# Minnetonka Planning Commission Virtual Meeting Minutes

### March 18, 2021

### 1. Call to Order

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

#### 2. Roll Call

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

Staff members present: Community Development Director Julie Wischnack, City Planner Loren Gordon, Planner Drew Ingvalson, and IT Assistants Gary Wicks and Joona Sundstrom.

### 3. Approval of Agenda

Waterman moved, second by Banks, to approve the agenda as submitted with additional comments provided in the change memo dated March 18, 2021.

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

### **4. Approval of Minutes**: March 4, 2021

Maxwell moved, second by Powers, to approve the March 4, 2021 meeting minutes as submitted.

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

## 5. Report from Staff

Gordon briefed the commission on land use applications considered by the city council at its meeting of March 8, 2021:

- Adopted a resolution approving the preliminary and final plats for a two-lot subdivision for Evergreen Orchard Estates on Baker Road.
- Adopted a resolution approving items for Minnetonka Station, a multifamily residential project, in Opus.

The city council held a study session to discuss items related to the Doran project, including an affordable housing component.

The planning commission meeting scheduled for April 8, 2021 has been canceled.

### 6. Report from Planning Commission Members

Chair Sewall toured a house in the Parade of Homes located in the Bird Song development. He enjoyed seeing the results of a project that was reviewed by the planning commission.

### 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 a front yard setback variance for a porch addition at 5721 Cedar Lane.

Adopt the resolution approving a front yard setback variance for a porch addition at 5721 Cedar Lane.

Maxwell, Powers, Waterman, Banks, and Sewall voted yes. Hanson and Henry were 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. Resolution approving an expansion permit for a reconfigured boathouse at 17502 County Road 101.

Chair Sewall 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.

Waterman asked if the structure would be allowed somewhere else on the property. Ingvalson answered in the affirmative. The variance is required because it would be located within the 50-foot shoreland setback. The structure could be rebuilt exactly the same in the same location without a variance. The proposal would increase the current interior size of the structure by 58 square feet.

Powers noted that the purpose of the structure makes no difference to the commission's decision. He asked if the proposed structure could still be used as a boathouse. Ingvalson believed that the applicants intend to use the proposed structure for recreation space. The structure could be remodeled and used as a recreation space without a variance if it would not increase its size.

Kathryn Alexander, representing the applicant, stated that she had converted several boathouses located on Lake Minnetonka. She stated that the exterior mass would not increase. The height, width, depth, and overhangs would stay exactly the same. When she started designing the proposal, she discovered that it made more sense to not have two long, skinny spaces and make it look nicer from the lake view. The homeowners are on the line listening. She was happy to answer questions.

Maxwell noticed a sidewalk near the structure. She asked if there would be an increase in the amount of impervious surface; how runoff from the roof would be captured; would the large, plate-glass windows cause a hazard for birds; and if the existing concrete floor would be used or removed. Ms. Alexander explained that the structure would be done on pilings to minimize any disturbance to the ground. No fill would be removed or added. The window glass would be set back nine feet with an overhang, so it would be shaded enough so birds would not be impacted. What appears to be a sidewalk may actually be an existing driveway used to access the neighboring property. No sidewalk would be added. Gutters would capture water runoff from the roof and transport it back onto the property.

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

Powers supports the proposal. It would put a higher level of responsibility on the property owner to monitor activity on the lakeshore to prevent debris from entering the lake.

Waterman agreed with Powers. The situation is unique to the property. The boathouse already exists in its current location. The exterior size would not be increased.

Banks agreed with commissioners. The proposal would be a big improvement from what is there now. The structure could be done in its current location without a variance if the interior would be decreased by 58 square feet. The proposal would create a great view from the lake. He agreed that care must be given to prevent the trash from reaching the shoreline.

Maxwell agreed that the proposed structure and layout would be an improvement from the existing structure. She was concerned that there would be greater use of the area so close to the water. If the variance would be denied, a similar conversion could be done with a smaller interior. She will vote against the project in an effort to decrease the interior size, the number of people it could hold, and the amount of debris that could be generated and enter the lake.

