



MINUTE SUMMARY
Regular Meeting of the Edina Planning Commission
Wednesday, September 2, 2009, 7:00 PM
Edina City Hall Council Chambers
4801 50th Street West

MEMBERS PRESENT:

Chair Mike Fischer, Jeff Carpenter, Julie Risser, Nancy Scherer, Kevin Staunton, Michael Schroeder, Steve Brown, Floyd Grabel and Patrick Schnettler

STAFF PRESENT:

Cary Teague and Jackie Hoogenakker

I. APPROVAL OF THE MINUTES:

The minutes of the July 29, 2009, meeting were filed as submitted.

II. NEW BUSINESS:

2009.0007.09a

Lot Division
Greg McCullough
4306 Grimes Avenue
4209 Morningside Road

Planner Presentation

Planner Teague informed the Commission Greg McCullough, is proposing to shift the existing lot line that divides 4306 Grimes and 4209 Morningside Road for the purpose of providing a 20-foot strip of land to 4209 Morningside Road. The shift would follow the recent lot division that dedicated 20 feet of land to the adjacent property to the east, the Morningside Church.

Planner Teague explained that the two properties are 27,487 square feet in size. The previous home located at 4306 Grimes has been torn down, and several large trees removed. A new home is planned on the site. This lot is currently 19,265 square feet in size, after the recent transfer of land.

Planner Teague concluded that staff recommends that the City Council approve the Lot Division as requested.

Commission Action

Commissioner Forrest moved to recommend Lot Division approval based on staff findings and subject to staff conditions. Commissioner Scherer seconded the motion. All voted aye; motion carried.

2008.0014.09a	Overall Development Plan Amendment Final Site Plan Wayzata Properties 4820 77th Street West
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Planner Presentation

Planner Teague told the Commission Wayzata Properties is proposing to remodel the existing Walsh Title building at 4820 77th Street West from an 18,931 square foot office building to an 8,279 square foot, 140-seat Little Szechuan Restaurant, and a 10,652 square foot office. This building is located in the Gateway Development, which has an overall development plan for this entire area. This site is designated for office space on the plan. Planner Teague explained that the request requires an Overall Development Plan Amendment to allow a restaurant on this site and Final Site Plan Approval.

Planner Teague reported that Kimley-Horn conducted a traffic impact study based on the proposed development. Kimley-Horn concludes that the existing roadway system could support the proposed project. Per the original approval of the overall-development plan, mitigation measures are required for this overall project. These measures are spelled out specifically in the Preliminary Development Plan Agreement for Gateway. There are no traffic improvements that would be triggered as part of this request. The Transportation Commission considered the project at their August 20, 2009 meeting, and tabled the request, due to concerns over parking.

With regard to parking Planner Teague explained that based on the number of seats and employees in the restaurant, and the square footage of the remaining

office space, 95 parking stalls are required to support the project. The site plan demonstrates that 80 parking stalls exist on the site.

Kimley-Horn also conducted a parking study to determine if the site could function with 80 parking spaces. Based on the study, the proposed uses would function with 76 spaces. Planner Teague pointed out that the applicant has the ability to add 15 stalls on the site by reconfiguring and adding pavement in the green space areas, adding this could serve as proof-of-parking. Should parking ever become a problem on the site, staff could require the additional stalls to be constructed. This should be made a condition of any approval.

Planner Teague concluded that staff recommends approval of the Overall Development Plan Amendment and Final Site Plan to allow a restaurant at 4830 West 77th Street for Wayzata Properties based on the following findings:

- 1) The proposal would meet the required standards and ordinances for a Final Site Plan.
- 2) The Final Site Plan is consistent with the approved Overall Development Plan.
- 3) The proposed use is reasonable. It provides a reasonable on-site parking for the restaurant and office, based on the parking study that was performed by Kimley-Horn.
- 4) Execution of the proof-of-parking plan would provide enough parking to meet City Code.

Approval of the Overall Development Plan Amendment and Final Site Plan is also subject to the following conditions:

- 1) The site must be developed and maintained in conformance with the following plans, unless modified by the conditions below:
 - Site plan date stamped June 29, 2009.
 - Building elevations date stamped June 29, 2009.
 - Grading, Drainage & Landscape plan date stamped July 23, 2009
 - Overall Development Plan date stamped July 23, 2009
- 2) If required, submit a copy of the Nine Mile Creek Watershed District Permit. The city may require revisions to the approved plans to meet the District's requirements.
- 3) Should parking become a significant problem, staff will require the proof-of-parking stalls be constructed.
- 4) Compliance with all conditions listed by the city engineer in his memo.
- 5) Compliance with all conditions required by the Transportation Commission.

