



Approved: September 7, 2016

**CITY OF ARDEN HILLS, MINNESOTA
PLANNING COMMISSION
WEDNESDAY, AUGUST 3, 2016
6:30 P.M. - ARDEN HILLS CITY HALL**

CALL TO ORDER/ROLL CALL

Pursuant to due call and notice thereof, Chair Roberta Thompson called to order the regular Planning Commission meeting at 6:30 p.m.

ROLL CALL

Present were: Chair Roberta Thompson, Commissioners Nick Gehrig, Steven Jones, James Lambeth, and Phillip Neururer.

Absent: Commissioner Brent Bartel (excused), Angela Hames (unexcused) and Clayton Zimmerman (excused).

Also present were: Senior Planner Matthew Bachler and Mayor Grant.

APPROVAL OF AGENDA – AUGUST 3, 2016

Chair Thompson stated the agenda will stand as published.

APPROVAL OF MINUTES

July 6, 2016 – Planning Commission Regular Meeting

Commissioner Lambeth requested a change to the minutes on Page 9, in the middle of the page stating his question should refer to how the 12-foot screen would be secured to the roof and not the HVAC unit.

Commissioner Jones moved, seconded by Commissioner Gehrig, to approve the July 6, 2016, Planning Commission Regular Meeting minutes as corrected. The motion carried unanimously (5-0).

PLANNING CASES

A. Planning Case 16-017; Variance – 1536 Edgewater Avenue – *No Public Hearing*

Senior Planner Bachler stated that the applicants are the owners of the property at 1536 Edgewater Avenue, which is located in the R-1 District on the south side of Lake Johanna. The lot is nonconforming because its size and width do not meet the minimum requirements for the R-1 District. At the time the dwelling was constructed in 1953, the lot was in conformance with the City Code. The applicants are proposing to construct a second garage stall on the east side of the existing dwelling with finished living space above. The footprint of the addition would measure 10 feet – 5 inches by 27 feet – 5 feet inches for an overall area of approximately 286 square feet. The additional living space above the garage would have similar dimensions and an area of approximately 282 square feet.

Senior Planner Bachler explained that a variance is needed in this case to allow for the addition to encroach 1 foot – 7 inches into the minimum side yard setback of 10 feet. The R-1 Zoning District requires a total combined setback of 25 feet between both side yards, and a variance is also needed to allow for a reduced combined side yard setback. The existing dwelling is setback 12 feet – 2 inches from the west side property line and the proposed addition would be setback 8 feet – 5 inches from the east side property line, resulting in a combined side yard setback of 20 feet – 7 inches.

Site Data

Land Use Plan:	Low Density Residential
Existing Land Use:	Single Family Detached Residential
Zoning:	R-1: Single Family Residential
Current Lot Sizes:	0.31 Acres (13,690 square feet)
Topography:	Slopes down from south to north

Senior Planner Bachler reviewed the surrounding area, the Plan Evaluation and the Variance Evaluation Criteria.

Senior Planner Bachler provided the Findings of Fact for review:

General Findings:

1. The property at 1536 Edgewater Avenue is located in the R-1 Single Family Residential Zoning District.
2. The lot is nonconforming due to lot size and width.
3. The existing conditions on the property are in conformance with the setback and structure and lot coverage requirements for properties in the R-1 District.
4. The proposed addition would encroach 1 foot – 7 inches into the east side yard setback, creating a setback of 8 feet – 5 inches from the property line. The minimum side yard setback in the R-1 District is 10 feet.
5. The proposed addition would result in a combined side yard setback of 20 feet – 7 inches. The existing dwelling is setback 12 feet – 2 inches from the west side property line and the proposed addition would be setback 8 feet – 5 inches from the east side property line. The minimum combined side yard setback in the R-1 District is 25 feet.
6. A variance is required in this case to allow for an encroachment in the minimum side yard setback and for a combined side yard setback of less than 25 feet.
7. All other aspects of the proposed addition are in conformance with the Zoning Code requirements for the R-1 District.
8. The proposed addition would not encroach on any flood plains, wetlands, or easements.

