

**Minnetonka Planning Commission  
Minutes**

**July 15, 2021**

**1. Call to Order**

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

**2. Roll Call**

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

Staff members present: Community Development Director Julie Wischnack, City Planner Loren Gordon, Assistant City Planner Susan Thomas, and Senior Planner Ashley Cauley.

**3. Approval of Agenda**

***Maxwell moved, second by Waterman, to approve the agenda as submitted with modifications provided in the change memo dated July 15, 2021.***

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

**4. Approval of Minutes: July 1, 2021**

***Henry moved, second by Powers, to approve the July 1, 2021 meeting minutes as submitted.***

***Henry, Maxwell, Powers, Waterman, Banks, and Sewall 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 July 12, 2021:

- Adopted a resolution approving a conditional use permit for a telecommunication tower at 6110 Blue Circle Drive.
- Introduced an ordinance concerning Island Oaks at 16509 McGinty Road West.
- Adopted a resolution approving a conditional use permit for the Tavern Grill Restaurant and Bar at 12653 Wayzata Blvd.
- Reviewed a concept plan for Woodhaven of Minnetonka at 2424 and 2440 Plymouth Road.
- Reviewed a concept plan for Top Ten Liquors at 1641 Plymouth Road.

- Adopted an ordinance rezoning 10901 Red Circle Drive from B-1 to a planned unit development and adopting a master development plan and adopted a resolution approving the final site and building plans and preliminary plat for Shady Oak Office Center.

Planning commissioners are invited to attend a presentation by the Urban Land Institute on July 19, 2021, at 6 p.m. at the community center, a boards and commissions dinner on July 21, 2021, and a city bus tour with staff and economic development authority commissioners on July 26, 2021.

Wischnack explained how the Just Deeds program in Minnetonka is working to eliminate discriminatory covenants put on the deeds of properties decades ago. More information is available on the city's website to see if one's property has a discriminatory covenant and, if there is, the city will remove the discriminatory covenant and refile the deed free of charge.

The next planning commission meeting is scheduled to be held on Aug. 5, 2021.

#### **6. Report from Planning Commission Members**

Henry reported that the first sustainability commission meeting went well.

#### **7. Public Hearings: Consent Agenda**

No items were removed from the consent agenda for discussion or separate action.

***Powers moved, second by Banks, to approve the items listed on the consent agenda as recommended in the respective staff reports as follows:***

#### **A. Resolution approving a setback variance for conversion of a deck into an enclosed porch at 4010 Skyview Road.**

Adopt the resolution approving a setback variance for conversion of the deck into an enclosed porch at 4010 Skyview Road.

#### **B. Adopt the resolution approving a front yard setback variance for a garage and porch addition at 12803 Linde Lane.**

Adopt the resolution approving a front yard setback variance for a garage and porch addition at 12803 Linde Lane.

#### **C. Resolution approving a conditional use permit for Rush Bowls, a restaurant within a multi-tenant shopping center, at 13005 Ridgedale Drive.**

Recommend that the city council adopt the resolution approving a conditional use permit for Rush Bowls at 13005 Ridgedale Drive.

*Henry, Maxwell, Powers, Waterman, Banks, and Sewall voted yes. Hanson was absent. Motion carried, and the items on the consent agenda were 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. Items concerning Culver's at 17555 Hwy. 7.

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

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

In response to Powers' question, Cauley explained that the existing significant trees would not be impacted by the proposal, and many additional trees and vegetation would be added.

Heather Spencer, Rani Engineering, representing the applicant, stated that the proposal would remodel the existing vacant building. The restaurant would be an asset to the community. She is looking forward to approval of the proposal and moving forward.

Maxwell asked if there would be seating outside. Ms. Spencer answered in the negative.

Henry supports outdoor seating and asked if it had been considered. David Gresher, the builder for the applicant, stated that the area is confined and would not have enough room for outdoor seating. A minimal amount of seating could be added on the southeast side of the building. Henry acknowledged that the drive-thru takes up an area that could have been used for seating outdoors.

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

Waterman supports the proposal. It meets all conditional use permit standards. It would utilize the existing, vacant drive-thru restaurant building. He likes the building and site plan, minimal use of EIFS, and use of existing brick. He agreed with the staff's conditions of approval to provide amenities for bikers and improve pedestrian traffic circulation. He saw no negative environmental impact.

Powers agreed with Waterman. He did not see a big benefit to the environment. The proposal meets ordinance requirements. He is excited that it is coming. He supports outdoor seating.

