

**Unapproved
Minnetonka Planning Commission
Minutes**

Oct. 28, 2021

1. Call to Order

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

2. Roll Call

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

Staff members present: City Planner Loren Gordon, Senior Planner Ashley Cauley and Planner Drew Ingvalson.

3. Approval of Agenda

Maxwell moved, second by Henry, to approve the agenda as submitted with additional comments provided in the change memo dated Oct. 28, 2021.

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

4. Approval of Minutes: Oct. 14, 2021

Waterman moved, second by Hanson, to approve the Oct. 14, 2021 meeting minutes as submitted.

Waterman, Banks, Hanson, Henry, Maxwell, Powers, 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 Oct. 18, 2021:

- Adopted a resolution approving Tonkawood Farms Third Addition at 15014 Highwood Drive.
- Introduced an ordinance for items relating to Dick's Sporting Goods and referred it to the planning commission.
- Adopted an ordinance amendment pertaining to definitions and lot shape.
- Adopted an ordinance amendment regarding tree protection.

The next planning commission meeting is scheduled to be held Nov. 18, 2021.

6. Report from Planning Commission Members: None

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

8. **Public Hearings**

A. Resolution approving a conditional use permit and setback variance for a deck, patio and hot tub at 5724 Seven Oaks Court.

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.

Hanson asked for the definition of a bluff. Ingvalson explained that a bluff has a slope of more than 20 percent and is located within 1,000 feet of a shoreline.

Henry asked if the fence had been installed by the city or the property owner. Ingvalson answered the property owner. A fence at least five feet in height would be required to surround a swimming spa.

Maxwell asked for the intent of the bluff impact ordinance. She suspected it was designed to prevent erosion and address stability concerns. Ingvalson agreed that the bluff impact ordinance was designed to protect the bluff and natural resources such as Glen Lake by preventing erosion, maintaining stabilization and keeping the appearance of the view shed more natural. A condition of approval would require the pavers to be impervious so water would soak into the ground instead of significantly increasing the amount of water runoff. The applicant has already done a lot of work to stabilize the bluff area. A bluff impact zone allows specific recreational uses. A bluff setback would restrict a building from being constructed in the setback.

In response to Waterman's question, Ingvalson explained that the properties in the area were developed in the 1980s and bluff requirements were created in 1993. Those properties are considered legal, nonconforming uses.

Henry confirmed with Ingvalson that the fire pit would have to be removed if the application would not be approved by the city council and there is a zero-foot setback for steps located on the side of a property.

Chair Sewall confirmed with Ingvalson that staff's recommendation would require the swim spa to meet setback requirements.

Pam Kosanke, 5724 Seven Oaks Court, applicant, stated that she appreciates the thorough presentation done by staff and everyone's time. She explained that:

- Before she started the project, she hired a landscape architect, architect, designer and engineers to make sure everything would be done properly.

After several months of being told and having it in writing that the plan would be fine and no building permit would be needed, she learned of the setback and conditional use permit requirements. She was told by three swim spa retailers that Minnetonka has no building permit requirement and the plan would be fine. She had no intention of doing anything incorrectly.

- She spent over \$10,000 over the last two years to stabilize the bluff with the help of Land Bridge Ecological.
- The neighbor who previously lived next door moved and the new owners have no problem with the proposal.

Greg Ratten, architect for the applicant, stated that:

- He has been working with the homeowners, Ingvalson, and Natural Resources Specialist Sara Middleton to make the proposal as close to compliant with ordinance regulations as possible.
- The side-yard setbacks would now be met.
- A slab would be needed under the lap pool, but it would be located under a tub that would hold water.

Maxwell asked for the purpose of the stairs. Mr. Ratten said that there would be no other way to get up and down the slope. An engineer designed the stairs to provide the least amount of impact to the site. It would be difficult to locate the stairs to meet setback requirements.

Banks asked how much work was done with the previous contractor. Ms. Kosanke said that the hot tub was not located in the correct location. She has paid to have it installed and ripped out already. Four contractors and swim spa retailers told her that a permit would not be needed. She is trying to find a solution that would be safe, fair and respects the bluff.

Chair Sewall confirmed with Mr. Ratten that the swim spa and concrete slab would be approximately eight feet by sixteen feet in size.

Ingvalson said that natural resources staff notified him that a concrete slab under the swim spa was included in the request and included for approval in staff's recommendation.

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

Powers supports staff's recommendation. He noted that the neighbors at 5746 Seven Oaks Court have no concerns with the proposal. The applicants are good stewards of the land. He supports the applicant being able to keep the fire pit.

Ingvolson clarified that the fire pit is included in staff's recommendation and would be allowed to stay with a preexisting patio.

Waterman agreed with Powers. He appreciated the applicant's efforts to work diligently with the city. The request is fairly straight forward. He agrees with staff's recommendation to approve the variances for all of the reasons listed. It does not appear that there would be a significant impact to the bluff or shoreline. He was glad the applicant was able to work with staff to create an acceptable project.

