

CITY OF MEDINA PLANNING COMMISSION
Meeting Minutes – Tuesday, August 8, 2006

1. Call to Order: Chair Crosby called the meeting to order at 7:01 p.m.

Present: Marilyn Fortin, Mary Verbick, Steve Jacobson, Tom Crosby, Jeff Pederson and Doug Dickerson.

Absent: Sharon Johnson.

Also Present: City Planner Rose Lorsung, Planning Consultant Sarah Schield, Office Assistant Dusty Finke.

2. Public Comments

No Comments

3. Update from City Council proceedings

City Council Representative Weir delivered a brief report of Council actions since last month's Planning Commission meeting.

Crosby inquired about guaranteeing representation at City Council.
Vice Chair Verbick stated that she will coordinate it.

Crosby inquired about the remaining Comp. Plan Open Houses.
Lorsung stated that Commission turn out wasn't as good as she hoped.
Lorsung stated that the next two months will be very important for the Planning Commission.

4. Call for Meeting Date Change for September Planning Commission

Lorsung stated that because of Primary Elections, staff recommends moving the September Planning Commission meeting to Wednesday, September 13, 2006.

Lorsung also stated that staff recommends additional Planning Commission meetings in September and/or October because of the high volume of Applications. Lorsung suggested the Wednesday, September 27th.

General consensus was to reschedule the September Planning Commission meeting to Wednesday, September 13, 2006 and to discuss calling additional special meetings at the September meeting.

5. City Planner's Report

Lorsung stated that a number of items will be presented in September. A site plan and variance for Loram will definitely be on Planning Commission next month (they have granted the extension to October 18th). A conditional use permit for a cemetery will be discussed at the Nelson Farm on Highway 55 by Peter Lake.

Lorsung stated that a number of Ordinances may be up for discussion including: a definition for “buildable land” relating to park dedication and amending setbacks for rural residential lots under 5 acres, as directed by the City Council.

6. Approval of July 11, 2006 Planning Commission minutes

Motion by Verbick, seconded by Fortin to approve minutes as amended. Motion passes unanimously (Absent: Johnson).

7. Loram Maintenance of Way: Site Plan, CUP, Variance for construction of building addition...table to September 13, 2006

Motion by Fortin, seconded by Verbick to table Loram until the September Planning Commission meeting. Motion passes unanimously (Absent: Johnson).

8. Jeff Martin and Claudia Kauma, 2845 Lakeshore Avenue, Variance from Shoreland Overlay setback for deck...Public Hearing

Sarah Schield delivered the staff report on this application. Like neighboring properties, the lot is bisected by Lakeshore Avenue. Schield noted that the existing home violates both the shoreland setback and a side-yard setback. The proposed home would still violate shoreland setback, but not the side yard.

Schield stated that staff concluded that the criteria for hardships were not met, and staff recommends decreasing either the size or layout of the home or deck. She stated that if the Planning Commission recommends approval, staff highly recommends the commission includes Findings of Fact.

Jeff Martin (Applicant at 2845 Lakeshore) stated that the conditions that were set forth by the property all meet the criteria for a variance. The 29,000 sq. ft. goes down to 2500 sq. ft. because of factors outside of control. Martin stated that they went through many designs to try to squeeze a home in.

Martin stated that Minnesota Statute allows property owners with non-conforming situations to be given a variance if they bring the property closer to compliance.

Crosby inquired into the Statute reference.

Martin replied that it was Chapter 462.357.

Martin stated that they feel that the situation is quite unique because 35% is taken by the city for the street and noted that the shoreland setback is beyond their control. He added that they did not set up the circumstances and that all they are asking for is enough room for two piers of the deck.

Public Hearing opened at 7:29 p.m.

Bob Franklin (2819 Lakeshore) stated that historically in Independence Beach there have been many variances all the way back to the 1970s. Many were not caused by double front yards and other things suggested by staff. Residents found out that all of the lot lines were off by upwards of 30 feet, which caused many garages to be too close or even over lot lines. Franklin stated that this variance seems minor compared to many of the variances granted in the past (especially Dockside, which seemed to violate law). He stated that variances go with the land, not the person. Franklin pointed out an error in first slide. He stated that while the road bisects all of the lots along this area, neighboring homes did not need variances because they were able to build tuck-under garages, which is not possible because of the topography of the Martin lot. Historically, this variance seems minimal, keeps with what has been done before, improves on a substandard situation, improves the tax base, and looks better than some homes that have been built without a variance.

Ken Thurber (2835 Lakeshore) spoke in favor of the variance. He stated that they are actually planning on moving increasing the shoreland setback from what is there currently. Thurber stated that he did not think the house or deck is excessive or overly sized. He concluded that he believed the City should grant the variance.