Appearing for the Applicant

Chris Hickok, Wayzata Properties, and JoNette Kuhnau, Kimley-Horn

Comments and Questions from the Commission

Commissioners raised the following questions on the parking element of the project:

- How is parking calculated for the site, noting the traffic consultant Kimley-Horn indicated in their analysis that 76 parking spaces would be sufficient.
- How would the site achieve the required parking stalls if a Proof of Parking Agreement is implemented,
- If approved how would the Proof of Parking Agreement be enforced (if the need arose),
- What would be another way to handle the parking stall shortage, and
- Where in the Zoning Ordinance is a Proof of Parking Agreement referenced.

Planner Teague responded to the Commissioners questions as follows:

- Per Ordinance parking is calculated based on the number of seats and employees in the restaurant, and the square footage of the remaining office space. Planner Teague stated his calculations found that the site requires 95 parking stalls, noting at present the site has 80 parking stalls. Mr. Teague acknowledged there is a difference between Ordinance requirements and the traffic impact study compiled by Kimley-Horn -
- The property owner has space to add 15 stalls on the site by reconfiguring and adding parking pavement in the green space areas. A Proof of Parking Agreement would be recorded to achieve those 15 spaces if the need arose.
- A Proof of Parking Agreement is a legally recorded document that can be enforced if the City deems it necessary - either by City observation, complaints or at the request of the property owner,
- If a Proof of Parking Agreement isn't implemented the property owner could request a variance from the City's parking requirements.
- There is no reference in the Ordinance to a Proof of Parking Agreement.

Commissioners questioned if the Gateway Overall Development Plan contained sidewalks. Planner Teague responded there is an overall development plan for sidewalks; however, that plan currently indicates that the sidewalk/pathway will be located to the rear of this building.

Applicant Presentation

Mr. Hickok, addressed the Commission and explained the building will be remodeled and the restaurant element will be located at the south end of the office building. Mr. Hickok told the Commission Wayzata Properties retained Kimley-Horn to conduct a traffic analysis which found that the existing roadway system would support this use and that in real time 76 parking spaces would be sufficient.

Comments and Questions from the Commission

Commissioner Risser asked Mr. Hickok where the restaurant clientele will come from, observing this appears to be a quasi-public use whereby nearby office tenants could walk. Mr. Hickok responded that he believes the lunch crowd will mainly come from the surrounding offices (in walking distance) and the dinner crowd will come from the offices and the general public.

Commissioner Staunton asked if sidewalks are planned along the front of the building. Mr. Hickok responded that no sidewalks are planned at this time.

Chair Fischer asked if the traffic counts considered all aspects of the day. Ms. Kuhnau responded in the affirmative, adding a time of day distribution was figured in, adding the parking calculation was established including the peak hours between 11.00 am-2:00 .

Commissioner Scherer asked the hours of operation. A representative from Little Szechuan reported that the hours of operation Monday-Friday are 11:00 am – 9:00 pm with 1 ½ hours off for employee down time. Weekend hours are different

Chair Fischer opened the public hearing. No public present to address the issue.

Commissioner Staunton said he is still concerned with the lack of a sidewalk in front of the building; however, in his opinion the restaurant is a good fit. Commissioner Staunton asked Planner Teague how to ensure that a sidewalk is eventually constructed in front of the building. Planner Teague responded that currently there are triggers established in the Overall Development Plan for sidewalk construction and the Commission could add (as a condition of approval) that when triggered sidewalk construction would include the subject site. Concluding, Commissioner Staunton pointed out that at this time the Commission is updating the Zoning Ordinance, adding a Proof of Parking Agreement is something that should be considered during the update process.

Commission Action

Commissioner Staunton moved to recommend approval of an amendment to the Overall Development Plan and Site Plan Review based on staff findings and subject to staff conditions including the following additional conditions:

- A sidewalk will be added to the front of the subject property at the appropriate time –

Commissioner Grabiell seconded the motion.

Commissioner Forrest commented that to her it is important not to lose the connectivity of the entire project, adding requiring a sidewalk in front of the subject site is a good thing.

Commissioner Schroeder asked Commissioners Staunton and Grabiell if they would accept a friendly amendment stating that:

- The developer plant 11 additional trees in anticipation of execution of the Proof of Parking Agreement – Commissioner Schroeder pointed out if the Proof of Parking Agreement is executed there would be a severe loss of trees and the 11 additional trees would off-set that loss

Commissioners Staunton and Grabiell accepted that amendment.

