

**Minnetonka Planning Commission  
Virtual Meeting  
Minutes**

**Dec. 17, 2020**

**1. Call to Order**

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

**2. Roll Call**

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

Staff members present: Community Development Director Julie Wischnack, City Planner Loren Gordon, Assistant City Planner Susan Thomas, Network Administrator Jeff Dulac, and IT Assistants Gary Wicks and Joona Sundstrom.

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

**4. Approval of Minutes:** Dec. 3, 2020

***Powers moved, second by Waterman, to approve the Dec. 3, 2020 meeting minutes as submitted.***

***Henry, Luke, Maxwell, Powers, Waterman, Hanson and Sewall voted yes. Motion carried.***

**5. Report from Staff**

Gordon briefed the commission on land use applications considered by the city council at its meeting of Dec. 7, 2020:

- Adopted a resolution denying the rezoning from R-1 to R-2 of 4144 Shady Oak Road.
- Adopted a resolution approving a modification for the approval of the conditional use permit for Yellow Brick Road daycare at 10401 Bren Road East.
- Adopted a resolution approving items concerning an accessory structure with an accessory apartment at 4225 Tonkawood Road.
- Adopted a resolution approving a conditional use permit and variance for Blue Pearl Veterinary Hospital at 10301 Wayzata Blvd.
- Adopted a resolution approving a conditional use permit and site and building plans for the Lake Minnetonka Care Facility at 16913 Hwy. 7.

The next planning commission meeting is scheduled to be held Jan. 7, 2021.

Gordon thanked commissioners for their service to the city and for working through the challenges of virtual meetings this past year.

**6. Report from Planning Commission Members**

Maxwell noted that Hennepin County is looking for citizens to serve on its advisory boards.

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

**8. Public Hearings**

**A. Ordinance relating to accessory dwelling units in residential zoning districts.**

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

Wischnack, Thomas, and Gordon reported. They recommended commissioners discuss the draft ordinance, hold the public hearing, and continue the public hearing to a future meeting.

The public hearing was opened. No testimony was submitted and the hearing was temporarily closed and continued to a future meeting.

Hanson asked how the city would find out when an accessory dwelling is planned to be included in a new house. Thomas explained that staff would identify an accessory dwelling during the building-permit-review process. It typically happens once or twice a year in new construction.

Luke asked about parking requirements. Thomas explained that a residential house is required to have an area for two vehicles to park on the site. The city's nuisance ordinance limits the maximum number of vehicles that could be parked outside regularly at a single-family house to four vehicles. That ordinance would also apply to a residential house with an accessory dwelling unit (ADU).

Powers appreciated the well-done presentation. He asked if he could construct a detached 500-square-foot ADU with a walk-out basement. Thomas explained that the ADU would meet the footprint requirement, but the property would not be allowed to exceed a total of 1,000 square feet in aggregate detached structures without a separate conditional use permit. The property would need a conditional use permit to allow an ADU and an additional conditional use permit if all of the detached structures on the site would exceed 1,000 square feet when added together.

Powers suggested considering whether the ordinance would want to allow for the potential of an ADU having a basement to work around the footprint requirement or if a restriction should be added to prevent that from happening.

Waterman confirmed with Thomas that the “undue impact” standard would remain part of the conditional use permit review process.

Waterman asked if there would be a provision to limit the number of ADUs in an area. Thomas explained that the proposed ordinance does not have an area restriction. She will add it to the list of items to be considered.

In response to Waterman’s questions, Thomas stated that:

- Utility staff and building inspectors found that the city’s utilities would not be noticeably impacted by an ADU.
- Fire, police, and assessing staff will review the proposed ordinance and provide feedback.
- Prior to the Super Bowl being held in Minnesota, the city council discussed short-term rentals and chose not to regulate them. That could be reviewed if it becomes a problem.

Henry would like the ordinance to include a maximum square-footage limit for an ADU.

In response to Henry’s questions, Thomas stated that:

- The building code would regulate minimum separation distances between structures.
- Maximum impervious surface coverage and storm water management requirements would apply to a site with a detached ADU.
- All nuisance ordinances would apply to a site with a detached ADU.
- The series of standards to allow a home occupation would apply to a site with a detached ADU.
- Every ordinance that applies to an R-1, single-family zoned property would apply to a site with a detached ADU.
- A detached ADU must have its utilities provided by the principle structure. Language could be added to provide for a situation where the homeowner would be gone for a certain number of consecutive days.
- The planned unit development of Portico Green allows 19 principle structures to have ADUs located above each attached garage with conditions.

Maxwell asked how access to a detached ADU would work for a delivery service. Gordon stated that it would operate as an extension of the principle structure. He anticipated that when ordering a delivery, the ADU resident would provide instructions. The ADU would not have a separate property address.

Maxwell questioned the reasoning for adding the separate entrance façade requirement. Gordon recalled that it was brought up to allow enough flexibility so the door would not have to face the closest neighbor.

Powers thought it might be smarter not to add a restriction in the ordinance to require the door to be located on a certain side, but leave the location of the door to be determined on a case-by-case basis since every lot in Minnetonka is unique. Requiring a buffer between the door and a neighbor may provide more flexibility. Neighbors' concerns should be taken into consideration. He wants planning commissioners and councilmembers to have latitude to tweak the design and be wise in their decision making. He would prefer to keep the door location options open ended.