9. The proposed addition is not expected to impact any significant trees on the property.

Variance Findings:

10. The variance would be in harmony with the purpose and intent of the City's Code because the addition would maintain side yard setbacks consistent with other dwellings in the neighborhood.
11. The variance would be consistent with the City's Comprehensive Plan because it meets the City's housing goal of encouraging property investment that complements and enhances the character of the City's established neighborhoods.
12. The proposed addition to allow for a second garage stall is a reasonable use of the property that would not be allowed under the rules of the Zoning Code without the requested variance.
13. The property is unique and presents development challenges because of its narrow width of approximately 80 feet and its topography. The unique characteristics of the property were not created by the property owners.
14. The proposed addition would not alter the essential character of the neighborhood because it would result in a structure that is consistent and compatible with other construction in the area.
15. The requested variance does not appear to be based on economic considerations alone. The applicant has proposed construction plans that are more costly than an alternative considered that would have resulted in a greater encroachment in the side yard setback.

Senior Planner Bachler indicated the findings of fact for this variance request support a recommendation for approval. If the Planning Commission chooses to make a recommendation for denial, the Findings of Fact would need to be amended to reflect the reasons for the denial. If the Planning Commission recommends approval of this variance, staff recommends the following six conditions:

1. The project shall be completed in accordance with the plans submitted as amended by the conditions of approval. Any significant changes to these plans, as determined by the City Planner, shall require review and approval by the Planning Commission and City Council.
2. A Grading and Erosion Control permit shall be required prior to the issuance of a Building Permit.
3. If required, a Rice Creek Watershed District permit shall be obtained prior to the issuance of any City permits.
4. A Building Permit shall be required prior to commencement of construction.
5. The addition shall match the color and architectural style of the rest of the principal structure.
6. The structure shall conform to all other regulations in the City Code.

Senior Planner Bachler reviewed the options available to the Planning Commission on this matter:

1. Recommend Approval with Conditions
2. Recommend Approval as Submitted.
3. Recommend Denial
4. Table

Chair Thompson opened the floor to Commissioner comments.

Commissioner Lambeth asked what side of the home the addition would be located on.

Senior Planner Bachler reported the addition would be placed on the east side of the home.

Commissioner Lambeth understood the property was in compliance when the house was constructed in 1953. However, the property became non-conforming after the Zoning Code was changed.

Senior Planner Bachler stated this was the case. He explained the property was originally developed per City Code and was in conformance with City requirements at that time.

Chair Thompson questioned if the applicant's contractor had drafted a grading and erosion control plan.

Senay Kindler, 1536 Edgewater Avenue, commented this has been discussed with the builder. She noted the piping that was currently in place would be cleared out. She noted a more detailed plan would be completed at the time the building permit application is submitted. She explained her street was reconstructed three years ago and understood the importance of proper water drainage.

Chair Thompson discussed the importance of properly managing the water runoff on this property. She inquired if the addition would have gutters.

Ms. Kindler stated that new gutters would be installed on the entire house and the addition. She then discussed the water issues she was having in her garage and noted the contractor has been made aware of these concerns.

Chair Thompson encouraged the Kindlers to consider adding some character back into the home through architectural details.

Commissioner Jones believed the property had a significant slope to it. He questioned if the water runoff was flowing into the neighboring property.

Ms. Kindler stated on the rear portion of the east side of the property there was a hill. She indicated this was the location of the existing drainage pipes. She provided further comment on the drainage issues addressed by her neighborhood. She discussed the benefit of having a second stall in her garage and thanked the Commission for considering her request.

Chair Thompson questioned if Ms. Kindler had spoken with her neighbors about the proposed expansion.

Ms. Kindler reported she had spoken with her neighbors regarding the plans.

Commissioner Jones recommended the Kindlers consider placing an ultraviolet light within their filtration system to address the mold and bacteria in the home. He stated he supported the Kindler's variance request.

Shannon Lindsey, 649 Old Highway 8, New Brighton, stated her main concerns were with the drainage. She discussed how much money her parents had spent on their property to address their drainage. She feared that the landscaping that has been removed has impacted the water runoff. She understood the Kindlers were having moisture issues in their bedrooms and that this had to be addressed, however, she did not want to see the new addition impact her parents' property in an adverse manner.

Chair Thompson asked if Ms. Lindsey would be willing to work with the Kindler's, their contractor and City staff on this project to ensure all drainage issues were properly addressed.

Ray Conroe, 1528 West Edgewater Avenue, commented how his property received considerable water runoff when he first moved into the home. He expressed concern with how the proposed addition would impact his property given the fact that this area currently serves as a water runoff area. He feared how building on this portion of land would impact the drainage on his lot.

Chair Thompson believed the applicants were very interested in working with their neighbors and the City to address the drainage concerns on both properties.

Commissioner Lambeth reported the requested variance was 19 inches. He noted conditions would be attached to the variance, if approved, and one of these would require the Kindler's to have a grading and erosion control permit from the City.