All voted aye; motion to approve carried 9-0.

2009.0006.09a

Final Development Plan with Variances
Hellmuth & Johnson Law Firm
8050 78th Street West

Planner Presentation

Planner Teague informed the Commission Hellmuth & Johnson Law is proposing to build a 5-story, 35,000 square foot office building with three stories of parking below two stories of office at 8050 West 78th Street. The existing site is vacant and is zoned POD-1, Planned Office District. Planner Teague told the Commission request requires the following:

1. Final Development Plan.
2. Variances:
 - a. Side yard setback variances from 50 feet to 36 & 38 feet. (4th floor)
 - b. Side yard setback variances from 64 feet to 57 & 56 feet. (5th floor)
 - c. Building Height variance from 4 stories and 50 feet to 5 stories and 64 feet.

Planner Teague concluded that staff recommends that the City Council approve the Final Development Plan with variances for the Hellmuth & Johnson Law Office at 8050 West 78th Street. The variances are as follows:

1. A Side yard setback variances from 50 feet to 36 & 38 feet. (4th floor)
2. Side yard setback variances from 64 feet to 57 & 56 feet. (5th floor)
3. Building height variance from 4-stories and 50 feet to 5-stories and 64 feet.

The proposal meets the required standards for a variance, because:

1. There is a unique hardship to the property caused by the shape of the lot, and the significant wetlands located over the north half of the site.
2. The variance would meet the intent of the ordinance because the building is reasonably sized given the allowed FAR in the POD-1 district is .50. The proposed FAR is .33.
3. The increase in the height of the building is due to minimizing the impact of the wetland by building a surface parking lot. The office portion of the building is two stories and the parking ramp three stories.
4. The building height is generally consistent with buildings and ramps in the area. There is an approved plan for an 8-story building and 5-story parking ramp for the property to the west; and there are 4-story existing office buildings to the east.
5. The site's location adjacent to Interstate-494.
6. The high water table prevents the parking from being constructed under ground.
7. The increase in density could be supported by existing roadways, as determined in the traffic study done by Westwood.

Approval is subject to the following conditions:

1. The site must be developed and maintained in conformance with the following plans, unless modified by the conditions below:

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- Site plan date stamped August 6, 2009.
 - Grading plan date stamped August 6, 2009.
 - Landscaping plan date stamped August 6, 2009.
 - Building elevations date stamped August 6, 2009
 - Wetland Impact plan date stamped August 6, 2009
2. The property owner is responsible for replacing any required landscaping that dies.
 3. Plans are subject to review and approval of the Nine Mile Creek Watershed District. If approved by the District, the city may require revisions to the approved plans to meet District requirements.
 4. Plans are subject to review and approval of any permits required by MnDOT. If approved, the city may require revisions to the approved plans to meet MnDOT requirements.
 5. All storm water from this site must be treated on-site.
 6. Compliance with the conditions required by the city engineer in his memo.
 7. Compliance with the conditions required by the Transportation Commission.
 8. All buildings must be built with sprinkler systems, subject to review and approval of the fire marshal.
 9. Per Section 850.10. Subd. 3.B of the City's Zoning Ordinance, a letter of credit, performance bond or cash deposit must be submitted in the amount equal to 150% of the proposed landscaping.
 10. Off-street provision of 9 bicycle parking spaces must be provided on site, subject to approval of the city engineer.

Appearing for the Applicant

Dean Dovolis, DJR Architects

Comments and Questions from the Commission

Commissioner Grabiell asked if anyone from the Park Board reviewed the proposal. Mr. Teague responded the Park Board did not review the development plans.

Commissioner Risser questioned if the City has established setbacks from wetlands. Planner Teague responded the City has no established setbacks from wetlands, adding the City relies on the Watershed District to review projects where wetlands exist, pointing out a condition of approval for the project is approval from the Watershed District.

Applicant Presentation

Mr. Dovolis addressed the Commission and explained the subject site is currently a vacant lot and Hellmuth & Johnson is proposing to construct their corporate headquarters on the site. Mr. Dovolis explained that he worked very hard to preserve the wetlands and the project just received preliminary approval from the Watershed District at 5:00 PM this evening..

