

**Minnetonka Planning Commission  
Minutes**

**Dec. 19, 2019**

**1. Call to Order**

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

**2. Roll Call**

Commissioners Powers, Sewall, Hanson, Henry, Knight, Luke, and Kirk were present.

Staff members present: Community Development Director Julie Wischnack, City Planner Loren Gordon, Assistant City Planner Susan Thomas, Senior Planner Ashley Cauley, Planner Drew Ingvalson, Natural Resources Manager Leslie Yetka, Water Resources Engineer Sarah Schweiger, and City Engineer Phil Olson.

**3. Approval of Agenda:** The agenda was approved as submitted.

**4. Approval of Minutes:** Dec. 5, 2019

*Sewall moved, second by Hanson, to approve the Dec. 5, 2019 meeting minutes as submitted.*

*Powers, Sewall, Hanson, Henry, Knight, Luke, and Kirk voted yes. Motion carried.*

**5. Report from Staff**

Gordon briefed the commission on the city council's review of the concept plan for The Point at its meeting of Dec. 16, 2019.

Gordon announced that the Jan. 2, 2019 meeting has been cancelled. The next planning commission meeting is scheduled to be held Jan. 16, 2019.

Gordon thanked Brian Kirk for his service on the planning commission and congratulated him on being elected to serve on the city council. Commissioners thanked Kirk for his leadership and for treating everyone with respect.

**6. Report from Planning Commission Members:** None

**7. Public Hearings: Consent Agenda:** None

**8. Public Hearings**

**A. Conditional use permit with parking variance for a fast food restaurant at 3432 Co. Rd. 101.**

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

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

Bryant Amundson, representing the applicant, stated that the new location would provide a little more space for seating and allow consolidation of the preparation for the food truck. There was no problem removing snow from the parking lot last year.

Henry noted that the new space would provide better visibility from Co. Rd. 101. Mr. Amundson agreed. There would also be more parking spaces. The goal is to operate the existing site until the new one is open.

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

***Powers moved, second by Luke, to recommend that the city council adopt the resolution approving a conditional use permit with a parking variance for a fast-food restaurant at 3432 Co. Rd. 101.***

***Powers, Sewall, Hanson, Henry, Knight, Luke, and Kirk voted yes. Motion carried.***

## **9. Other Business**

### **A. Presentation: Municipal Separate Storm Sewer System (MS4) Permit**

Chair Kirk introduced the topic and called for the staff report.

Yetka and Schweiger reported on water resource protection and the Municipal Separate Storm Sewer System (MS4) Permit. Schweiger stated that the city's Water Resource Management Plan and City of Minnetonka SWPPP could be found by searching for "water resources management" on the city's website, [minnetonkamn.gov](http://minnetonkamn.gov). Comments could be submitted by contacting Schweiger or Yetka directly.

Hanson asked what triggers an application to be required to provide a stormwater management plan. Schweiger answered that an application that would disturb 50 cubic yards or 5000 square feet of soil would be required to provide a stormwater management plan. The city's new water resources management plan regulations are at least as strict as the state's regulations and some are stricter than the state's regulations.

Sewall asked what "recharge" means. Yetka explained that "recharge" refers to when water infiltrates from the surface into the groundwater. There is a connection between surface water and ground water.

Sewall asked who a resident should contact if the resident has an issue with water drainage. Schweiger answered that she would be the contact person.

Henry was glad the city used pervious pavers and permeable pavement in the parking lot.

In response to Henry's question, Olson explained that the city does not use pervious pavers for streets due to the amount of salt and sediment. Parking lots and areas that have infiltration potential are a good application, but not within a public right of way.

Henry asked how the city handles salt runoff. Yetka explained that the city uses best practices related to salt use. The city pretreats streets prior to a snowfall which allows for a decrease in the amount of salt that would be needed after a snowfall. This has resulted in a 50 percent reduction in the city's salt usage. The MN Pollution Control Agency (MNPCA) provides training to educate salt applicators on how to reduce the amount of salt usage. Watershed districts hold training for private applicators, business owners, and campus managers on proper salt use. Liability is a significant concern for property owners. Minnesota has attempted twice, but failed to pass legislation to limit liability for property owners and applicators who are smart-salting certified. New Hampshire passed a similar law and it made a pretty significant difference in the use of salt.

Henry asked if the salt could be harvested in the spring. Yetka said that it is hard to get salt concentrated enough to remove it. Salt storage can be modified to protect the environment such as locating it away from a storm drain. The watershed district conducts water quality monitoring programs that track salt in all of the major lakes and creeks. The only way to remove salt from water is by reverse osmosis.

Powers asked if the city is providing enough time and resources to address stormwater issues. Olson said that there is enough staff to cover the land-use applications and inspect sites during construction.

In response to Luke's question, Olson said that engineering staff hear from residents during large snow-thaw events and large rainfall events. There are a number of areas in the city with undersized infrastructures. The opportunity to upgrade those areas is looked at with each land-use application.

Knight asked if water-softener salt is worse for the environment than ice melt. Yetka explained that chloride is the ingredient that causes the problem.

Knight asked what was being done to prevent salt from entering the sanitary sewer system. Yetka said that the MNPCA is starting to focus on water-softener salt. There are incentive programs to ensure that people have updated water softeners that are running on demand as needed to reduce its use.

Henry asked if it is a best practice for a city to soften all of the city's water. Yetka explained that Eden Prairie is using powdered lime that gets taken out and purchased by farmers to use in fields. Yetka will research if there are chloride-free alternatives to soften water.

