

**GREENWOOD PLANNING COMMISSION**  
**WEDNESDAY, APRIL 16, 2008**  
**7:00 P.M.**

**1. CALL TO ORDER/ROLL CALL**

Chairman Lucking called the meeting to order at 7:00 p.m.

Members Present: Chairman Lucking and Commission members John Beal, Tom Fletcher, David Paeper, H. Kelsey Page and Todd Palmberg

Absent: Commissioner Mark Spiers and City Attorney Mark Kelly

Others Present: Zoning Coordinator Gus Karpas.

Due to the absence of Commissioner Spiers, Commissioner Palmberg will be a voting member of the Commission at the meeting.

**2. APPROVE AGENDA**

Commissioner Beal moved to accept the agenda for tonight's meeting. Commissioner Page seconded the motion. Motion carried 5-0.

**3. MINUTES OF March 19<sup>th</sup>.**

Commissioner Beal moved to approve the minutes of March 19<sup>th</sup>. Commissioner Paeper seconded the motion. Motion carried 3-0-2. Commissioners Lucking and Page abstained since they were not in attendance at March 19<sup>th</sup> meeting.

**4. LIAISON REPORT**

Council Liaison Sagal said the Council has chosen a site on city owned property near Georgetown Manor to place the new emergency siren. It is expected that the siren would be in place within the next couple of months.

The City Council is in the process of reviewing the Comprehensive Plan update for submittal to the Metropolitan Council.

Sagal said the city has taken control of the lift station near the St. Alban's Villas.

The Council also discussed the fire alley on Meadville Street. There have been a number of issues of people using it and causing damage to city property. The Council is reviewing its options for limiting access.

**5. PUBLIC HEARINGS**

**VARIANCE - Tim and Bonnie Lane, 21250 Excelsior Boulevard, (R-1A, 15,000)**  
request to alter an existing non-conforming structure by converting the existing flat roof into a pitched roof, which would encroach into the required fifteen foot east side yard

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setback. The proposed encroachment is for six feet, six inches into the required fifteen-foot east side yard setback. There would be no additional encroachment for the proposed alteration than what currently exists for the structure.

Zoning Coordinator Karpas presented his staff report. He said the applicants are having issues with a leaky flat roof and would like to construct a new peaked roof that would tie into the existing roofline. The existing structure encroaches into the required east side yard setback and the proposal would not increase the existing encroachment.

Chairman Lucking opened the public hearing.

Mike Farraher, 21230 Excelsior Boulevard noted he would be the only neighbor affected by the proposal and that he supports the request.

Commissioner Palmberg stated he had no issues with the request.

Commissioner Beal said the issue clearly needs to be addressed and feels the applicant is looking to fix the problem in a tasteful manner.

Commissioner Paeper clarified there would be no habitable space above the garage. The applicant confirmed there would only be attic space.

Chairman Lucking asked about the window proposed for the new peak. Bonnie Lane said it was an architectural feature to match the peak with the existing peaks on the home.

Commissioner Page raised concerns about whether the criteria for a hardship have been met. He noted that the roof could be repaired without altering the peak or requiring a variance.

Chairman Lucking said past requests for altering flat roofs on non-conforming structures have been viewed as a maintenance issue.

Zoning Coordinator Karpas outlined the hardship criteria and his interpretation of how the applicant meets the criteria. He said though the property in question could be put to a reasonable use, the request to alleviate an ongoing issue related to the leaking roof was reasonable, that the hardship was not created by the homeowner in that the flat roofed portion of the home was constructed in the 1930's and that the alteration would not negatively impact the character of the neighborhood. He said it has been his observation and that flat roof structures tend to require an increased amount of maintenance and are not necessarily conducive to residential use.

Commissioner Page noted he could agree and support the hardship criteria outlined by Karpas.

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Commissioner Paeper noted that flat roofs are not impossible to fix, but require commercial grade construction, which is an unreasonable expectation for a residential property.

**Action:**

Motion by Commissioner Page to recommend that the City Council approve the variance request to alter an existing non-conforming structure by converting the existing flat roof into a pitched roof, which would encroach into the required fifteen foot east side yard setback, as presented at 21250 Excelsior Boulevard. The applicant has demonstrated a hardship in that there is a need to repair the structure and the hardship was not created by the homeowner and the proposed alteration would not alter the essential character of the neighborhood. Commissioner Beal seconded the motion. The motion carried 5-0.