Ms. Lindsey questioned how quickly the variance request and addition construction would move along.

Senior Planner Bachler described the City's review process for the variance request. He noted that the construction timelines would be determined by the Kindlers.

Chair Thompson inquired if the Kindlers had a landscape plan for the property.

Ms. Kindler did not have a drafted plan, but noted she would be landscaping the property after the construction was completed.

Commissioner Gehrig moved and Commissioner Neururer seconded a motion to recommend approval of Planning Case 16-017 for a side yard setback variance at 1536 Edgewater Avenue, based on the findings of fact and submitted plans, as amended by the six (6) conditions in the August 3, 2016, Report to the Planning Commission. The motion carried unanimously (5-0).

B. Planning Case 16-019 – Planned Unit Development Amendment and Conditional Use Permit Amendment – 1920 West Highway 96 – *Public Hearing*

Senior Planner Bachler stated that in 2005, the City approved a PUD and CUP in Planning Case 05-013 for the development of a Holiday service station and convenience store at 1920 West Highway 96. A CUP was required for the proposed use of the property as a service station with convenience retail and car wash in the G-B - Gateway Business District. The site was developed through the PUD process and allowed the developer flexibility on parking lot setback

requirements and use of certain building materials in exchange for additional landscaping on the property and an overall superior building design.

Senior Planner Bachler indicated that Holiday Stationstores, Inc. is in the process of including multi-use restroom facilities at their convenience stores whenever possible in order to provide better customer service. The company is proposing a multi-use restroom addition on the north end of their Arden Hills store. The addition would measure 15 feet – 4 inches by 19 feet – 4 inches with an area of 296 square feet.

Senior Planner Bachler reported the proposed addition would have minimal impact on the existing site operations and would not modify traffic patterns or parking areas. The addition has been designed to have a consistent appearance with the existing principal structure on the property.

Site Data

Land Use Plan:	Light Industrial and Office
Existing Land Use:	Commercial
Zoning:	G-B: Gateway Business District
Current Lot Sizes:	162,170 square feet
Proposed Density:	N/A
Topography:	Relatively level

Senior Planner Bachler reviewed the surrounding area, the Plan Evaluation and the Conditional Use Permit Administration Procedures.

Senior Planner Bachler explained the Planning Commission must make a finding as to whether or not the proposed application would adversely affect the surrounding neighborhood or the community as a whole based on the aforementioned factors. Staff offers the following findings of fact for consideration:

1. The applicant has requested approval of a PUD Amendment and CUP Amendment for the property at 1920 West Highway 96.
2. A Master PUD was approved for 1920 West Highway 96 in Planning Case #05-013.
3. The applicant has proposed constructing a multi-use restroom addition on the north end of the existing convenience store that would measure 15 feet – 4 inches by 19 feet – 4 inches with an area of 296 square feet.
4. The proposed addition is in substantial conformance with the Zoning Code. Where the proposed addition is not in conformance with the Zoning Code, the proposal is in conformance with the Master PUD approved for the property in Planning Case #05-013.
5. The proposed addition is not expected to impact existing and anticipated traffic and parking conditions.
6. The proposed addition will not affect noise, odors, glare, vibration, smoke, dust, air pollution, heat, liquid and solid waste on the property.
7. The proposed addition is not expected to significantly impact drainage on the property.
8. The proposed addition will not affect the population density on the property.
9. The proposed addition is unlikely to significantly affect land values on the subject property or on neighboring properties.
10. The park dedication requirement does not apply in this case.

Senior Planner Bachler stated that based on the submitted plans and findings of fact, staff recommends approval of Planning Case 16-019 for a PUD Amendment and CUP Amendment for Holiday Stationstores, Inc. at 1920 West Highway 96. Staff is recommending the following six (6) conditions of approval:

1. The applicant shall continue to abide by the conditions of all previous Master PUD and CUP Agreements, permits, and reviews, except as hereinafter amended.
2. The project shall be completed in accordance with the plans submitted as amended by the conditions of approval. Any significant changes to these plans, as determined by the City Planner, shall require review and approval by the Planning Commission and City Council.
3. A PUD and CUP Amendment Agreement shall be prepared by the City Attorney and subject to City Council approval. The Agreement shall be executed prior to the issuance of any development permits.
4. Final construction plans shall be subject to approval by the City Building Official, City Engineer, and Fire Marshall prior to the issuance of a building permit.
5. The applicant shall protect the two (2) Autumn Brilliance Serviceberry trees located immediately north of the proposed addition. If these trees are damaged, removed, or die during the construction of the addition, the applicant shall be required to replace the trees with trees of equivalent size.
6. Exterior lighting shall be hooded, concealed, or controlled so as not to be visible from adjoining lots, streets, highways, or residential areas east and south of Round Lake.