Crosby inquired if anyone knew what the other neighbor thought of the variance. Martin and Thurber stated that they were in favor of it because it will improve grading and drainage.

Martin stated that they proposed an increase over the current shoreland setback, are building closer to the road and making total improvements to the land.

Public Hearing closed at 7:37 p.m.

Crosby stated that he believed staff did exactly what they should have done in interpreting the ordinances regarding shoreland setbacks and variances.

Crosby asked Weir if there was a better way to handle an ordinance; if it were better for the Planning Commission to stick closer to the ordinance and leave it up to the Council to consider it deeper and grant a variance.

Crosby stated that if the Planning Commission were to recommend granting a variance, he would list the following items as findings of fact:

- 1) The proposed house improves on non-conforming aspects of current building
- 2) Proposal is a general improvement to neighborhood
- 3) The variance is only dealing with the deck, not the full structure.
- 4) The variance has the consent of neighbors (if in writing).
- 5) Looking tangentially from front yards, this home is consistent with neighbors.
- 6) The road and wetlands do shrink buildable area of the lot.

Crosby stated that if you put enough conditions in, a variance can remain difficult to achieve for future situations.

Crosby inquired how often the Planning Commission recommends approval of a variance before they go to Council.

Schild stated that there were times in the past where the Planning Commission has recommended approval of a variance. The staff recommends that if Commissioners feel it should be granted, that they recommend so.

Dickerson inquired if the two trees in the front yard will stay.

Martin replied that one of the trees (a maple) will be removed, but many more will be added. He also added that they had improved the area across Lakeshore by removing a lot of brush.

Jacobson inquired about the possibility of placing the footing outside of the setback and cantilever into the setback area. He suggested that there were ways to work the footings and beams to get it out of setback.

Pederson inquired why Lakeshore Avenue bisects all of these lots.

Franklin stated that people used to use Ardmore to get through this area, but residents in the past had petitioned to get the road put in. The road had to follow the topography instead of the lot lines. The whole area is a legal and technical nightmare.

Pederson stated that this easement or right-of-way makes it a unique property.

Verbick stated that having a road through the property is a hardship. While they are not the only lot, it is a distinct disadvantage.

Fortin stated that this is a great improvement and understands why they want the deck. Fortin stated that she likes the idea of placing the footing back, and inquired if they could shrink down the deck by a couple of feet. Fortin stated that she does not believe it meets the hardship, but because four feet is so little, she would be in favor of granting the variance.

Crosby agreed with Jacobson, that there would be construction elements to be considered.

Verbick stated that she believes they meet the hardship requirements. Even though there are smaller lots, the improvements that are being made are terrific and the house is not absurdly large, and a twelve foot deck is not unusual. Verbick stated that criteria five could be debated, maybe they could shrink the deck. She stated that it seems very reasonable and pointed out that there have been a number of variances granted in Independence Beach to deal with specific issues.

Dickerson inquired if most of the neighbors were non-conforming also.

Neighbors in attendance stated that some were non-conforming, while some were able to use tuck-under garages to get outside of the setback.

Lorsung pointed out that there was another variance granted from the shoreland setback at a home on the north end of Lakeshore. Significant investment was made in best management practices to help control runoff.

Crosby suggested adding one more finding of fact stating:

7) Special circumstances often encountered in Independence Beach area.

Motion by Verbick, seconded by Fortin to recommend approval of the variance taking into account the pertinent issues the Planning Commission discussed. Motion passes unanimously (Absent: Johnson).

9. Swanson Homes, Concept Plan for Gorman Farm south of Arrowhead Dr.

Lorsung reminded Commissioners that the Concept Plan ordinance is under review by the City Council, and that the Council is considering public notice between 1000-2000 feet. Lorsung reminded the Commission that this is not a public hearing, and that decisions are non-binding.

Lorsung presented a short introduction of the application. Swanson Homes is the applicant for the "Gorman Farms" parcel in Section 1. It is zoned RR-UR, guided for the 2020 MUSA. The Concept Plan suggests 82 units on approximately 80 total acres.

Lorsung stated that the Met Council figures net acres after taking out items that are dedicated on the plat. Staff, therefore, estimates that the units per net acre presented by the developer could be a little low (it is most likely near 2/net acre). Lorsung stated that the Met Council requires 3-5 units per net acre. Lorsung stated that the trail plan calls for trails on CR116 and Hackamore, so the city will probably request right-of-way.

Curt Swanson (Swanson Homes) and Troy Gamble (Anderson Engineering) represented the applicant.