**VARIANCE – Robert Schmitt, 21550 State Highway 7, (C-1, 20,000)** request to construct a new single story, multi-tenant commercial structure which would exceed the maximum permitted impervious surface area. The proposed impervious surface area would exceed the maximum permitted impervious surface area of 30% by approximately fifty-six percent.

Zoning Coordinator reviewed his staff report point by point. He said the applicant is proposing to construct a new multi-tenant commercial structure, which would exceed the maximum permitted impervious surface area. The applicant has addressed the relevant issues such as parking, signage and landscaping. The applicant indicates that approximately ten percent of the building would be used as common areas, restrooms, etc. which are not included in the parking formula, leaving a requirement for 39 parking stalls. The applicant complies with the requirement, including the minimum 200 square foot parking area per parking spot.

The applicant is permitted seventy-five square feet of signage for the property. The applicant indicates there would be signage located on the south side of the building, totaling about seventy-five square feet. Aside from the proposed signage, there are existing billboards on the property. The applicant has not provided information on the area of signage contained on the billboards. The ordinance does not regulate that signage separately from that proposed for the building, meaning that the current signage on the site exceeds the maximum permitted sign area and any additional signage would require a variance.

The applicant indicates there will be landscaping along the north side of the property to help screen the site from the adjacent residential properties.

The applicant indicates there will be two access points onto the property, one each on the north and south side. One of the existing access points along the south side of the property will be vacated. The applicant must obtain a conditional use permit for the proposed access along the north portion of the property. The Planning Commission does not have the authority to grant such a conditional use at this time since an ordinance permitting access onto Excelsior Boulevard has not been approved or published.

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Chairman Lucking opened the public hearing.

Chairman Lucking raised concern about the notation on the survey that the support posts for the billboards had not been located even though they would apparently land within a couple of the proposed parking spaces. Lou Colson, the applicant's contractor, said he believed that only one parking space would be lost and that the applicant has two additional spots over what is required for the proposed use.

Commissioner Paeper asked if there would be parking over the wellhead. The applicant indicated that the property was on city water from Excelsior.

Zoning Coordinator Karpas explained the issues related to signage and that the current signage exists as a non-conforming use and any additional signage would require a variance.

Commissioner Beal noted the only request before the Commission is the request for the hardcover variance. Commissioner Page agreed and said he believes the request may meet the hardship criteria in that the use is unique, the proposal wouldn't alter the character of the neighborhood and that the property cannot be put to a reasonable use without exceeding the hardcover requirements.

Commissioner Beal raised a concern that the request is being done incrementally, noting that further approvals are necessary in order to develop the property. Zoning Coordinator Karpas said the Commission could delay action on the request until a comprehensive plan encompassing all the issues is submitted.

Commissioner Palmberg expressed concern about whether the applicant met the parking requirement given exact information has not been provided about the billboard supports.

Commissioner Page commented that the city pushed the applicant for a specific date for action by the city, rather than leaving the request open ended so some action should be taken on the request before the Commission. He's of the opinion that the proposal does not overbuild the lot and is reasonable.

Commissioner Beal agrees the request is reasonable and it appears adequate parking has been provided, but he's still bothered that it feels the request is being done piecemeal.

Mike Farraher, 21230 Excelsior Boulevard, said he likes the idea of modernizing the property but raised concerns about drainage with the addition of the proposed hardcover. Mr. Schmitt noted that MnDot has installed a drainage pond adjacent to the property, which could handle the run-off.

Chairman Lucking discussed the origin of the hardcover provisions in the ordinance stating the specific impacts on commercial properties were not considered, though it's not logical to believe commercial properties can comply with the requirements.

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Council Liaison Sagal noted that the drainage is an issue and that it needs to be verified that the run-off is properly filtered before it discharges into the lake. He discussed the question of reasonableness in terms of greenspace noting that other commercial developments in the area average about 30% greenspace and the request before the Commission only contains about 15% greenspace.