In response to Chair Kirk's question, Olson explained that when curb and gutters are being considered for an area, stormwater regulations are followed and reducing the paved width of streets is considered to reduce the amount of impervious surface.

In response to Chair Kirk's question, Schweiger explained that engineering staff review every land-use application for compliance with floodplain and stormwater regulations. Thomas confirmed that planning staff would include issues identified by engineering staff in the staff report and recommendation presented at the planning commission meeting.

Wischnack noted that it is not a developer's responsibility to fix an existing land-locked basin problem. The impact of a proposed development and an already existing problem must be kept separate.

Chair Kirk asked how much of an impact is created by patios and roofs. Olson explained that stormwater regulations prohibit a development to increase the rate of runoff at the property line. The rate could change if a different style of house would be constructed, so a stormwater management feature would have to be added to mitigate the difference. Engineering staff check to make sure that a proposal would not increase the rate of water flow.

Chair Kirk confirmed with Olson that before redevelopment there may be no stormwater management practices in place. After development, stormwater management features would have been added to collect the runoff from hard surfaces so the rate of runoff would be equal or less than the rate of runoff prior to development.

Chair Kirk noted that no one from the public was present to comment.

## **B. Update: Tree Ordinance Review**

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

Gordon reported.

In response to Knight's question, Gordon explained the two-year, look-back provision in the ordinance which applies to subdivision of a property. Wischnack explained the mind set 10 years ago when the tree ordinance was created. Commissioners may discuss adding a look-back provision that would apply to an application for redevelopment.

Sewall was bothered that the ordinance allows an unlimited loss of significant trees during a subdivision. Adding restrictions could impact the amount of potential development. He felt that the high-priority trees are protected well enough by the tree ordinance.

Powers noted that protection should apply to all trees. He was concerned with dissecting the environment into separate pieces. It should be thought of as one entity.

Henry asked if reducing the two-acre threshold to define a woodland preservation area had been considered so that a smaller area could be considered a woodland preservation area. Gordon explained that the woodland areas were identified without considering property lines. Wischnack noted that the percentage rates refer to the percentage of area and not just the percentage of trees, so the ecology of the area is included in the consideration. An area two acres in size was identified as having substance as an ecosystem.

Thomas noted that the first draft of the tree protection ordinance was incredibly strong. It prohibited removal of any tree in a woodland protection area. One policy maker called that a Draconian Policy. The review process lasted four years with numerous open houses, on-line surveys about the drafts, and groups strongly for and groups strongly opposed to restrictions providing comments. Those against restrictions felt the property owner would be penalized for being good stewards of the property and could be prevented from subdividing the property in the future.

Wischnack noted that the tree ordinance has been working successfully. At the time, 2,400 property owners were notified of the proposed ordinance. Residents were divided with those in favor of tree protection versus those in favor of property owner rights.

Henry asked how a conservation easement is implemented. Gordon explained that a property must have value to be considered for a conservation easement. Yetka added that property owners may put property into a conservation easement themselves. Hennepin County has started a new program with incentives to get landowners to place property into a conservation easement.

Chair Kirk noted that sometimes an applicant would agree to a conservation easement on part of a property in exchange for a subdivision with smaller setbacks, for example.

Hanson thanked staff for the presentation. He asked if the tree ordinance has prevented many proposed subdivisions from occurring. Thomas noted that the city council may authorize tree removal beyond what the tree ordinance would allow if councilmembers find that the proposal would promote the greater good.

In response to Hanson's question, Wischnack answered that councilmembers identified issues to discuss at the next study session including the percentage of high-priority trees, redevelopment, and significant trees. Hanson supports the city being a leader in tree preservation in the twin cities area. Wischnack stated that research shows that Minnetonka is a leader nationally in tree coverage.

Sewall appreciated staff reacting to public complaints about tree loss, being willing to work to identify the problem, and reviewing the ordinance to find a solution.

Henry noted that the tree ordinance, wetland regulations, and partners in energy program come together to make a more sustainable city. He applauded the city for combining all of the efforts.

Chair Kirk identified the balance between property-owner rights, development rights, and conservation. The more tree cover there is, the better the reduction of carbon in the atmosphere.

Thomas noted that pests and disease will have a much bigger impact on the city's woodland resources in the near future. Yetka confirmed that Emerald Ash Boar has infected the city's ash trees. The changing climate will impact tree preservation more than development removing individual trees.

Powers suggested the city promote residents planting a diverse selection of trees. Yetka agreed. The city has a tree sale every February. The city forester develops a list of trees with the goal of increasing the diversity of tree types in the city. Staff also educates residents on the importance of trees. The landscape ordinance was changed to encourage pollinator-friendly species including trees. Nearly 100 trees were planted in the city's parks this fall.

Henry suggested amending the definition of a high-priority tree to include fruit trees. Yetka wants to heighten the sense that all trees have value. A cotton tree grows fast, consumes a lot of stormwater, sequesters a lot of carbon, and provides a lot of value to the community.

Chair Kirk suggested adding a third layer of trees called "monumental" or "legacy" to represent the 200-year-old oaks which would be a shame to lose and provide a reason for a developer to work around it. He would like the tree ordinance applied to every subdivision. There needs to be a balance so property owners who have maintained trees would have an opportunity to subdivide if possible. The staff report was very good.

**10. Adjournment**

***Sewall moved, second by Henry, to adjourn the meeting at 9:12 p.m. Motion carried unanimously.***

By: \_\_\_\_\_  
Lois T. Mason  
Planning Secretary