Mr. Dovolis gave a power point presentation highlighting aspects of the proposal as follows:

- Structured parking - decreasing impervious surfaces
- Rain water recycled for irrigation, a rain garden to help with infiltration, a partial green roof deck and a white roof
- Native plantings will be planted along the rear of the property and more formal plantings along the front of the building,
- Right-in and right-out only
- Street improvements
- Building has a east-west orientation providing a narrow footprint, materials consist of cast stone cap, cast stone sills, utility brick, stone veneer, prefinished metal panels and cast stone window sills

Questions and Comments from the Commission

Chair Fischer asked Mr. Dovolis if there is glass in any of the openings in the structured parking. Mr. Dovolis responded in the affirmative – 50% of the structured parking contains glass. Mr. Dovolis clarified that the front façade and the east and west sides of the building will be glass with the rear elevation and lowest level open. Commissioner Risser asked Mr. Dovolis if there are exits on the rear elevation of the building. Mr. Dovolis responded in the affirmative. Continuing, Mr. Dovolis explained that at this time their intent is to leave the “rear yard” as natural as possible to ensure that no disruption occurs in the wetland.

Commissioner Grabiell asked Mr. Dovolis if there is a sidewalk on West 78th Street. Mr. Dovolis responded in the affirmative and with graphics pointed out the path of the sidewalk. Mr. Dovolis noted because of the County taking it is difficult to plan for a sidewalk along the subject site. Continuing, Mr. Dovolis pointed out that the sidewalk is inconsistent along West 78th Street and it comes and goes in patches, reiterating that in front of the subject site and the medical office building site a sidewalk can't be planned. Concluding Mr. Dovolis said after the taking and the reconfiguration of the interchange and West 78th Street it is possible a sidewalk could be added.

Commissioner Risser questioned who conducted the traffic analysis – Mr. Dovolis said Chris Starwood with Westwood did the traffic study. Mr. Starwood

said the proposed right-in and right-out and the restriping of West 78th Street would help with traffic flow. Commissioner Forrest commented that she agrees the right-in and right-out would work well for this site, adding that corner is pretty wild. Commissioner Forrest wondered if the building itself could reduce the speed of traffic in this area. Mr. Dovolis responded that that is possible, pointing out it is proven that obstacles do make drivers slow down.

Commissioner Staunton questioned if the County taking was a factor in building placement. Mr. Dovolis responded in the affirmative. Commissioner Staunton asked Mr. Dovolis if the building would be seen from the golf course. Mr. Dovolis stated he doesn't remember seeing any buildings from the course, adding there is a high ridge that surrounds much of the course.

Commissioner Schroeder asked the depth of the rain garden and its drain time. Mr. Starwood responded that the depth of the garden is roughly 1 ½ feet/18" with a drain time of 72 hours or less. Commissioner Schroeder noted it appears that on the landscaping plan Dogwoods are proposed, pointing out Dogwoods don't do very well in wet soil. Mr. Dovolis thanked Commissioner Schroeder for his observation, adding that would be checked

Commissioner Risser asked for clarification on the building run-off. Mr. Starwood explained the run-off process, noting the water run-off from the roof is pre-treated.

Commissioner Forrest questioned what's going on with the site next door – Planner Teague responded that site is approved for an 8-story building, adding they are required to return for Final Development Plan approval when they are ready to construct the building.

Chair Fischer asked if there was anyone present in the audience that would like to speak to this subject. No one present.

Commissioner Carpenter stated that this proposal strikes him as a very positive development that is very sensitive to the environment.

Commission Action

Commissioner Grabiell moved to recommend approval of 2009.0006.09a for a Final Development Plan with variances based on staff findings and subject to staff conditions. Commissioner Carpenter seconded the motion.

Commissioner Risser said she would like to encourage staff to adopt a wetland setback. Chair Fischer said that would be a good point to consider during the Zoning Ordinance update process.

Chair Fischer called for the vote; all voted aye; motion carried. 9-0

2009-0004.09a

**Zoning Ordinance Amendment
Accessory Buildings**

Planner Presentation

Planner Teague told the Commission the City Council recently amended the Zoning Ordinance to limit accessory buildings on property with single-family homes to no more than 1,000 square feet, and did not limit accessory buildings over 1,000 square feet on properties with a conditionally permitted use, such as a golf course or school. That amendment allowed Interlachen Country Club to proceed with their building, as they had already been through the Conditional Use Permit process.

Planner Teague explained that the City Council agreed with the Planning Commission that requiring a Conditional Use Permit for buildings over 1,000 square feet on properties with a conditional use was appropriate. As a result, they requested that the Planning Commission study, and make a recommendation on an Ordinance Amendment that would require a Conditional Use Permit for accessory buildings over 1,000 square feet that are located on properties with a conditionally permitted use in the R-1, Single Family Residential Zoning district. The Council asked that a recommendation be forwarded to them within 90 days.

