

**Minnetonka Planning Commission  
Minutes**

**Sept. 30, 2021**

**1. Call to Order**

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

**2. Roll Call**

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

Staff members present: Community Development Director Julie Wischnack, City Planner Loren Gordon, Assistant City Planner Susan Thomas, Natural Resources Manager Leslie Yetka, and IT Assistant Joona Sundstrom.

**3. Approval of Agenda**

***Waterman moved, second by Henry, to approve the agenda as submitted with additional comments and a survey provided in the change memo dated Sept. 30, 2021.***

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

**4. Approval of Minutes: Aug. 19, 2021**

***Banks moved, second by Maxwell, to approve the Aug. 19, 2021 meeting minutes as submitted.***

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

**5. Report from Staff**

Gordon briefed the commission on the city-wide open house that will take place next Tuesday, Oct. 5, 2021, from 5 p.m. to 8 p.m.

The next planning commission meeting is scheduled to be held on Oct. 14, 2021.

**6. Report from Planning Commission Members**

Maxwell noted that early voting is available at city hall.

Powers encouraged everyone to attend the open house and tour the new police and fire facilities.

**7. Public Hearings: Consent Agenda**

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

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

**A. Resolution approving a setback variance to enclose an existing deck at 2418 Emerald Trail.**

Adopt the resolution approving a setback variance to enclose an existing deck at 2418 Emerald Trail.

**B. Resolution approving an aggregate side yard setback variance for an addition to the existing home at 3977 Earlynn Lane.**

Adopt the resolution approving an aggregate side yard setback variance for an addition to the existing home at 3977 Earlynn Lane.

**C. Resolution approving a front yard setback variance for an addition to the existing home at 15111 Stone Ridge Trace.**

Adopt the resolution approving a front yard setback variance for an existing home at 15111 Stone Ridge Trace.

**D. Resolution amending the existing sign plan to allow a wall sign at 12400 Whitewater Drive.**

Adopt the resolution amending the existing Minnetonka Corporate Center sign plan as it pertains to 12400 Whitewater Drive.

Jason Meyer, the applicant, was available for questions.

***Maxwell, Powers, Waterman, Banks, Henry, and Hanson voted yes. Sewall was absent. Motion carried, and the items on the consent agenda were approved as submitted.***

Acting Chair Hanson stated that an appeal of the planning commission's decision to the city council must be made in writing to city staff within ten days of this meeting.

**8. Public Hearings**

**A. Ordinance regarding definitions and lot shape.**

Acting Chair Hanson 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.

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

Waterman found the proposed ordinance amendment straightforward. The housekeeping changes make sense. He agrees with the changes and promotion of regular-shaped lots as long as a variance could be approved when needed to protect natural features. He appreciates the steep-slope clarification.

***Henry moved, second by Powers, to recommend that the city council adopt the ordinance amendment regarding definitions and lot shape.***

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

This item is scheduled to be reviewed by the city council on Oct. 18, 2021.

**B. Ordinance regarding tree protection.**

Acting Chair Hanson introduced the proposal and called for the staff report.

Thomas, Yetka, Gordon and Wischnack reported. They recommended approval of the application based on the findings and subject to the conditions listed in the staff report.

In response to Henry's question, Gordon explained how a survey was utilized to collect input from residents who were given six weeks to respond. A month is a good length of time for a deadline to receive comments since a majority of people tend to forget the request after a few weeks.

Wischnack noted that, as shown in the staff report, 29 percent of the 2,071 subscribers to the city council, planning commission, and sustainability commission packets and 37 percent of the 7,065 emails sent to subscribers of the Natural Resources News and Events, Sustainable Minnetonka, and Latest News opened and read the agenda packet for the meeting. The survey will be open and accepting comments until the city council meeting, and 96 residents have already taken the survey.

Henry noted that many survey respondents favor protecting Minnetonka's tree canopy and support tree protection ordinances that would require more tree preservation than the proposed changes to the tree protection ordinance.

Wischnack stated that 95 percent of respondents in the city-wide survey answered that Minnetonka does a good or excellent job of forest management.

In response to Henry's comment, Yetka explained that the proposed amendment would allow staff to look at individual sites, determine which trees would provide more benefit than others, and gain protection for the tree species that are considered highly valuable.

Thomas provided an example of a site that would require either the removal of a cottonwood tree or an oak tree. In that situation, the site plan that would preserve the oak tree would be approved.

Maxwell supports making the tree-species-priority list available to developers and property owners before one would submit an application for a land-use project. Thomas agreed that it would be advertised and provided to applicants. The list was not included in the ordinance so that the list could be modified without an ordinance amendment.

Banks asked how the escrow deposit is handled when the \$500 penalty is imposed and under what circumstances an applicant would pay into the natural-resource fund. Gordon explained that one piece that determines a landscape plan is based on the monetary value of a project. Sometimes there is not enough area to plant all of the required landscape for a project on the site. An applicant could pay into the natural-resource fund in exchange for not planting all required vegetation on the site. The funds would be used to plant the landscaping somewhere else in the city.

Thomas explained that the amount of the escrow deposit would be based on the cost to replace the required landscaping. After a full growing season, natural resources staff visit each site to make sure the required landscaping is still alive. Staff will return the escrow to the applicant once the landscaping has survived one year.

Yetka explained that mitigation of landscaping to another site is determined by the height and diameter of each tree and additional vegetation. The value to be paid to the natural resource fund would be determined on a case-by-case basis.

Wischnack explained that Minnetonka has enforced violations of the tree protection ordinance based on amounts provided in the city charter.