The Commission agreed that issues related to drainage must be addressed prior to the applicant approaching the Council.

Hearing no further public comment, the public hearing was closed.

**Action:**

Motion by Commissioner Page to recommend that the City Council approve the variance request to construct a new multi-tenant commercial structure and associated parking area, which would exceed the maximum permitted impervious surface area, as presented at 21550 State Highway 7. The applicant has demonstrated a hardship in that the unique use of the property prohibits compliance with the hardcover provisions of the ordinance and that the proposed use would not alter the essential character of the neighborhood. The motion is conditioned that location of the billboard supports must delineated to show that the applicant complies with the parking requirements and that the City Engineer approves the proposed drainage. It is noted in the motion that no action is being taken in regards to signage and access to Excelsior Boulevard which require separate variance and conditional use approvals. Commissioner Beal seconded the motion. The motion carried 4-1. Upon roll call vote on a motion to recommend approval, Commissioners Beal, Lucking, Paeper and Page voted aye. Commissioner Palmberg voted nay.

Commissioner Fletcher said he had a number of comments he wanted to make. He believes the property can be developed while maintaining the 70% hardcover present on adjacent properties. He also raised concerns about the parking layout noting that retail uses typically don't have parking on the backside of the building. He feels the design could be altered which would be more suitable given the residential district directly adjacent to the property.

Commissioner Palmberg agreed and asked how the proposal benefits the city. He said the proposed layout is inconsistent with the other commercial uses that place their parking on the Highway 7 side of their properties, in essence altering the essential character of the neighborhood. He also questioned the desire of the city to "max" out the use of the property, which only favors the property owner.

Palmberg echoed the concerns raised by Commissioner Beal that the applicant has not submitted a complete view of the project and believes no official action should be taken on the request until a comprehensive plan is submitted for review.

Chairman Lucking noted the Commission acted only on the issue of hardcover and based its decision on the worst case scenario in terms of parking.

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Commissioner Page believes it's clear to the applicant that no further action will be taken on the request until a complete plan has been submitted.

Commissioner Paepfer commented that one topic of discussion in the future will center on the proposed access point onto Excelsior Boulevard which is shown across from the low points of the residential properties across the road, potentially leading to some issues pertaining to headlights.

Commissioner Palmberg agreed and noted that the applicant submitted a letter from the South Lake Minnetonka Police Department, which basically qualified their lack of concern about the access by stating they aren't an architect or traffic engineer. This concerns him and he believes specific impacts on safety must be addressed for any proposed access.

**Ordinance Amendment** – Recommendation to City Council on draft language to Section 1140:45(6)(c) permitting direct access to Excelsior Boulevard as a conditional use for commercial uses.

Zoning Coordinator Karpas distributed draft language showing the changes from the ordinance discussed at the March Commission meeting.

Chairman Lucking opened the public hearing. Hearing no public comment, the public hearing was closed.

The Commission questioned for the need of the word "proper" in subdivision 6(a) since it was self-explanatory as originally written.

**Action:**

Motion by Commissioner Page to recommend the City Council adopt the proposed language amending Section 1140:45(6), permitting direct access to Excelsior Boulevard as a conditional use for commercial uses. The motion includes the removal of the word "proper" included in subdivision 6(a). Commissioner Beal seconded the motion. The motion carried 5-0.

**Ordinance Amendment** – Discuss the amendment of Section 1140 of the city Zoning Ordinance to redraft provisions regulating signage within the city creating more comprehensive language in regards to commercial and non-commercial speech.

Zoning Coordinator Karpas distributed copies of the proposed sign ordinance noting that the City Attorney amended the document based on the comments from the Commission at their March meeting. He explained that the proposed ordinance is a hybrid that combines provisions with the existing sign ordinance with a model ordinance developed by the League of Minnesota Cities and language developed by the City of Excelsior for amendment of their ordinance which is pertinent in the City of Greenwood.

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Zoning Coordinator Karpas said he would suggest only one amendment, removing language pertaining to a fourteen-day limit on signs attached to vehicles primarily used for advertising purposes. He suggests that such signs should be prohibited regardless of the time period.