Chair Sewall supports the proposal. The use of the structure is not part of the commission's purview. The proposal would be an improvement to the existing structure, which has paint peeling and could continue to fall apart. The proposal would have the same height and footprint. There are so few properties with boathouses that it would not impact others. He trusts the property owners to continue to be good stewards of the lake. It is in their best interests.

Waterman moved, second by Powers, to adopt the resolution approving an expansion permit to reconfigure and expand the interior space of the existing structure at 17502 County Road 101.

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

B. Resolution approving a conditional use permit with parking variance for expansion of an existing restaurant at 14725 Excelsior Blvd.

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

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

Diego Montero, 5201 Woodhill Road, applicant, thanked commissioners for reviewing the application. He is excited to expand the restaurant. The expansion would allow more room in the kitchen to prep and do the production. There would be no additional seating added. The patio would not impact the sidewalk or foot traffic. He looks forward to completing the improvements.

Waterman asked if there would be an increase in the number of deliveries. Mr. Montero stated that the expansion would not cause an increase in the number of deliveries. All of the deliveries go through the front. The back alley is used for loading and unloading the food truck for events and getting items from a personal vehicle. There are two food deliveries a week made by truck through the front door during non-operating hours when the restaurant is closed. The alley would be used to deliver prepared food to another location approximately three trips per week.

The public hearing was opened.

Anne Hossfeld, 14616 Glendale Street, stated that she provided the comments included in the change memo. She appreciated her questions being answered. She did not think she would be more imposed upon by the proposed expansion of the restaurant. She thanked the applicant for answering her questions regarding if there would be more deliveries. She was concerned with the potential noise. She was glad it would not be a big semi-truck that would make deliveries from the rear of the building. Three trips a week from the rear with a smaller vehicle did not sound too bad. She requested that trucks not idle for a half-hour or more in the back of the restaurant. She was concerned with noise and increased activity in the rear of the building.

No additional testimony was submitted, and the hearing was closed.

Mr. Montero stated that the trucks are typically not left idling. The neighbor may be hearing the generator for the refrigeration of the food in the truck. He will work to minimize that noise. He does not anticipate a huge increase in activity on the rear side of the building. He is willing to work with the neighbor to resolve any issues.

Waterman supports the proposal. It meets conditional use permit requirements. The extension makes sense. He appreciates the applicant being receptive to feedback from neighbors and making an effort to minimize noise behind the building.

Powers supports the proposal. He endorses the expansion of a small business. The expansion is natural since the business owner would be able to utilize the adjacent property. He likes the location for outdoor seating. The expansion would complement other businesses in the area. He appreciates the neighbor's comments.

Maxwell agreed. She is excited to see a small business grow, thrive, and expand in Minnetonka. The expansion makes sense. The footprint of the building would not change. The addition of outdoor seating would benefit the neighborhood.

Banks concurred. He supports the proposal. He hopes that the applicant would minimize the noise that would be heard by the residential neighbors. The expansion would be an asset to the restaurant and businesses in the area.

Chair Sewall felt that the restaurant owner had earned the expansion by being a good neighbor and running a good business. Being able to expand a restaurant during a global pandemic is a testament to the hard work being done by the applicant. The expansion is natural. The size of the building would not be increased. He loves the outdoor seating. He supports the staff's recommendation.

Maxwell moved, second by Banks, to recommend that the city council adopt the resolution approving a conditional use permit with variances for expansion of an existing restaurant with on-sale liquor at 14725 Excelsior Blvd.

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

Chair Sewall stated that this item is scheduled to be reviewed by the city council at its meeting on April 12, 2021.

# C. Resolution approving conditional use permits for small-cell-wireless installations within the public right-of-way.

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

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

Banks asked if the two small-cell-wireless-facility styles are the only options and if there is a difference in the performance of the two styles. Gordon explained that the second style was offered after staff requested a stealthier option. He invited the applicant to provide more information.

