilized underground tanks and rain gardens for different projects. He agreed with Thomas that rain gardens look nice, but his experience has been that future property owners utilize the land that rain gardens use for other things. The tanks control water flow and require less maintenance than previous types of tanks.
- He discussed including adjacent properties in the proposal with those owners, but it did not work out.

The public hearing was opened.

Lindsay Arthur, 2400 Oakland Road, stated that:

- He thanked Thomas for spending time with him and Linda Cohen to educate them on the application review process and city ordinances.
- The city should construct a public street.
- The city would benefit by eliminating the nonconforming character of the Arthur and Cohen properties. The Arthur property was created in 1937 and became nonconforming when the city adopted a subdivision ordinance in 1967 and turned the confirming property into a nonconforming property by requiring lots to have street frontage. It is in the best interest of the city to correct this problem by constructing a public street.
- A public street would allow the Cohen and Arthur driveway easements to be vacated and provide benefits to the adjacent property owners including the developer gaining 20 feet of land at no cost and being able to save seven high-priority trees.
- The Shankars at 2350 Oakland Road would benefit if the driveway easement would be abandoned.
- All three abutting Bird Song properties would benefit from a public street by eliminating traffic from the proposed driveways traveling behind their houses.
- The Cohens and Arthurs have access to natural gas from a pipe that is located in the backyards of the three Bird Song properties because the Webers refused to allow them to put in a gas line in the driveway easement. That could be eliminated by utilities being located along a public street.
- The Arthurs and Cohens would benefit by the elimination of their long, shared driveway that is so narrow that vehicles are unable to pass each other. One vehicle must back up when vehicles meet. A shared driveway is a potential source of friction over maintenance, snow removal, tree trimming, leaf blowing and parking.
- This is not the first time he has requested street and utility access to his property. When Bird Song was developed, he asked the city council to "make provisions for sewer, water and a driveway easement to 2400 Oakland Road," just as the city had done for Crownhill next door. A

councilmember stated that “the Arthurs will get access when the Weber property is developed.” That is what is happening today. He requests that the city honor the commitment it made to him and allow the public street he has been asking for many times over many years.

- A public street in Weber 3 would facilitate the future development of the Arthurs and Cohens properties. There could be three lots on his property that would satisfy all current city ordinances including the tree ordinance. If the Cohen’s property would be merged with his, then it would be likely that a fourth lot could be accommodated. There are many developments in Minnetonka with seven lots or smaller that are serviced by a public street. This proposal would be large enough to require a city street.
- A public street through Weber would facilitate the provision of public services. The Cohen or Arthur properties do not have access to city sewer or water. The Cohen property would gain immediate access to sewer and water with a public street. There would be no other source for the Cohen property to access city sewer and water.
- The Arthurs would benefit when the street and utilities would be extended across the Cohen property. The Arthurs and Cohen properties would gain better and safer access to gas, cable and electricity. The electrical wires currently travel through trees and often lose power.
- The Arthurs and Cohen properties would gain better access to service vehicles. Some delivery drivers will not drive down the current driveway and leave packages on Oakland Road which is 1,000 feet from his house.
- New garbage and recycling truck drivers refuse to back their trucks down the driveway until the homeowners contact city staff who then contact the providers and require the drivers to do so. That happens several times a year.
- There would be an improvement in the general sense of community when a new neighborhood would be created by seven residences being built along a public street.
- He did not believe that it would be sound city planning to sacrifice the benefits so that a single developer could make a profit by making a single, new lot while needlessly denying the neighbors the benefits he has pointed out.
- Jeff Martineau gave him and the other property owners the idea one year ago to combine the Weber, Arthur and Cohen properties into one subdivision proposal. He thought it ironic that Mr. Martineau now wants to prevent that from happening.
- He requested commissioners “make this right.”
- He appreciated their time.
- He requested that the application be tabled with instructions for staff to work with the developer to identify the best way to subdivide the Weber property with a public street.
- He was available for questions.

No additional testimony was submitted and the hearing was closed.

Powers recused himself from participating on this item.

Henry noted that a case could be made for the benefits of constructing a public street. It may be beyond the scope of this application. Thomas explained that staff would review an application that would include all three properties if one would be submitted, but city staff are not able to dictate action to property owners. The application submitted meets all city standards. The city has not received an application for subdivision of the three properties for staff to determine if ordinance requirements would be met.

Chair Sewall confirmed with Thomas that the application meets all ordinance requirements.

Waterman would prefer to see the three properties submit an application together, but noted that commissioners may only take action on the application that has been submitted. The proposal complies with all ordinance requirements. He supports staff's recommendation. There may be a situation unique to the Arthur and Cohen properties to warrant a variance for a subdivision.

Banks agreed with Waterman. He supports staff's recommendation, but felt that it was unfortunate that three property owners were unable to submit an application to make the best proposal for the area. He saw no reason to deny the current application.

Henry felt for Mr. Arthur, but could only take action on the submitted application. He supports staff's recommendation. These properties are beautiful parcels of secluded, wooded land.

Hanson stated that he would not support the proposal. He did not want to support a short-sighted subdivision. Mr. Arthur has been involved in the process very thoughtfully and is trying to plan further into the future than the developer. He understood the city's position to act on an application that meets all ordinance requirements, but he did not support approval of the application.

Chair Sewall agreed that the current subdivision is not inspiring, but the current application meets all standards.

Waterman moved, second by Banks, to recommend that the city council adopt the resolution approving a preliminary plat for a two-lot subdivision at 2326 Oakland Road.

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

Chair Sewall announced that the city council is scheduled to review this item at its meeting on June 13, 2022.

9. Adjournment

Hanson moved, second by Henry, to adjourn the meeting at 7:45 p.m. Motion carried unanimously.

By: _____
Lois T. Mason
Planning Secretary