The Planning Commission discussed the impact of the ordinance on real estate directional signs, understanding there is no way to permit such signs without permitting other, more undesirable, signs.

Chairman Lucking opened the public hearing. Hearing no public comment, the public hearing was closed.

**Action:**

Motion by Commissioner Paeper to recommend the City Council adopt the proposed ordinance language amending Section 1140:40 creating new provisions regulating signage within the city creating more comprehensive language in regards to commercial and non-commercial speech. The motion includes the amendment recommended by City Staff to strictly prohibit signage attached to vehicles for the sole purpose of advertising, removing the permitted time allowance for such use included in Section 1140:40:06(e). Commissioner Palmberg seconded the motion. The motion carried 5-0.

**6. OTHER BUSINESS**

**Ordinance Amendment** – Discuss the amendment of Section 1100 of the city Zoning Ordinance to add provisions regulating the mass of a structure including the creation of a volume measurement standard and redefining structure height.

Zoning Coordinator Karpas distributed a draft copy of the massing ordinance amended by the City Attorney. He said the City Attorney informed him that this draft included the comments made by Commissioner Beal. He said the City Attorney also said this is only one part of the ordinance and that further work is needed before it could be passed on to the Council for their review.

Commissioner Beal said the proposed ordinance in front of the Commission creates the process for measuring mass but does not specify what is deemed too massive. He said those numbers need to be defined before the ordinance can be approved by the city.

Chairman Lucking spoke to the importance of having legitimate examples to establish a usable curve. The city also has to keep in mind the reality that homes are getting larger.

Council Liaison Sagal agreed with the comments of Lucking and said there still appears to be a split on the Council on what constitutes “too big.” He said it is imperative that the data includes homes across the spectrum in order to conduct an accurate statistical analysis.

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Chairman Lucking discussed the impact of surrounding areas on the perceived sense of mass of a structure.

Commissioner Beal discussed an email he received from Keith Stuessi, 5000 Meadville Street outlining his concerns about the past actions of the city which have been inconsistent when dealing with smaller lots. Beal said he disagrees with the email in the context of this ordinance since, at this point, the Commission is only dealing with the process.

Keith Stuessi said he had hoped the Commission had run the measurement on a number of homes by this time to give him a feel of the impact on smaller lots. He spoke on the importance of creating an ordinance, which establishes consistency. He outlined a number of challenges he believes the city faces in dealing with the smaller lots and gave examples in which he thought the city applied different criteria for approval to substantially similar lots. He cited the home approved for 5050 Meadville as an example where a property owner was held to a smaller home than what had been approved for other similarly sized lots.

Chairman Lucking clarified that the city only acted on what was presented by the applicant in that case and did not decrease the size of the proposed home. He said inconsistencies in the application of the ordinance are due to the change of the governing body over the years. Commissioner Beal noted that the Commission and current Council couldn't be held responsible for the actions of past Commissions and Councils.

Stuessi said he is trying to understand how the ordinance would impact smaller lots. Chairman Lucking noted that previous research done by the late John Schuerich indicated that the provisions of the massing ordinance would not come into play until a lot reached a certain size. Prior to the lot size, the provisions regulating setbacks and hard cover governed development of those lots.

Commissioner Page noted, given the existing State Statutes, only those lots expanding their non-conformance on the smaller lots create issues, since their footprint is currently protected.

Chairman Lucking believes the proposed ordinance addressed the establishment of an average grade, defines height and how to measure structure height, which are the most important components of the ordinance. These being established, you're left with only measuring the mass and verifying it falls within the permitted size criteria.

The Commission discussed the need for developing a database of existing properties to help guide the creation of a curve, which can be used to determine the acceptable numbers in terms of massing. It was agreed that the Commission would review the draft language for discussion at the May meeting and that further measurements would be done on properties to expand the existing database.

**7. PLANNING COMMISSION LIAISON**

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Commissioner Page will serve as the Planning Commission Liaison at the May 6<sup>th</sup> City Council meeting.

**8. ADJOURN**

Motion by Commissioner Page to adjourn the meeting. Commissioner Palmberg seconded the motion. The meeting was adjourned at 9:23 p.m.

Respectively Submitted  
Gus Karpas - Zoning Coordinator