Swanson stated that their plan is to be consistent with the surrounding neighborhoods (Wild Meadows and Foxberry). Realizing that this is not in MUSA yet, Swanson Homes wanted to bring it forward now as the 2030 Comprehensive Plan is considered. The homes would be very customized and it will be a very nice neighborhood. As far as Park Dedication is concerned, we would propose a public park (with the developer doing a lot of the start-up work).

Gamble agreed with staff that only the wetlands were subtracted when figuring net density. If all easements were taken out, the density would be closer to 2 units per acre.

Crosby inquired about the current intent of the applicant.

Swanson stated that the intent was to include it in the Comprehensive Planning process, for future development.

Crosby requested some in-depth analysis to approach the Met Council requirement of 3-5 units per net acre so future development doesn't get the city into trouble.

Jacobson stated that it didn't seem wise to approve of less dense development when the City has some catching up to do. He inquired about reducing lot size to increase the unit/acre. Swanson replied that their main goal was to make the area consistent with the neighboring developments.

Crosby inquired about Park Dedication. How should the city view Park Dedication? Are there de minimus qualifications for what would be accepted as a park? If there are not, this should be reviewed.

Crosby stated that the Concept seems to fit, for what its worth, and he appreciates getting it to the attention of the Commission and Council. The City needs to have a roadmap of a way to meet the density requirements of the Met Council.

Fortin inquired if the main entrance is exactly across from the Foxberry Farms entrance. Swanson replied that it was.

Swanson stated that as the plan moves forward, they looked forward to working with neighboring properties as planning continues forward.

Dickerson inquired about the value of homes.

Swanson stated that it would be similar to the southern portion of Wild Meadows, probably in the \$1 million range.

Steve Theesfeld (600 Shawnee Woods) stated that while he understands that the City has density requirements, even this density seems high for the area. He stated that in the spring, his property floods, and the 5 homes in the southeast corner of the plan are usually ponds in the spring. This is an Urban Reserve area, it is not set to be developed until 2020-2040, so this seems early. He urged the city to keep this area as a rural setting, as had been told local owners through the previous comprehensive plan. Theesfeld asked the Commission to be consistent in how they approach the area, and discussed history of neighbors in the Shawnee Woods area being denied sewer a decade ago when they had failing septic issues in the 90s. He stated that if this is moved forward, the same consideration should be given to neighbors who wish to develop.

Dale Gronberg (565 Hackamore) stated that one of the reasons they bought their home in 2000 was because the current Comprehensive Plan fit their plans. The neighbors need to know what is going on for their future plans.

Lorsung discussed the purpose of “ghost plats” within Concept Plans.

Schild stated that the City is not in favor of “spot zoning.” Through the Comprehensive Planning process, if the “Gorman Farms” piece goes into the MUSA, it is likely that all adjacent property would be guided the same.

Pederson noted that his land also abuts this property, in the interest of disclosure.

Joe Cavanaugh (PID 01-118-23-22-0006) stated that he is the owner of approximately 10 acres of land adjacent to the Gorman property. He also stated that he owns a Hennepin County approved entrance and easement along the northwestern border of the Gorman Farm. He stated that he does not want an extension of road from the Gorman subdivision onto his property. He intends to use this easement to access County Road 116. He does not want the

extension of the trail from the Gorman development onto his property. He does not appreciate the disregard for his easement or his setbacks.

Mark Czech (660 Shawnee Woods) stated a number of concerns. Moved to Medina is 2001 because they like the field behind their home. Property taxes have doubled since he moved in, and he is a teacher. Czech stated that a concept plan like this gets people whipped up, and they are fired up about things that won't necessarily even happen. Czech stated that it took him two years to find a house, and this is the one he wants to live in. Concerned about water runoff, screening, tree damage because of high water. He also stated that he was concerned about traffic on CR 116, especially with the hill south of the entrance. Finally, he is concerned with increased property values (and taxes), yet at the same time, we want to have the highest value possible in the future.

Marilyn Larson (435 Hackamore) – stated that she prefers the rural density, and feels like she is being forced out by the fact that two roads end at her property.

Crosby tried to summarize the Planning Commission discussion. Specific comments (screening, water runoff, etc.) are probably premature. He stated that basically what he heard is that adjacent property owners do not agree with the Concept Plan because it is not similar to what they “bought into” when they moved to Medina. The City has to look at the totality of the where the city is going.

Crosby stated that the neighbors were right to show up, and urged them to stay involved.

Discussion surrounded the timetable for this project, the timetable of the Comprehensive Plan process, and other possible development that will probably be proposed.