Maxwell found this proposal to be a challenge. It was unfortunate that so much work went into the project and contractors gave the applicant wrong information. She was concerned with having no setback to the top of the bluff. She did not think there would be enough space to meet the requirements. She thought the hot tub and fire pit would be o.k., but the swim spa would be too close. She trusts the conditions of approval made by staff, including natural resources and engineering staff, to protect the bluff. She was having a hard time making a decision because she did not want to set a precedent to allow a setback variance of zero feet.

Henry appreciated commissioners' comments. He encouraged property owners to call city staff when considering a home project. He was not a fan of even pervious pavers being located up to the top of the bluff. He trusts the expertise put into staff's review and conditions included in the recommendation for approval of the proposal. The request is reasonable. He supports staff's recommendation.

Chair Sewall feels for the applicant being given misinformation from retailers. He was concerned with the side-yard setback, but the neighbors do not have an issue. He supports staff's recommendation.

Waterman moved, second by Banks, to recommend that the city council adopt the attached resolution approving a shoreland-setback variance, bluff-setback variance, and bluff-impact-zone conditional use permit for the proposed recreational items at 5724 Seven Oaks Court.

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

This item is scheduled to be reviewed by the city council on Nov. 8, 2021.

B. Resolution approving the preliminary plat of Monson Meadows, a two-lot subdivision with front-yard setback variances, at 5500 Rowland Road.

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 Hanson's question, Cauley explained that either a shared driveway or separate driveways would be allowed. Both options are included in the staff report.

In response to Henry's question, Cauley answered that the wooded area is no longer large enough to qualify as a woodland preservation area.

Banks asked what the purpose would be for the front yard setback on Lot 2. Cauley explained that the variance would allow the house to be moved forward to create more separation from the house and the steep slope. The 50-foot front yard setback diminishes the site's buildable area.

Waterman confirmed with Cauley that the proposal met the tree preservation ordinance requirements when it was submitted. A condition of approval would require the building permit to be in substantial compliance with the approved plans including the location of the driveway.

Brian Lubben, 4501 Hunters Ridge Road, introduced himself and his wife, Sue, applicants. He stated that:

- He is an architect and plans to live in a house on one of the lots.
- He represents Mike Monson who did purchase the small corner of land to clean up the shape of the parcel.
- The property is 1.5 acres and very steep. Mr. Monson purchased the property in 2005 and many ideas have been considered on how it could be developed. This plan was created a year ago and works hard to fit the site, preserve the slopes and preserve the trees. The property is beautiful. As many trees as possible would be saved.
- The 10-foot-front-yard-setback variance is necessary to protect the steep slopes and wetland. The setback would allow construction to be done safely on the west side and create a safe site when completed.
- The retaining walls on Lot 2 are currently there and have been for years.
- Staff did a great job on the staff report and presentation.
- One of the reasons to locate the house on Lot 1 where it is proposed is to be able to reuse existing utilities and prevent the need to install additional ones. It has a very steep bank and has stone walls. The goal is to keep disturbance of the site to an absolute minimum.
- He was available for questions.

In response to Henry's question, Mr. Lubben answered that the elevation from Rowland Road to the shared driveway would be five feet which is at the max to bring the houses and shared driveway up a little bit to prevent the need to do a lot of grading on the back side of the house and save trees. A lot of the streets in Minnetonka are sloped at seven percent and eight percent. His previous house had a driveway that was 15 percent. He would not do that again.

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

Waterman confirmed with Cauley that city engineers and building inspectors would determine the usability of the existing water and sanitary sewer pipes at the time of construction.

Hanson said that the property is awesome. The plan feels modest, respectful and meets the tree protection ordinance requirements. He wishes the applicants good luck. He was excited to see the proposal come to fruition.

Waterman agreed. He supports staff's recommendation. He appreciates the use of judgement when deciding on building placement and request for a setback variance to allow for greater preservation of the natural features. It is great that it meets the tree protection ordinance requirements. He commended the applicant. He supports the proposal.

Maxwell agreed with Waterman. The tradeoff to save trees and protect the slope for 10 feet of a 50-foot setback would be a good use of a variance. The neighbors across the street are well buffered from the street. She supports staff's recommendation. The proposal is very well done.

Powers agreed with commissioners. The proposal is a victory for good land stewardship. He supports the proposal.

Chair Sewall agreed. This proposal is a great reason for a variance. He was not a fan of shared driveways, but he understood the issues. He supports staff's recommendation.

Maxwell moved, second by Henry, to recommend that the city council adopt the attached resolution approving the preliminary plat of Monson Meadows, a two-lot subdivision with front-yard setback variances, at 5500 Rowland Road and the adjacent unaddressed parcel.

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

This item is scheduled to be reviewed by the city council on Nov. 8, 2021.

C. Resolution approving a conditional use permit for a restaurant at 1641 Plymouth Road.

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.

Hanson was concerned that the previous use and proposed use would not be different enough for the proposed use to have a great enough reduction in parking need for the proposed number of parking stalls to accommodate the proposed use's parking demand. Cauley explained that a restaurant with a liquor license is required to have a parking stall for every 50 square feet. Retail spaces are required to have 5.5 parking stalls for every 1,000 square feet of space. The proposal would have mostly retail space and a very small restaurant space compared to the former use which was entirely used as a restaurant. Parking ordinance requirements often require much more parking area than what parking studies determine would be needed.