Tammy Hartman, Verizon Network Outreach Manager, representing the applicant, introduced engineer Chad Loecher, attorney Anthony Dorland, and outreach network team member Amber Johnson. She provided a presentation showing the demand for cellular service. She stated that:

- The small-cell-wireless facilities are replacing towers.
- The proposed locations are not speculative. The capacity need exists now.
- Verizon's preferred method and pole design is labeled as design two.
- Ten small-cell-wireless facilities are needed in Minnetonka to maintain the need. Verizon found one commercial location and three collocation sites that would work. The other six sites did not have a utility pole in the locations needed to collocate.
- The poles that utilize radios mounted near the antennae are Verizon's preferred design because they provide a higher level of service than the antennas with the radio mounted at the base. Signal loss results in a smaller footprint for the small-cell facility and increases the need for additional facilities. The installation next to the antennae would make it easier to be swapped out with new technology.
- All equipment must comply with FCC safety standards.
- The 1966 Telecommunications Act prohibits local authorities from considering health concerns as part of the permitting process.
- The network is expanding because more people than ever are relying on a network device.
- Sixty-one percent of households do not have a landline.
- By 2023, there will be 31 billion connected devices.
- Eighty percent of 911 calls were made with cell phones last year.
- Wireless is a critical component in schools and for today's students.
- She thanked commissioners for their time.
- She requested the application be approved.
- She was available for questions.

Waterman asked if Verizon would allow another provider to collocate on the tower. Ms. Hartman explained that Verizon would collocate on an Xcel tower. The small-cell facilities are 29 feet tall.

Banks appreciated the presentation. He asked how well the towers would function if the proposed towers could be repurposed to provide 5G service and the reason for the differing heights at 29 feet, 30 feet, and 34 feet. Ms. Hartman explained that the varying pole heights are dependent on the site topography and surrounding interferences. Minnetonka has a serious need for capacity and coverage to make a basic phone call. When 5G would come to Minnetonka, there are ways to repurpose the proposed poles. The original design has been deployed in Minneapolis, Edina, St. Paul, Bloomington, Wayzata, and numerous other cities.

Chair Sewall confirmed with Ms. Hartman that Verizon would have collocated all of the small-cell-wireless facilities if that would have been possible in the needed coverage-gap locations.

Chair Sewall asked about the light pole on Linner Road. Ms. Hartman confirmed that there was a reason that prevents that light pole from being used.

Powers felt that the coverage is needed. People would adapt to a change in landscape. He asked if there is a better place to locate the poles than the proposed locations. Ms. Hartman explained that Verizon found these locations to be the best ones to fill the gaps in coverage and, if collocation would be possible, then that would be the first option. A coverage gap means that due to the amount of data being used, it makes it difficult for a cellphone user to make a phone call.

Powers asked what percentage of the coverage gap would be helped by the proposal. Mr. Loecher answered that each location is somewhat unique, and the proposal would fix current issues with poor to no reception for phone calls and web pages that would not load properly. The locations hit the target areas that need help while being as less obtrusive as possible. It would be difficult to put a percentage on each location. He estimated that a small-cell node could handle 10 percent of a load of a macro tower depending on environmental factors.

In response to Waterman's question, Ms. Hartman answered that sites are chosen to best fit the need for the area based on the surrounding topography, tree coverage, and traffic safety in the least obtrusive way possible.

Maxwell asked how gaps are identified. Mr. Dorland explained that customers call Verizon when there is an issue. That is the goal of the site. The gaps are 600 feet to 1,000 feet wide. A state statute allows the city to require a separation distance between wireless poles. The code has a 200-foot minimum separation requirement.

Mr. Loecher explained that coverage gap areas are identified using third-party-drive-test results, customer complaints, in-house modeling, and in-house testing in the area. The technology is constantly changing. The study took a year to complete. There is a definite need in Minnetonka for capacity and coverage.

Chair Sewall noted that, according to state and federal law, the commission may make a recommendation to the city council only relating to the size and appearance of the small-cell towers, not on the proposed locations or whether a tower is needed.