Planner Teague informed the Commission the Code amendment made by the City Council followed the intent of the previous ordinance. The 1,000 square foot limit on accessory buildings was originally added to the Zoning Ordinance back in the early 1990's. The intent of the ordinance was to address the issue the city was dealing with at the time regarding large accessory structures being built on property with single-family homes to store boats, RV's, lawn equipment etc. The Ordinance did not anticipate accessory buildings at golf courses or schools.

With graphics Planner Teague depicted other cities requirements for accessory buildings.

Concluding, Planner Teague recommended that the Planning Commission approve amending the City Code concerning regulation of accessory buildings in the R-1 Single Dwelling Unit District to read as follows:

850.11. Subd. 2

Conditional Uses

- H. Accessory buildings 1,000 square feet or larger located on property on which a conditionally permitted uses exists subject to the following conditions:
1. The accessory building must be architecturally compatible with the principal building if the accessory building is located within 1,500 feet from the principal buildings.
 2. The accessory building shall be limited to 20 feet in height.
 3. The accessory building must be setback 75 feet from all property lines.
 4. Landscaping shall be required to buffer views when the structure is highly visible from adjoining properties.

Comments and Questions from the Commission

Commissioners acknowledged in establishing criteria for granting a Conditional Use Permit for an accessory structure in the R-1 Zoning District the wording used to establish this criteria must be carefully considered. It was noted that if the criteria established in this amendment is met a Condition Use Permit would be granted. It was also noted that in itself the Conditional Use Permit process also contains certain data that is required to proceed with the application process and that additional criteria must be met before a Permit is granted (e.g. is consistent with the Comprehensive Plan etc).

Commissioner Staunton referred to page 4 condition 4 of the staff report and suggested that the word highly be eliminated. Commissioners agreed with that suggestion.

Chair Fischer referred to page 4 condition 3, suggesting that “a minimum” be added to the 75 foot setback from all property lines. Commissioners also agreed.

A discussion continued recognizing that challenges exist in creating ordinance language that makes sense for both the R-1 single dwelling unit lots in Edina and the larger permitted use and conditional use permitted lots in the city, pointing out golf courses, churches, schools are also zoned R-1. The discussion continued with Commissioners raising the following as important in drafting the correct language:

- Commissioners wanted some assurance that the 1,000 square feet is in the aggregate. There was some concern that if buildings were less than 1,000 square feet the Conditional Use Permit process wouldn't be triggered.
- Building height is limited to 20 feet. There was some discussion on defining height with Commissioners expressing comfort with the definition of building height already found in the definition portion of Ordinance 850.
- Commissioners also wanted it to be clear in the language that the 75 foot setback requirement is the minimum – Accessory building(s) should be

encouraged to be constructed as far away as possible from the property line(s) that abut the single dwelling unit residents.

Commission Action

Commissioner Staunton moved to recommend the proposed language changes to Zoning Ordinance 850.11 Accessory Building(s) as per staff conditions with the following changes to those conditions:

1. No change – to read:

The accessory building must be architecturally compatible with the principal building if the accessory building is located within 1,500 feet from the principal building.

2. The accessory building shall be limited to 20 feet in height.

Changed to read:

The accessory building height shall be limited to 20 feet.

3. The accessory building must be setback 75 feet from all property lines. Changed to read:

The accessory building must be setback at minimum 75 feet from all property lines.

4. Landscaping to be required to buffer views when the structure is highly visible from adjoining properties. Changed to read:

Landscaping to be required to buffer views when the structure is visible from adjoining properties.

Commissioner Staunton further recommended that staff draft language that would calculate the square footage of accessory building(s) in the aggregate. Commissioner Grabel seconded the motion. All voted aye; motion carried.

III. COMMUNITY COMMENT:

No comment

IV. INTERGOVERNMENTAL BUSINESS

Chair Fischer acknowledged receipt of “back of the packet” materials and asked if the Commission liaisons would like to add anything. There being no liaison updates Chair Fischer reminded the Commission that the Zoning Ordinance Update Committee will meet on Wednesday, September 9th, 7:00 PM in the

Council Chambers. At that meeting the discussion will focus on what the Commission learned from the previous meetings.

Chair Fischer noted that information on the Zoning Ordinance Update Committee process is also posted on the City website.

V. NEXT MEETING DATE:

Wednesday, September 30, 2009, 7:00 PM

VI. ADJOURNMENT:

Commissioner Carpenter moved for adjournment at 8:55. Commissioner Risser seconded the motion. All voted aye; meeting adjourned.

Submitted by