In response to Henry's question, Cauley explained that staff notified 1,297 area property owners and received no comments. She explained how the parking study was conducted and the times when the site was observed.

In response to Maxwell's question, Gordon explained that the city council has authority to issue or deny liquor licenses.

Omar Torres, VP of Marketing for Top Ten Liquors, representing the applicant, stated that:

- He appreciated everyone attending the meeting.
- He was happy to work with staff, councilmembers and planning commissioners to open a Top Ten Liquors in Minnetonka.
- The proposal is a new concept for the enjoyment of wine and spirits in the state. The proposal would be a wine bar, restaurant, cheese shop, and liquor store that would provide an experience of all things related to wine. There would be over 100 bottles of wine kept in a preservation system available for customers to try.
- The liquor store would take up 7,400 square feet of the building. The experiential place would utilize 1,300 square feet of tailored and specifically catered grocery items. The cheese bar, wine bar, and seating area would use 2,100 square feet.
- It would not be a full-blown restaurant. There would be cheese and wine. The system would not do bubbly or champagne. There would be beer.
- This type of concept has been working out east and in California.
- There would be no full-blown service kitchen. There would be no fumes created. There may be a small flat bread oven. There would be small plates with deli, lunch items. The floor plan has been adapted after each meeting with city staff and will continue to be modified to meet all requirements.
- Top Ten Liquors provides a great product, great service and great value to its customers. This concept is the evolution to add to the experience. The selections and services would be tailored to complement each other. Restaurants 14,000 square feet in size are no longer as successful as they once were and retail uses that do not provide an experience are

often not successful. The proposal would combine the successful parts of both.

- Wine Side is all about wine. He is proud to support Minnesota products. Local beer and distilleries would be provided in the bar area and liquor store. The tasting center would mostly have wine, but the bar area would have cocktails and local beer.
- Wine Side uses a wine preservation system like a little refrigerator and helps educate the patrons about wine.
- The signs shown in the proposal are the size that the city would allow. He would now work with the property owner to meet the property's regulations.

The public hearing was opened.

Robert Ludwig, 733 Fairfield Circle, asked if competing businesses received the public hearing notice postcard.

No additional testimony was submitted and the hearing was closed.

Cauley stated that the public-hearing-notice postcard was sent to 1,300 area property owners and all liquor-license holders in Minnetonka.

Hanson loves the concept. It would work well in the Ridgedale area. The walkability for the residents in the Ridgedale area would make it a great fit. He likes the experiential component of the use. He struggled with the size of the parking variance, because he would hate for this to be used as an example in another case. He hopes the use would be successful. He encouraged a shared parking agreement be completed. He does not think there would be a parking issue in the long term. He supports staff's recommendation.

Maxwell loves the concept. It is a new, unique use for the space that complements what is already available at Ridgedale. She lives near the area and walks and bikes in the area. The parking lot area could use the addition of sidewalks to provide pedestrian safety. She has never had a problem parking except for the two weeks before Dec. 25th. She supports the proposal.

Henry likes the concept. The applicant has put ample thought into the concept and has utilized the feedback from councilmembers and staff. It would be a great addition to Minnetonka. Ridgedale is considered more of a destination than it used to be. It would complement what is already there. He encouraged city staff to look at making the parking area more walkable and connected to surrounding areas. He supports staff's recommendation.

Powers likes that Minnetonka would be an incubator for a new idea. He wants the business to be a very visible success. He likes that local wines and beers would be

featured. He likes the idea. He is concerned about the parking, but he left that to the experts and others to handle if it would become a problem.

Banks supports the proposal. The concept is put together well. It would be interesting to see how it does. He hopes it does well. The mall would provide an overflow parking area. A pedestrian crosswalk at the three-way-stop sign might help if parking would become an issue. He noted that there are three liquor stores in close proximity. He supports the proposal and looks forward to trying it out.

Waterman supports the proposal. Everyone he spoke to is excited about the concept. He supports the restaurant. The liquor store caused him a moment of pause. He supports councilmembers tying operation of the liquor store to operation of the restaurant. He was a little concerned with parking and traffic flow, but the study is comfortable with the amount of parking. He supports staff's recommendation.

Chair Sewall appreciated commissioners taking a good look at the amount of parking. The Copper Cow and Duke's have had parking issues. There is ample parking and overflow parking options for this site. Champs had ample parking. He was comfortable with the parking. He agreed that making the west side of the Ridgedale area more pedestrian accessible is needed. He suggested making the signs distinguish the areas for off-sale of liquor and areas for wine and cheese tasting. He supports staff's recommendation.

Powers moved, second by Hanson, to recommend that the city council adopt the attached resolution approving a conditional use permit and parking variance for a restaurant at 1641 Plymouth Road.

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

This item is scheduled to be reviewed by the city council on Nov. 8, 2021.

9. Adjournment

Banks moved, second by Hanson, to adjourn the meeting at 9:05 p.m. Motion carried unanimously.

By: _____
Lois T. Mason
Planning Secretary