Chair Sewall confirmed with Thomas that the city does not regulate rental of a single-family residence or an ADU attached to a single-family residence. The proposed detached ADU ordinance continues the city's practice of not regulating rental of single-family residences. Wischnack added that the city council recently discussed regulating rental properties and chose not to do so at this time. She noted that the property owner could live in the ADU and have a renter live in the primary residence.

Powers favored the ordinance not allowing the principle residence to be rented if the property has an ADU. Wischnack would incorporate that idea into the discussion. She noted that it could create a fairness in equity issue because it would prevent some single-family residences to be rented, but not others.

Waterman stated that:

- He appreciated the thought put into the proposed detached ADU ordinance. It is good to have a variety of housing.
- He thought density restrictions for an area or part of the city may want to be considered.
- He liked the idea of looking at the access for each proposal during the conditional use permit review process rather than creating a restriction in the ordinance.
- He liked the ability of a homeowner to have a home occupation in the ADU, but not if it would disrupt the neighbors. He suggested considering adding a buffer requirement between the detached ADU and neighbors in the ordinance or the planning commission looking at each application separately.
- He noted the need for rental stock. He could see a homeowner moving into the ADU and renting the primary residence to their child's family.
- He was a little concerned with a detached ADU being used for short-term rentals.

Henry stated that:

- He was not as concerned with detached ADUs being used as short-term rentals. He thought a detached ADU would be used more to consolidate a family. He did not want to prohibit a nice, revenue-generating option.
- He thought "non-complementary design" is in the eyes of the beholder. There are different architectural styles that he found complementary. He

opposed language that would require the ADU to be the same architectural style as the existing principle structure.

- He wanted the ordinance to prohibit the detached ADUs door to be visible from the same view as the principle structure's door so the property would not have the appearance of having more than one residence.
- He thought a lot of properties would not have much flexibility regarding the location of the driveway. He thought that the driveway should blend in with the design.
- He would not prohibit home occupations in a detached ADU. It should be considered on a case-by-case basis.
- He supports a limit of 1,000 square feet for the maximum square footage allowed for all ADUs combined on a property. A variance could be granted on a case-by-case basis.

Maxwell stated that:

- She felt that the design and access location should be left to the homeowners and designers to decide with oversight by commissioners and councilmembers.
- She preferred the existing curb cuts be used as much as possible in an effort to reduce the amount of impervious surface, but it should be looked at on a case-by-case basis and not a restriction in the ordinance.
- The same existing ordinances governing home occupations for a residence should apply to a detached ADU; although, limiting one property to one home occupation may want to be considered.
- Restricting a detached ADU to allow up to 35 percent of the square footage to be used for a home occupation may be too restrictive. She suggested allowing a detached ADU to have up to 35 percent of the square footage of the structures on the property to be used for a home occupation.
- She favors allowing rental of the principle house or detached ADU to allow the property to be more attractive to future buyers.

Hanson stated that:

- He agreed with Maxwell in regard to not being too strict with design and limiting curb cuts when possible.
- He thought it would be helpful to place clear language regarding roof overhangs and porches for a detached ADU. He would appreciate more clarity regarding the differences between an open deck and an enclosed porch.
- He appreciated staff's hard work.

Luke stated that:

- She appreciates Hanson's comments. Providing size allowances for open decks and enclosed porches in the ordinance would be helpful.
- She was fine with "non-complementary design." She trusts homeowners to create an attractive structure in his or her back yard.
- The location of the access could become an issue. She would like that to be taken into consideration in the ordinance.
- She did not think the ordinance would need to cover the location of a driveway.
- The current nuisance ordinances and existing R-1 District ordinances would cover home occupations in a detached ADU.

Powers stated that:

- He concurs with commissioners.
- He would like to have the relationship between renting the principle house and the detached ADU explored more fully.
- He likes the idea of a three-season porch on a small structure.
- He did not think restrictions would be needed in the ordinance regarding the location of a door. He wanted to give more discretion to the neighbors and commissioners regarding door placement.

Chair Sewall stated that:

- He understood the sentiment of avoiding a non-complementary design, but there are many older houses which one would not want to be copied. His house was built in 1958. He wanted to make sure that there is a distinction between "complementary" and "similar."
- He did not see a problem with the residence and detached ADU doors facing the same direction. He would prefer the detached ADU door not face the closest neighbor.
- The location of the driveway would sort itself out.
- The current ordinances would cover a home occupation, but he thought higher-trip uses may become more likely in a detached ADU than a principle structure.
- He understood why councilmembers chose not to regulate rental of residences, but it does create a concern.

Thomas reviewed the next steps for the proposed detached ADU ordinance.

Chair Sewall noted that commissioners are comfortable with items not discussed like the 15-foot setback. He encouraged staff, commissioners, and councilmembers to think of recent examples of ADUs and the input from the public received regarding those to help shape the ordinance. Thomas agreed. She will consolidate public comments regarding ADUs over the last several years.

*Powers moved, second by Henry, to continue the public hearing to a future meeting.*

*Henry, Luke, Maxwell, Powers, Waterman, Hanson and Sewall voted yes. Motion carried.*

**9. Adjournment**

*Waterman moved, second by Hanson, to adjourn the meeting at 8:40 p.m. Motion carried unanimously.*

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