The public hearing was opened.

Thomas Johnson, 15001 Tammer Lane, stated that:

- He opposes to the location at Linner Road and Tammer Lane.
- He provided a letter in the agenda packet.
- The visibility of the tower would be unshielded in the mid-block location.

- Neighbors agree with his opposition to the proposed location.
- State statute allows a reasonable request to be considered to move a cell tower location to another existing location.
- The cell tower would be placed for a range of 500 feet to 1,000 feet for 53 residents and travelers in the area.
- He questioned whether the five or ten percent load is applicable when he does not use Verizon to use data at home.
- He did not agree with the city attorney. He thinks there is no state statute that allows telecommunications companies "carte blanche" authority to locate new facilities in residential districts.
- He asked for clarification of the decision to locate the tower in the proposed location.
- He favored moving the equipment 150 feet to an existing utility pole.
- This would set a precedent.
- The application is too vague to make a decision regarding a conditional use permit. It should not be accepted in this form.
- He requested a finding that the standards are not for the Linner Road and Tammer Lane location.
- He requested that the planning commission deny the Linner Road and Tammer Lane location and request a non-residential location be used.
- He thanked commissioners for their time.

### Tom Ostlund, 15510 Post Road, stated that:

- He opposes the small-cell pole being located at Holdridge Drive and Post Road due to his concerns for his daughter's health. She is an organ transplant recipient and immune-compromised. The tower would be 100 feet from their house. He was concerned with the long-term health risks. It is a new technology that has not been studied for long-term exposure on immune-compromised individuals.
- He found it disingenuous that fiber optics and cables have been dug up and worked on in the street easement over the last two weeks before the public meeting.
- He spoke to the Verizon team to express his concerns for his daughter's health and received a form letter.
- He requested that the location of the small-cell facility be moved further away from his house.

No additional testimony was submitted, and the hearing was closed.

Chair Sewall asked the applicant to respond to the concerns expressed by residents.

Ms. Hartman explained that the Linner Road and Tammer Lane equipment could not be located on the existing pole because the pole is not structurally sound, Xcel Energy has monitoring equipment on the pole, and Xcel Energy is a private user and has no obligation to allow Verizon to use the pole.

Ms. Hartman explained that moving the small-cell facility proposed for the Holdridge Drive and Post Road location would cause a coverage gap. She would be happy to talk with Mr. Ostlund. There is information provided by the FCC on the website regarding emissions. She also provided an email address that could be used to receive information. The small-cell facilities are operated safely.

Gordon stated that right-of-way permits had been authorized by engineering staff to connect telecommunications infrastructures. There is a small-cell wireless project page on **minnetonkamn.gov** to learn more about the regulations regarding telecommunication utilities.

Maxwell asked how private and public poles could be identified. Gordon explained that each pole would be looked at individually.

Powers felt that it would make more sense to use the most effective pole style since the objective is to improve coverage, and there is not that big of a difference between the two styles. He suggests the city do its own study to determine health risks. It seems awkward for the city to not have more authority to determine the location of the poles. He did not think 10 percent improvement seems worthwhile. He understood that the pole would be located in the right-of-way, but it would still impact the resident's yard. He did not see a reason to vote in favor of the application, but there was no legal basis for him to deny it. He does not like it.

Maxwell agreed. She felt for the neighbors. Neither of the options would be stealthy. Unfortunately, commissioners do not have much choice. Changing the color or style would not have a significant impact. She would choose the style that would be most efficient at providing coverage. Having the equipment at the top of the pole may prevent kids from climbing on it.

Powers liked the silver color the best.

Maxwell favored having each pole color match its surroundings as much as possible such as using green if the pole would be located next to an evergreen tree.

Waterman agreed with Maxwell. He loves technology, but it is frustrating as a neighbor and commissioner that he has no influence in deciding the location of the poles. He has the biggest issue with the Linner Road and Tammer Lane location. He might be inclined not to act on that one to see if it could be made stealthier. He likes the silver but also likes the idea of customizing the colors to match the different surroundings. He had no preference on the style. The small-cell facilities would probably initially look out of place but, eventually, over time, blend into the landscape. He supports the conditional use permit application except for the Linner Road and Tammer Lane location.