Crosby urged people with opinions to put it in writing to the City, to make it official.

General consensus was to recess for a break at 9:06.

Chair Crosby brought the Commission back to session at 9:16 p.m.

10. Rural Residential Zoning District Conditional Use Amendment regarding cemeteries...Continued Public Hearing

Lorsung stated that staff made some changes to the proposed ordinance since last before the Commission. She suggested that the Commission go through the changes and make comments for the Council. Staff added language clarifying the site plans (lighting, signage, traffic, landscape, grading and erosion control), as well as allowing for environmental and traffic studies.

Crosby clarified that the matter before the Commission this evening really is to set up a working ordinance for reviewing all cemetery applications.

Crosby inquired if it was too late to put commercial (for-profit) cemeteries in a different category from non-profit cemeteries. If it was not too late, this matter may be a rezoning rather than a CUP in rural residential.

Crosby discussed the taxability issue. He found that improvements to the real estate can be taxed, although the land itself could not.

Crosby stated that the research material seems complete, but the question really is how to get the best information into the packet for City Council.

Dickerson stated that he liked Crosby's comments. He stated that he used to work for Plymouth Parks. Having to take care of cemeteries is a lot of work if a city has to take over. The city can mow 3 parks in the time it takes to take care of a cemetery.

Commission members discussed issues relating to funding for public services, taxability, the possible shortcomings of care and maintenance investment funds. The Commission also discussed differences between traditional church cemeteries and "commercial" cemeteries.

Verbick inquired about issues of protecting water supplies.

Richard Gay (Pending Applicant) discussed the Minnesota statutes that offer environmental protections, including sealed cement enclosures.

Gay stated that there really is little difference between private cemeteries and non-profit cemeteries. Cemeteries that are currently developed are all similar to this "memorial park" style.

Crosby stated that he would like to see additional setbacks (maybe 100 feet) for large structures like mausoleums.

Crosby stated that it seems like to long of a process for the Commission to slice and dice the various ordinances to come with a working project. He volunteered to help get a document ready for the Council by the end of the week.

Crosby suggested the Commission pull the better things out of the example. He picked out clauses that he thought were useful. In the first example: clause 1, 2, 4, 5, 9. In the 2nd example (Sec 8-21) clause a, b, c, d. In the 3rd example (Sec 24-6), all clauses up to n. In the 4th example (Mound), 240.80 especially the Maintenance and Care clauses.

Crosby stated that from what he has seen outside of these examples, it seems that this is a fairly complete list. It seems like staff could pick the best, get rid of repetition, and put something before the Council. Commissioners could see this before the Council meeting and add input at that stage.

Pederson stated that "no cremation facility" should be added to clause number 8 and also suggested berming requirements rather than landscaping.

Motion by Fortin, Verbick seconds to direct staff to take the best out of the ordinance examples and propose a cemetery ordinance amendment to the City Council. The Commission also directed staff to send the proposed ordinance to the Planning Commission to allow for feedback to the Council. Motion passes unanimously (Absent: Johnson).

Discussion surrounded home occupations, code violating landscape businesses.

Crosby suggested a change in clause C, 2 within the “Home occupation“ section to include text stating “over the counter or the service equivalent”

Pederson inquired about how Fed Ex, UPS, etc. impact the “no deliveries” clause. He also inquired about the one-ton limit on delivery vehicles.

Lorsung stated that most of these items were covered within the ordinance by allowing the Council to add conditions to the permit.

Pederson suggested changing the clause allowing home occupations only within the principal structure to allow them in any approved structure, and also about the clause that requires entrances to be within the principal structure.

Crosby stated that these regulations help control the size of the home occupation and feels that those clauses are important.

Crosby asked about codifying a grandfathering clause for home occupations because there are a lot of examples of businesses that have been running clean businesses for a long time (used Long Lake Glass as an example). This clause would allow a well established business in general conformance to be allowed.

Motion by Verbick, seconded by Dickerson to modify the home occupations ordinance as discussed and move forward to the City Council. Motion passes unanimously (Absent: Johnson).

The Commission discussed the chance of changing cemeteries to a commercial use rather than residential use. This would make it a zoning (rezoning) rather than a conditional use permit. There was also discussion about differentiating between for-profit and non-profit cemeteries. Commissioners also discussed the timing of these changes in relation to the pending application.

Lorsung stated that the Council could decide that it needs more time, look into a zoning change, and deny applications in the meantime if they do not grant the City extensions to finish the ordinance changes.

11. Adjourn

Motion by Verbick, seconded by Dickerson to adjourn at 10:31 p.m. Motion passes unanimously.

Prepared by: Dusty Finke

Date