

**Minnetonka Planning Commission
Minutes**

Nov. 15, 2018

1. Call to Order

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

2. Roll Call

Commissioners Henry, Knight, Luke, Powers, Sewell, and Kirk were present. Hanson was absent.

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

3. Approval of Agenda

Sewall moved, second by Henry, to approve the agenda as submitted with an additional comment provided in the change memo dated Nov. 15, 2018.

Henry, Knight, Luke, Powers, Sewell, and Kirk voted yes. Hanson was absent. Motion carried.

4. Approval of Minutes: Nov. 1, 2018

Luke moved, second by Powers, to approve the Nov. 1, 2018 meeting minutes as submitted.

Henry, Knight, Luke, Powers, Sewell, and Kirk voted yes. Hanson was absent. Motion carried.

5. Report from Staff

Gordon briefed the commission on land use applications considered by the city council at its meeting of Nov. 5, 2018:

- Adopted a resolution approving a daycare on Whitewater Drive.
- Introduced a concept plan for the city's police and fire facility.
- Introduced a concept plan for Marsh Run Apartments.
- Adopted an amendment to the sign ordinance.
- Reviewed a concept plan for the Orchard Road single-family housing proposal.

The next planning commission meeting is scheduled for Dec. 6, 2018.

There have been numerous outreach and steering committee meetings for the comprehensive guide plan over the last few weeks. There will be a public hearing on chapters of the comprehensive guide plan Nov. 29, 2018.

Federal funds were approved for the SWLRT.

6. Report from Planning Commission Members: None

7. Public Hearings: Consent Agenda: None

8. Public Hearings

A. Resolution amending Site Plan No. 248 to accommodate construction of the Southwest Lite Rail Transit (SWLRT) line at 5450 Feltl Road.

Chair Kirk 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.

Ryan Kronzer, assistant director of design and engineering for the SWLRT project, reviewed the plans and stated that:

- It made sense to locate the tracks beneath the existing street elevations. The train would be a story below the streets. The proposal would grade the site down to the level below street level.
- The blue line represents the required grading area.
- This option would prevent the need for gated areas to stop traffic every time the train would go by. The proposal would be the best option for the SWLRT and street traffic. The train would run unimpeded beneath the street and the street would remain as it is today.
- The existing pond would remain in place and untouched.
- Erosion control measures would be taken to maintain the slope long term.
- The steepest part of the slope would be planted with grasses. Trees would be planted on the upper third of the site.

Knight asked if a trench could be used with two retaining walls instead of one retaining wall. Mr. Kronzer explained how that scenario would cause the utilities to be located very deep. The best option would be to grade the area down.

Powers asked who would fix a problem with erosion five years from construction. Thomas explained that it would be in the best interests of the SWLRT owners to prevent erosion from reaching the tracks. The city would handle erosion as a nuisance issue and the easement holder would be held responsible to correct a problem. The SWLRT would be obtaining a permanent easement over the property. There was a full natural

resources review of the entire SWLRT line through Minnetonka two years ago that resulted in the city developing wetland setbacks, buffer requirements, and tree removal standards for the impending project. This area was part of the much larger and in-depth natural resources review.

Chair Kirk confirmed with Thomas that this review is providing an administrative correction to a site and building plan approval from 1984.

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

Chair Kirk noted that the anticipation of the completion of the SWLRT has prompted multiple housing projects over the last couple years. The SWLRT is driving economic development and providing more diverse housing resources including high-density-residential projects in the city.

Powers moved, second by Knight, to adopt the resolution amending Site Plan Review No. 248 removing the requirement for tree preservation within the existing easement area and allowing the construction of the SWLRT line within the easement area.

Henry, Knight, Luke, Powers, Sewell, and Kirk voted yes. Hanson was absent. Motion carried.

B. Resolution approving setback variances for construction of a new home at 5729 Whited Ave.

Chair Kirk 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.

Chair Kirk noted that the applicant submitted an email stating that the applicant was unable to attend the meeting and supports staff's recommendation.

The public hearing was opened.

David Johnson, 5801 Whited Ave., stated that:

- He was happy that a new house would be constructed. The current house is in pretty bad shape.
- He did not like the setback or the location. It would be 18 feet from the adjacent side property line.
- He did not want trees near the adjoining property line removed.
- He would like the proposed house moved further north and east to maintain his privacy.