Waterman thanked staff and the public for responding to the survey. He noted the more restrictive single-family home requirement. He asked if single-family property owners removing trees is a current issue that causes a lot of tree loss. Thomas explained that house removal and reconstruction occur fairly often, and typically a smaller house is replaced by a larger house. The proposed amendment would be a significant change from the current ordinance.

Waterman asked for examples of previous applications that would not have met the new proposed ordinance standard. Thomas knew of several applications that removed 35 percent of the high-priority trees. She suspects that several proposals previously approved would not meet the requirements of the proposed ordinance and would require different site designs or building placement to meet the proposed requirements.

Waterman asked how 50 percent was chosen. Thomas answered that no other community has the current tree protection requirements that Minnetonka has and do not have anything similar to the 50 percent requirement. It would be a significant change.

Powers appreciated the work done by staff. He likes everything proposed in the ordinance but felt it would be "too timid." Powers supports the city by reviewing the tree protection ordinance on a regular basis, extending the lookback for tree removal from two years to ten years, and working to grow the tree canopy by requiring two or three trees to be planted for every one removed.

Yetka explained that the mitigation ratio of high-priority trees is one inch in diameter to one inch in diameter, not one tree for one tree. That is not changing. The proposal would change the current ordinance to require that every significant tree removed to be replaced by two-inches-in-diameter of a significant tree.

Henry supports expanding the woodland protection areas. Yetka explained that the woodland protection areas are remnants of land from the canopy to the ground that preserves what ecosystems historically existed previously.

Henry asked if eliminating invasive species could be included in the tree ordinance. Yetka explained that it is more in the realm of educating and reaching out to property owners to help them understand the benefits of removing invasive species and planting native species.

In response to Hanson's request, Thomas directed those interested in learning about tree ordinances in other cities to follow a link provided in the staff report. Staff was unable to find another ordinance that protects heritage trees, requires replanting, and protects forested areas.

Hanson noted that the proposed ordinance would lead the way in tree protection ordinances.

Maxwell asked what kinds of incentives had been considered. Gordon responded that the city has sponsored a subsidized tree sale for residents for several years and frequently provides educational seminars. Yetka explained that the incentives would not be listed in the ordinance. Natural resources staff constantly scout the city, looking for trees with diseases that have to be removed. Sometimes the city helps fund the removal of diseased trees. The city provides education for replanting and is looking at increasing the number of trees offered by installing a gravel-bed nursery to grow more small trees and make them available to residents who have lost trees. That is a goal for 2022.

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

Maxwell saw the benefit of the changes. She was unclear on how much it would cost. A developer may not even submit an application because the tree protection ordinance could not be met, and the cost would never be known. Review of an application could take an extra two months, more staff time, and costs she may be unaware of to meet tree protection ordinance requirements. She supports the changes but would like to have an idea of what it could cost.

Wischnack explained that staff emailed the proposed changes to developers. The gathering of data for each proposed project would be gathered the same way for any application. It is possible the changes may cause re/developments not to happen. The Dominion project reworked its site plan a few times to meet current tree protection ordinance requirements. Maxwell appreciated that an applicant could work with staff to get a proposal as close as possible before submitting an application that would be reviewed by the planning commission. She wanted to make sure that was an option.

Maxwell thought the focus could be on tree protection and tree replacement. She supports the proposal. She appreciates the staff's hard work and excellent presentation.

Banks thanked the staff for the great presentation and proposed changes. He supports the proposal. It moves the city in the right direction. It would help prevent climate change. He would appreciate clarity regarding the cost that would be paid into the natural-resources fund to allow developers to budget for that cost. He would love to see a lot of education for property owners and developers utilizing the website and Minnetonka Memo.

Waterman thanked the staff for the informative presentation. He was glad to see a general agreement from resident comments that support the changes to protect the tree canopy. The ordinance amendment is important to protect a natural resource that cannot be easily replaced. The goal is to enhance and maintain the tree canopy. He agrees that not all of it can be done with ordinances. He supports the current programs such as the tree sale and educational seminars. The proposal is a big step forward in regard to subdivisions and residential, single-family house redevelopments while respecting individual property-owner rights. He struggled with some previously approved projects that removed a large number of significant trees. If there is a great public good, a variance could be approved. He supports the proposal.

Powers appreciates the staff's work on the proposed ordinance amendment. He supports the proposal but would support councilmembers making some changes such as making the look back three years instead of two years and replacing a tree an inch in diameter with a tree one foot in diameter. This is an opportunity to get in front of what is happening with the environment.

In response to Henry's question, Wischnack referred to the presentation that showed that Minnetonka has more tree canopy now than it ever has since it was recorded. The area previously consisted of numerous farm fields.

Henry acknowledged the thought and effort put into the proposal. He likes the forest of the future ideas. He likes the tree sale. The proposal has what it needs. He likes the ordinance amendment the way it is. He supports the proposal.

Acting Chair Hanson did not like the single-family residential restrictions. He thought that went way too far. That was his feedback as an individual. He shared the concern that some re/development projects may be prevented, but he felt that the proposal makes the

city more attractive for better re/developments. He thanked the staff for two years of work. He looks forward to seeing what happens at the city council review.

***Powers moved, second by Waterman, to recommend that the city council adopt the ordinance amendment regarding tree protection.***

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

This item is scheduled to be reviewed by the city council on Oct. 18, 2021.

**9. Adjournment**

***Maxwell moved, second by Banks, to adjourn the meeting at 8:52 p.m. Motion carried unanimously.***

By: \_\_\_\_\_

Lois T. Mason  
Planning Secretary