Maxwell supports the proposal and outdoor seating if it would be possible. The currently vacant building has a lot of windows on the west side. She would like the proposed

building to have more windows than shown in the stock images provided in the application.

Henry encouraged the proposal to add outdoor seating, solar panels, and other measures to save energy. He supports the staff's recommendation. The restaurant would help support surrounding businesses. He is looking forward to its completion.

Banks supports the proposal and the addition of outdoor seating and bike racks. He looks forward to it being completed and wished the applicant luck.

Chair Sewall concurred. The proposal meets all ordinance requirements. It would be a good addition and bring more energy and vitality to the area.

***Waterman moved, second by Banks, to recommend that the city council adopt the attached resolution approving a conditional use permit and final site and building plans for Culver's at 17555 Hwy. 7.***

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

**B. Items concerning Island Oaks, a six-lot subdivision at 16509 McGinty Road West.**

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.

Maxwell confirmed with Thomas that private streets typically become problematic after several years when property owners no longer wish to pay for snowplowing and maintenance of the street, and the private street had not been constructed in accordance with public-street requirements. Thomas explained that one trail section on McGinty Road West would not be completed at this time since the Three Rivers Park District has plans to construct a trail at that location and make it part of the Regional Trail Corridor in the near future.

Banks asked how the proposed houses would compare in size to the existing houses in the Locust Hills area. Thomas referred the question to the applicant and noted that the footprint of the residence provided in the proposal consists of 3,200 square feet.

Banks asked if there had been a traffic study. Thomas answered in the negative. It is very rare to do a traffic study for a single-family residential development. The engineering staff agrees with the connection. Hennepin County Engineering staff have no concerns.

In response to Powers' question, Thomas explained that current staff agrees with the staff from 2006 that the thru street would provide the best traffic-flow solution.

Henry asked if Locust Hills Terrace is narrower than a typical street. Thomas confirmed that the paved area is 24 feet wide which is two feet more narrow than a public street which is required to be 26 feet in width. The Locust Hills cul-de-sac is narrower than the right-of-way width and pavement width, which is 24 feet. Those same widths are being proposed in the application and are common in the neighborhood. The buildable areas are deep enough to accommodate side-loaded garages. The street could be widened to the south and not impact the wetland area.

Chair Sewall confirmed with Thomas that the street would be public whether it would be a cul-de-sac or connected with a thru street.

Banks confirmed with Thomas that a document was recorded with each of the six lots when they were created that stated that the cul-de-sac could be extended in the future.

Paul Robinson, vice president of Bancor Group and Wooddale Builders, applicant, stated that Thomas did a great job summarizing the proposal. He provided a presentation and stated that:

- Some of the site would be graded and filled. The corner area near McGinty Road West and Bantas Point Road would be left alone.
- The site would be designed to stay under the 35-percent-high-priority-tree-preservation requirement. Several significant trees would be removed and mitigated.
- The average size of the six lots would be 25,788 square feet. The proposed houses would have main-floor living plans and be 3,200 to 4,000 square feet in size. The existing Locust Hills Terrace houses have an approximate 4,500 square-foot footprint and 8,000 to 9,000 square feet overall.
- Since the concept plan, the number of houses has decreased from eight to six.
- The channel would not be dredged.
- The lot sizes increased from 16,500 square feet to 25,500 square feet.
- The street changed from private to public.
- The ponding size and location have been refined.
- The villa-style houses would be customized to each lot.
- A trail easement was added.
- The buffer width to Locust Hills increased from 10 feet to 20 feet.
- Landscaping was added to block vehicle headlights.
- The proposal would provide the public benefit of providing a housing type and target-housing price that is desirable to the city and would create a development that is compatible with existing, surrounding development types. The proposal would be similar to the Island Oaks neighborhood. The Bantas Point neighborhood has an average lot size of 15,000 square feet with right of ways averaging 20 feet and 40 feet in width. Locust Hills

has an average lot size of 12,500 square feet. The proposal would fit in with the surrounding properties.

- Locust Hills residents and the applicant prefer the cul-de-sac. The applicant would be fine with a paved street width of 26 feet and a right-of-way width of 40 feet. There would be a retaining wall in the right of way to save a stand of pine trees.
- The McGinty Road West and Bushaway Road intersection is a busy one. The applicant did not see the need for a street connection.
- A cul-de-sac would be safer, residents prefer them, and it would create less traffic for the Bantas Point Road area.
- A pedestrian connection might make sense.
- He was available for questions.