Senior Planner Bachler reviewed the options available to the Planning Commission on this matter:

1. Recommend Approval with Conditions
2. Recommend Approval as Submitted.
3. Recommend Denial
4. Table

Chair Thompson opened the floor to Commissioner comments.

Commissioner Lambeth asked if the new bathroom facilities would be ADA compliant.

Senior Planner Bachler reported this would be reviewed by the City Building Official at the time a building permit was requested.

Commissioner Jones clarified that the symbols and dimensions on the plans show that the new bathroom facilities would be ADA compliant.

Chair Thompson asked if the new door was an emergency exit.

Senior Planner Bachler deferred this question to the applicant.

Casey Beaton, Manager of Store Planning for Holiday Stationstores, reported the restrooms would be fully ADA compliant. He indicated the additional door was needed to meet fire exit requirements.

Chair Thompson opened the public hearing at 7:24 p.m.

Chair Thompson invited anyone for or against the application to come forward and make comment.

There being no comment Chair Thompson closed the public hearing at 7:25 p.m.

Commissioner Lambeth understood construction would begin in October.

Mr. Beaton estimated the construction timeline would be nine weeks.

Chair Thompson questioned if Holiday Stationstores had any concerns about the conditions recommended for approval.

Mr. Beaton supported the conditions for approval.

Commissioner Jones moved and Commissioner Neururer seconded a motion to recommend approval of Planning Case 16-019 for a PUD Amendment and CUP Amendment at 1920 West Highway 96, based on the findings of fact and submitted plans, as amended by the six (6) conditions in the August 3, 2016, Report to the Planning Commission. The motion carried unanimously (5-0).

C. Planning Case 16-020 – Zoning Code Amendment – Temporary Family Health Care Accessory Dwellings – *Public Hearing*

Senior Planner Bachler explained that the State legislature passed a bill this session establishing a new permitting process for temporary family health care accessory dwellings. The law specifically applies to dwellings used for short-term care purposes for family members in need of assistance. Under the new regulations, these dwellings would require permitting from the City, but would be exempt from certain provisions within the City's land use and building regulations. The Community Development Department provided comments on the draft legislation to the League of Minnesota Cities noting its concerns about the impacts of the law on public health and safety. Although the law was adopted, there is a provision that allows cities to opt-out of the law if an ordinance is approved before it goes into effect on September 1, 2016.

Senior Planner Bachler reported that the League of Minnesota Cities has recommended that cities consider passing an opt-out ordinance if they want to maintain their existing land use controls or develop customized regulations that might allow this type of dwelling unit in some cases using a different review and approval process. Staff has reviewed the new law and has identified the following areas of concern:

- The City currently prohibits the use of temporary accessory structures as dwellings, except a special permit may be granted by the City Council for the use of a temporary structure as a dwelling for no more than 90 days in emergency situations. The law would require the City to allow temporary family health care accessory dwellings to be in place for six months. The permit may also be renewed once for an additional six-month period.

- The law would supersede existing land use regulations in the City Code related to accessory structures. Though the statute would require that the accessory dwelling units comply with the City’s setback requirements that apply to the principal structure on the property, it does not address lot coverage, drainage, and shoreland requirements.
- The law requires applicants to provide proof of adequate septic service management. City staff has concerns about the feasibility of providing safe, temporary septic services to these types of structure and what the process would be for enforcement and mitigation if there were a failure in these services.
- The law stipulates that applications must include proof of the provider network providing the primary care for the resident in the dwelling unit, and written certification of the need for assistance from a medical professional. This requirement places a burden on City staff to review and properly manage this type of private medical documentation.

Senior Planner Bachler reported that the City Council discussed this item at their Work Session on July 18, 2016, and directed staff and the City Attorney to draft an opt-out Ordinance. A draft of Ordinance Number 2016-07 was reviewed. The Ordinance would amend Section 1325.01 (Accessory Structures) of the Zoning Code to add Subdivision 8, which would specifically exempt the City from following the provisions in Minnesota Statutes, Section 462.3593 regarding temporary family health care accessory dwellings.