Heather Holm, 15327 Lake Shore Ave., stated that:

- The rear of her property backs up to the proposal's property.
- She supports the construction of a new single-family house on the property. The current house is unoccupied.
- She was concerned with the impact to the wetland and setbacks. The wetland is a type that is unique and bio diverse. There are only two in Minnetonka.
- The existing house does not have a basement. She was worried how excavation would change the hydrological components of the wetland.
- The new house would double the amount of impervious surface. She was concerned how water runoff would impact the wetland. She contacted the watershed district who told her that stormwater impact guidelines and a buffer easement would apply to this property.
- She questioned if the property owner would live in the house.
- There have been six tear downs and rebuilds within 750 feet of her property. She has met with Minnetonka Natural Resources Specialist Aaron Schwartz who handles hundreds of projects at once. There are high-quality oak trees adjoining the existing house where the demolition would occur. She wanted to make sure the tree ordinance would be enforced and the trees protected. Many trees have been removed with the tear down and rebuilds. She requested that fencing be installed and kept in place during the entire process. She recommended that the demolition occur where the current house is now.
- She opposed the wetland setback variance to the wetland. She did not have a problem with the setback variance to the street.

No additional testimony was submitted and the hearing was closed.

Thomas stated:

- Natural resources staff inspected the site and determined the quality of the wetland. The vast majority of the proposed house meets the city's setback requirements. The wetland setback requirement from the edge of a delineated wetland is 35 feet. The area of the house that does not meet the setback is a small corner. Everything within the pink area does meet the wetland setback ordinance. The city and Nine-Mile Creek Watershed District have stormwater management, wetland buffer, and an easement over the buffer regulations that would apply. A builder would have to receive approvals from the city and the watershed district.
- The tree protection ordinance limits the maximum amount of tree removal during subdivision of a property. The construction of a single-family house that does not subdivide the property is not limited in its amount of tree

removal. A property owner has the right to remove trees within the building footprint and a 20-foot perimeter without mitigation.

- All building permits are reviewed by planning, natural resources, and engineering staff.
- Staff's recommendation includes a requirement for a stormwater management plan that would control the volume of runoff from the site.

Chair Kirk learned from someone in the audience that the existing house has a basement. Thomas noted that there is a minimum floor elevation on the property because of floodplain and watershed district requirements.

Thomas explained that the city receives escrow funds submitted with a building permit application that are used to install erosion control measures if proper measures are not being done at a site.

Chair Kirk confirmed with Thomas that the side yard setback requirement is 10 feet, so 18 feet would exceed that requirement. Moving the structure to the north would move it closer to the wetland. There would be 50 feet between the proposed house and the neighboring house.

Thomas explained that the wetland setback variance is only a point intrusion and the proposed house would be located further from the wetland than the existing house.

In response to Luke's question, Thomas answered that erosion control measures would be required and listed in a construction management plan. The management construction plan could also require the demolition and excavation traffic to access the site from the north.

In response to Powers' question, Thomas explained that construction management plans are posted on eminnetonka.com. Contact information for an on-site supervisor is included in the construction management plan. Staff rely on neighbors to inform them of violations not being addressed.

Chair Kirk thought a three-car garage for a new single-family house in Minnetonka would be reasonable. Thomas clarified that the house design within the context of the unique property determines its reasonableness.

Henry liked that the wetland setback variance intrusion was just a small corner. He understood the neighbors' concerns. He did not know what would be reasonable.

Sewall liked that the proposed building footprint would not extend as much into the wetland setback as the existing house does. He appreciated the neighbors' concerns, but locating the entire house in the buildable area might result in the house feeling even more intrusive to the neighbor. He thought the proposed house's amount of square footage would be reasonable. The proposed house would be closer to the road. He did not know what would help.

Chair Kirk noted that the deck on the back of the house would be 43 feet. Front loading the garage in front of the family room would push more of the structure toward the street and away from the wetland. The proposal may be a reasonable design if the square footage is found to be reasonable. The wetland setback intrusion is just a little corner.

Luke visited the site. She appreciates the neighbors' concerns. She understood that privacy is sometimes decreased when new houses are built. The proposed house would be a standard box with a three-car garage.

Knight asked how the floor area ratio (FAR) compares to the neighborhood. Thomas answered that the FAR would be .03 which is significantly smaller than surrounding houses, especially the ones constructed over the last few years.

Powers found nothing unreasonable enough to vote against staff's recommendation. He wished that the developer would have been in attendance, but he did not hold that against the developer.

Chair Kirk concurred with Powers. The proposal is the best option and a reasonable solution.

Henry requested that construction traffic access the site from the north and as many trees between the properties be saved as possible.

Powers moved, second by Henry, to adopt the attached resolution approving a front yard and wetland setback variance for the construction of a new house at 5729 Whited Ave. and requested that the property owner work with staff on a construction management plan to address construction traffic's access to the site and promote tree preservation.

Henry, Knight, Luke, Powers, Sewell, and Kirk voted yes. Hanson was absent. Motion carried.

9. **Adjournment**

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

By: _____
Lois T. Mason
Planning Secretary