In response to Powers' question, Mr. Robinson explained that having a 40-foot right of way instead of a 50-foot right of way would allow a retaining wall to be moved and save three pine trees.

Henry asked if the right of way could be moved to the south. Mr. Robinson stated that he has not yet had the opportunity to look at that close enough.

Maxwell asked if trees for mitigation would be planted in the trail easement. Mr. Robinson stated that a condition of approval prohibits trees from being planted in an easement. The homeowner's association would maintain the open space.

Chair Sewall asked if the unbuildable portion of the site on the south was calculated into the average lot size. Mr. Robinson answered affirmatively.

The public hearing was opened.

Bill Bay, 560 Locust Hills Drive, stated that:

- He is the president of the Locust Hills Homeowners' Association.
- He understood the advantages of a thru street. A lot has changed since 2006. The area is now fully developed. The area is very active. Bushway Road and County Road 101 were widened and enhanced for bikers. McGinty Road West was expanded for pedestrian and biker traffic. Wayzata has improved its attractiveness. The amount of traffic in the area has increased. The thru street is not valid now because it would be used as a cut-thru to McGinty Road West. The increase in traffic volume would create an unsafe situation.

Robert Keena, an attorney on behalf of Locust Hills residents, stated that:

- Residents received notice of an extension that "may extend." There is nothing in the declaration that says, "We are providing you notice that this

will be a thru street.” There is a difference between extending a dead end and making it into a thru street, and the notice was that it might extend.

- The neighborhood roads are incredibly narrow. There is a public safety issue for pedestrians and bikers on narrow, curvy streets. Drivers are in a hurry.
- The transportation plan values keeping traffic on main arteries.
- On behalf of neighbors, he requests the plan be approved as submitted with a cul-de-sac.

Tim Haden, 1620 Locust Hills Place, stated that:

- Cul-de-sacs have value. That is why realtors advertise a house being located on a cul-de-sac. The proposed properties would be worth more located on a cul-de-sac. His property value would go down because of the smaller houses.
- The neighborhood history has value.
- He lived on a thru street before, and traffic was backed up during rush hour.
- There are private walking trails behind the houses he wants to keep secure.
- The houses would generate more tax revenue for the city if located on a cul-de-sac.

Herman Wipperfurth, 16533 Locust Hills Terrace, stated that:

- He loves Minnetonka. He thanked commissioners for their time.
- Vehicles park on one side of Locust Hills Terrace. Golf carts travel on the street. Drivers are in a hurry. Traffic congestion occurs in the area. The narrow street is not adequate for bikers or pedestrians or an increase in traffic. The thru street would not be in the public’s best interest.
- He was fine with the proposed 15 feet of a walking trail.
- He did not want the street to go thru.

Sean Weinand, 605 Locust Hills Drive, stated that:

- He agreed with the other comments.
- He likes the applicant’s proposal.
- The two neighborhoods should not be connected.
- Cul-de-sacs create a community.
- He supports the proposal as it is proposed.
- This is one of the best presentations he has seen.
- He appreciates commissioners’ efforts.

Jim Corwin, 1605 Locust Hills Trail, stated that:

- He opposed the thru street. It would impact everyone who walks in the residential area.
- He was "turned around" by hearing more discussion regarding trees than people's issues.

Jack Hinnenthal, 2401 Bantas Point Road, stated that:

- He requested a stop sign be installed before Bantas Point Road. That would be critical no matter if the proposal would have a cul-de-sac or thru street.
- He thanked the city staff and the applicant for reducing the number of proposed residences to six.
- He appreciated the elimination of dredging the channel.
- His biggest concern is that docking would be located north of the bridge, which creates a dangerous situation. The bridge is humped and has a curve. He suggested docking not be located north of the bridge unless it would be substantially further from the bridge and in a safe area.

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

Thomas stated that:

- A stop sign would be required to be installed at Bantas Point Road.
- The Lake Minnetonka Conservation District is the governing authority that grants permission for docks to be located in Lake Minnetonka.

Mr. Robinson understood the concern for locating a dock north of the bridge on Bantas Point Road. That could be a dangerous situation. A dock is not part of the current proposal.

In response to Henry's question, Thomas stated that the staff's recommendation reflects the city attorney and engineering staff's recommendations.

Powers noted that neighbors have been describing the area as incredibly unsafe. He asked if there have been numerous police reports taken in the area. Thomas stated that crash data was collected along McGinty Road West, and its number of traffic accidents was found to be comparable with the rest of the city.