Senior Planner Bachler provided the Findings of Fact for review:

1. The Minnesota State legislature passed a bill in the 2016 session establishing a new permitting process for temporary family health care accessory dwellings, codified as Minnesota Statutes, Section 462.3593.
2. The law allows cities to opt-out of the law if an Ordinance is approved before it goes into effect on September 1, 2016.
3. The City has elected to opt-out of the law due to concerns regarding the impact of the law on public health and safety and its desire to maintain its existing land use controls.
4. The proposed Ordinance is consistent with the City’s Comprehensive Plan.

Senior Planner Bachler recommended approval of Ordinance Number 2016-07 in Planning Case 16-020 to opt-out of the requirements of Minnesota Statutes, Section 462.3593 regarding temporary family health care accessory dwellings, as presented in the August 3, 2016, report to the Planning Commission.

Senior Planner Bachler reviewed the options available to the Planning Commission on this matter:

1. Recommend Approval as Submitted
2. Recommend Approval with Changes
3. Recommend Denial
4. Table

Chair Thompson opened the floor to Commissioner comments.

Commissioner Lambeth asked what would be allowed if the City were to opt out of the State legislation.

Senior Planner Bachler explained that the City would continue to follow its current zoning regulations regarding the use of temporary accessory structures as dwellings.

Chair Thompson opened the public hearing at 7:35 p.m.

Chair Thompson invited anyone for or against the application to come forward and make comment.

There being no comment Chair Thompson closed the public hearing at 7:36 p.m.

Commissioner Neururer moved and Commissioner Jones seconded a motion to recommend approval of Ordinance Number 2016-07 in Planning Case 16-020, as presented in the August 3, 2016, report to the Planning Commission. The motion carried unanimously (5-0).

UNFINISHED AND NEW BUSINESS

None.

REPORTS

A. Report from the City Council

Mayor Grant updated the Planning Commission on City Council activities from the July 25, 2016 Regular Meeting. The City Council approved a Final PUD for Phase 2 of the Land O'Lakes headquarters consolidation plan in Planning Case 16-016. Phase 2 of the project includes the construction of a four-story, approximately 155,000 gross square foot office building, the expansion of the surface parking lot on the north and west side of the site. Planning Case 16-016 was reviewed by the Planning Commission on July 6, 2016, and received a unanimous recommendation of approval.

Mayor Grant reported the City Council approved Planning Case 16-015 for a rear yard setback variance at 1494 Keithson Drive. This case was tabled by the City Council at their meeting on June 26, 2016 to give the applicant additional time to provide an alternate plan that would reduce the encroachment of the proposed porch. The applicant revised their plans to reduce the width of the porch from 12 feet to 10 feet. This resulted in a reduction in the encroachment from 3 feet – 6 inches to 1 foot – 6 inches.

Mayor Grant discussed the proposed I-35W MnDOT MNPASS project with the Commission. He noted this project had a funding shortfall but was slated to begin in 2017.

Mayor Grant reported City Planner Ryan Streff was no longer with the City of Arden Hills as he has taken a new position that offered him more flexibility. He wished Ryan well in his new position.

Mayor Grant explained three Council seats would be up for election in November and encouraged those interested in pursuing a Council seat to contact City Hall for further information.

B. TCAAP Update

Mayor Grant provided an update regarding the TCAAP redevelopment project. He noted that the master developer has retained Cushman Wakefield NorthMarq as their preferred brokers for commercial/corporate/office/flex space on TCAAP and Mid-America for retail. He added that on July 12, 2016 the County was informed that the TCAAP site received its Certificate of Completion for clean up on the site.

Mayor Grant explained that City and County staff, Ehlers and the master developer held their weekly project meetings on June 29th, July 13th and 20th. He described additional meetings held regarding the JDA application review process and environmental issues on the site.

Mayor Grant commented that the City Council Work Session on August 15, 2016 would include a joint work session with the JDA. The purpose of the meeting is for the master development team to unveil their preliminary development concepts for feedback from the group.

C. Planning Commission Comments and Requests

Commissioner Jones congratulated Kelly Katlin, a former Mounds View High School graduate, for making it to the Rio Olympics. He wished her well in her cycling events.

Mayor Grant reported the City had another Mounds View graduate competing in the Rio Olympics on the U.S. badminton team.

D. Staff Comments

None.

ADJOURN

Commissioner Jones moved, seconded by Commissioner Gehrig, to adjourn the August 3, 2016, Planning Commission Meeting at 7:56 p.m. The motion carried unanimously (5-0).