Banks acknowledged that property owners of single-family residences mow and maintain the grass portion of the street right-of-way, and a small-cell pole would not be appreciated. He did not see a big benefit for the property owner, but it is not in the

commission's purview to change the location. He likes the look of design two with the radio equipment at the base to provide a leaner look on the top, but it might be safer to have the equipment at the top so it would not be as easy to tamper with. He likes the grey color the best but would consider changing the color to match the pole with its surroundings.

Chair Sewall noted that the city is trying to do what it can while following state and federal laws. He did not like it but had no authority to change it. The meeting provided a public forum for residents to provide comments and do what can be done. He agreed with using the style that would provide the most effective coverage. He had no opinion on the color.

Maxwell encouraged residents who are frustrated with the laws to contact their state and federal lawmakers.

Powers moved, second by Waterman, to recommend that the city council adopt the resolutions approving conditional use permits for small-cell-wireless facilities at the following locations specifying unenclosed or enclosed pillar design and color:

- Linner Road and Tammer Lane
- Holdridge Drive and Post Road
- Indian Circle West and Council Circle
- Lake Street Extension and Hull Road
- Pioneer Road and Merilee Lane
- Baker Road and Deerwood Drive

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

This item is scheduled to be reviewed at the city council meeting on April 12, 2021.

### 9. Other Business

### A. Concept plan for Glen Lake Apartments at 14317 Excelsior Blvd.

Chair Sewall introduced the proposal and called for the staff report. Staff recommends the planning commission provide comments and feedback on the identified key issues and any others the planning commission deems appropriate.

Bob Cunningham, Linden Development Partners, applicant, introduced himself and August Bruggeman. Mr. Cunningham stated that:

• This applicant is different from the previous applicant. The applicant listened to comments from neighbors, council members, and

commissioners regarding the previous proposal to develop the current concept plan.

- The site is excellent for a small apartment project. The proposal is for a three-level building with 49 units located on Excelsior Blvd.
- There would be a low-pitched roof. The façade would have a lot of articulation, so it would not look dull.
- The parking area would be located on the Stewart Lane side to preserve tree elevations along Excelsior Blvd. A tree study has been done. The building location was determined by keeping the most tree cover.
- The impervious surface would be 52 percent instead of 66 percent.
- The location of the building would provide a better view of traffic for a motorist accessing Stewart Lane.
- There would be a five-foot sidewalk along Stewart Lane from the property line to the existing sidewalk on Excelsior Blvd.
- The surrounding buildings are all four stories tall. The proposal would have three stories. The roof would create a design bridge to the surrounding buildings.
- He provided an illustration that showed what trees would remain. The profile of the proposed building is lower than the neighboring buildings.
- He provided a tree inventory and landscape plan.
- All of the units would have balconies except those that would face Excelsior Blvd. First-floor units would have patios.
- The proposal would be attractive and look like it has been there a long time on the day that it opens.
- He was available for questions.

In response to Powers' question, Mr. Cunningham explained that the building would have elements to help it fit into the neighborhood. Powers likes the idea of a three-story building.

Chair Sewall asked if it would be possible to shift the building further north and or west. Mr. Cunningham said that the building location was designed to save the most trees. If the building would be moved to the west, then it would be closer to The Oaks Building, and windows of The Golden Nugget and additional trees would have to be removed. If the building would be moved north, then utilities would have to be relocated, which would cause substantial tree loss.

Maxwell asked about the surface parking lot traffic pattern. She asked if the east side parking lot could be used as a cut-through rather than using Stewart Lane. Mr. Cunningham explained that staff suggested a one-way access to prevent vehicles such as fire trucks, garbage trucks, and moving trucks from having to turn around. A straight in and straight out traffic pattern would be more efficient for large vehicles.