Chair Sewall reopened the public hearing.

In response to Henry's comment, Mr. Keena reiterated that the notice was not for a "thru street" but of an "extension."

Chair Sewall closed the public hearing.



Banks confirmed with Thomas that residents are concerned with current cut-thru traffic and an increase in cut-thru traffic if the project would have a thru street. Thomas stated that staff could request additional traffic accident data for the area from the city of Wayzata before this item is reviewed by the city council.

Waterman thanked staff, the applicant, and neighbors for having a good discussion. He stated that:

- He was concerned with planned unit development (PUD) zoning being used to circumvent ordinance requirements. Reducing the density alleviated some of those concerns. Developing the land to be compatible with the surrounding area is a public benefit.
- There has been a diligent effort to preserve as many trees as possible.
- He likes that there would be some undulation left rather than a flat piece of land.
- He respectfully disagrees with staff. He prefers to keep the cul-de-sac. He encourages the HOAs to work thru developing a pedestrian connection. He saw that a detriment may be caused to the existing neighborhoods by creating the thru street.
- He supports approving the proposal with staff's recommendations except for the requirement to have a thru street rather than the cul-de-sac as presented by the applicant.
- He supports requiring the 50-foot right-of-way easement or reducing it a few feet if it could make a big difference, but not reducing it to 40 feet in width.

Powers stated that:

- Commissioners care more about people than trees, but that does not mean that commissioners do not care about trees.
- The application meets the PUD standards. He supports the property being rezoned to a PUD.
- He wrestled with choosing between the thru street and cul-de-sac.
- He was not sure he wanted to risk anyone going to Locust Hills since the residents have said that it is so unsafe.
- He supports the 50-foot-right-of-way-street easement.
- He commended the developer for listening to commissioners and neighbors at the concept plan review.
- He supports staff's recommendation with the exception of including the cul-de-sac rather than a thru street.

Banks stated that:

- He supports the rezoning to a PUD.
- The developer did a great job by reducing the number of houses and eliminating the drudging.

- He agreed with Waterman and Powers. He prefers the cul-de-sac to the thru street, not because it would significantly impact traffic, but it would be aesthetically more pleasing.
- He supports the 50-foot street right of way.
- He thanked residents for voicing their opinions respectfully.
- He suggested that the developer meets with the neighbors if he begins to consider where to locate a dock.

Maxwell stated that:

- She appreciated Thomas' presentation and the developer's presentation.
- She thanked residents for their input.
- She appreciated the developer's effort to listen to staff and neighbors and for decreasing the number of houses, meeting the tree ordinance, and utilizing a cul-de-sac.
- PUD zoning would be appropriate for this site, and the preliminary plat is acceptable.
- She prefers a sidewalk path to connect the two neighborhoods rather than a street to create a sense of community while addressing the neighbors' concerns about safety and privacy.
- A cul-de-sac would create more space for snow storage, so a compromise between 50 feet and 40 feet may be appropriate for the street right-of-way since either width could accommodate utilities.

Henry stated that:

- The best thing would be to have a cul-de-sac instead of a thru street.
- The justification for a PUD is acceptable in this proposal.
- The city and applicant may work together to come to an agreement for a right-of-way between 40 feet and 50 feet that would allow the proposal to still meet tree protection requirements.
- He supports the staff's recommendation with a modification to allow the cul-de-sac instead of the thru street.
- He fully supports the pedestrian access.

Chair Sewall stated that:

- He commended the applicant for making modifications to the concept plan. The proposal is a large improvement.
- He understood the justification for the PUD.
- He supports the staff's recommendation for the street right-of-way.
- He understood the potential for benefits with a thru-street, but he did not think they would be realized, so he felt leaving the cul-de-sac would be fine.
- He likes the idea of a walking path. Locust Hills is a wonderful place to walk. The streets are narrow.

***Powers moved, second by Henry, to recommend that the city council:***

- ***Adopt an ordinance rezoning the property from R-1, low-density residential, to a planned unit development and adopting a master development plan.***
- ***Adopt a resolution approving the preliminary plat of Island Oaks with a cul-de-sac as presented in the application rather than a thru street as required in the staff report with a modification provided in the change memo dated July 15, 2021 and the addition of a pedestrian access.***

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

**9. Adjournment**

***Banks moved, second by Maxwell, to adjourn the meeting at 8:53 p.m. Motion carried unanimously.***

By:

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