Banks asked if the applicant has any other similar projects in size and style in the area. Mr. Cunningham answered that within the last 28 months, Linden Development Partners had completed about 500 units of apartments between The Chamberlain in Richfield and

Parker Station Flats in Richfield. He has never, personally, presented a project located in Minnetonka. The proposal is an exciting opportunity to create a small boutique apartment building.

Powers asked if other elements in addition to the roof would be done in the prairie style. Mr. Cunningham stated that the judicious use of brick could be considered prairie style. Windows and decorations have not yet been picked out. The building would have some prairie-style elements.

Chair Sewall invited public comments.

Anne Hossfeld, 14616 Glendale Street, stated that:

- She observed that the traffic would be moved to Stewart Lane. The increase in traffic would negatively impact the residents of Stewart Lane.
- She attended the virtual neighborhood meeting a month ago. Stewart Lane residents expressed concerns with cross-traffic, pedestrian safety, trash-hauling noises, water runoff, and litter.
- She is not expressing personal disapproval of the concept plan.
- The lot is one acre. She did not know if the proposal would fit.

Keith Weigel, 14209 Glen Lake Drive, stated that:

- The size of the proposed building is being based on surrounding buildings that were built too big to begin with.
- There would be too much density.
- There should be nothing denser than townhouses built on the site.
- He considered the proposal a "dagger to the heart."

Powers opposed the last proposal for the site because of its massing, size, number of units, and location on the parcel. While he did approve of the previous proposal, he likes this concept plan better for a number of reasons. It would be smaller, fit into the overall scheme of the area, and takes into account elements of the neighborhood that the previous one did not. He would like to see the proposal go forward with more thought and details. It is definitely headed in the right direction.

Waterman agreed with Powers. The site is guided for mixed-use, so multi-family residential is an appropriate use. It is interesting to see a concept plan for something other than the large apartment buildings being proposed for Opus. He is struggling with determining if a project this size would be appropriate for a one-acre lot. He did like this concept plan more than the previous one in 2019. He likes the reduction in building size, amount of impervious surface, preservation of trees, shifting of the entrance location to Stewart Lane, the addition of a sidewalk, building and roof design, patios and balconies, and use of brick and colors on the exterior. The city council will weigh whether this is the right size development for the site.

Maxwell struggled with deciding whether this type of high-density residential is right for the lot compared to a smaller, multi-family development similar to what is east of the property. She likes three stories instead of four stories, the smaller footprint, significantly reduced surface parking, the consideration that went into the traffic pattern, and location of the building to the southeast to maintain the trees and distance from The Oaks. There would be a large demand from residents to live in this location, whether it would be high, medium, or low-density housing.

Banks thought that the concept plan is beautiful. The building and layout look great, but it felt like a tight fit on the one-acre lot. There might be a legitimate concern with traffic from 49 units. He likes the concept plan. He wondered if two stories would fit better, especially with the other large buildings in the area. He would love to see the site developed. It needs to be improved. This may be the project, but there are concerns regarding density.

Chair Sewall likes the concept plan's improved site lines for drivers to see around the curve when exiting the site onto the road, preservation of trees, and the sidewalk tie-in with other sidewalks to improve pedestrian safety. He is less concerned with an increase in traffic volume from that number of units. Traffic studies in the area have shown that a road like that can handle that amount of an increase. The wait change would not be impacted by more than seconds. He was more concerned with providing longer site lines for drivers to see around the curve when entering the street. The building would feel dense. He did not think it would be realistic for the site to be developed with detached townhouses. Townhouses with a tuck-under garage and two stories would have three stories and create the same feeling of mass. He suspects that the biggest hurdle would be density. His main concern is safety. He likes the orientation and traffic flow which would create safer vehicle entry and exit accesses from the property.

Gordon appreciated the comments. Mr. Cunningham thanked commissioners for their time.

### 10. Adjournment

Powers moved, second by Waterman, to adjourn the meeting at 10:10 p.m. Motion carried unanimously.

By:		
•	Lois T. Mason	
	Planning Secretary	