

## **CITY OF MEDINA PLANNING COMMISSION**

### **Meeting Minutes**

**Tuesday, September 11, 2007**

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

Present: Planning Commissioners Mary Verbick, Jeff Pederson, Doug Dickerson, Michele Litts (arrived at 8:15 p.m.), Charles Nolan and Robin Reid.

Absent: Planning Commissioner Mark Bryant

Also Present: City Council Member Elizabeth Weir; Planning Director Tim Benetti; Assistant to Planning Dusty Finke.

**The general consensus was to add the item: “Call Special Meeting of the Planning Commission – November 27, 2007” to the agenda.**

**2. Public Comments:**

Dave Wessin (1125 Hamel Road) presented the Commission information that he had given to the Comp Plan Advisory Panel regarding his proposed land swap. He invited Commissioners to visit his property.

**3. Update from City Council Proceedings:**

Councilmember Weir delivered a report of Council actions since the last Planning Commission meeting. These actions included: seeking an RFP for garbage services; approving a lot rearrangement for Willow Hill Preserve; discussing truck traffic on Homestead and Parkview and the potential of the city to take-over these streets; affirmed the adoption of the Special Fire Protection regulations, directed staff to report on potential impacts to Uptown Hamel development; directed staff to prepare a resolution of approval for MnLINC/Turnquist; sought grants for Shoreland Stabilization for residents at Independence Beach and also for a project at Holy Name Park; approved a proposal for playground equipment for Hamel Legion Park; and discussed the preliminary levy.

**4. City Planner’s Report**

Finke introduced Planning Director Tim Benetti.

Finke stated that there are two land use projects which have been outstanding for a few months that staff has been waiting for additional information on. One is a PUD amendment for the Hennepin County Public Works, and also a Site Plan Review for a 7-unit townhome development at 705 Hamel Road.

Finke noted that staff would likely return with a few ordinance amendments that have been in the works, including the wetland ordinance and the cemetery regulations.

Finke noted that the Advisory Panel had set the dates for the Comp Plan Open Houses as October 25 (7 p.m.) and October 27 (9 a.m.). He also noted that the Public Hearing for the Comp Plan was set for November 27, 2007.

**5. Approval of the August 14, 2007 Planning Commission Minutes**

**Motion by Dickerson, seconded by Reid** to approve the August 14, 2007 minutes, with the suggested changes. **Motion passes unanimously** (Absent: Bryant, Litts)

**6. Ordinance Amendment – Section 828.41– Pertaining to Tree Preservation and Replacement. Public Hearing**

Finke delivered a brief staff report. He stated the ordinance as drafted would apply to all residential zoning districts. Following the feedback from the Commission and Council, the exemption for clearing in the area of the home, driveway, etc. had been removed. The draft includes a table describing how many trees could be removed based on a “sliding scale” by lot size. So that an applicant does not need to count individual trees within a large wooded area, the ordinance does allow them to estimate by sampling a smaller area. Finke noted that the draft attempts to differentiate between the tree removal on large-scale development activities on a site, from the smaller-scale building permit type removal. Finke compared the allowed removal within the draft to other city ordinances. He stated they range from 10% in Bemidji, to 50% in Plymouth and Bloomington. Finke noted that summarizing replacement requirements is difficult, as it can range widely. The current draft requires 1:1 replacement and 2:1 in Old Growth Forest.

Verbick inquired about the Plymouth 50% allowance. Along Hackamore, there was a large development where the entire site was clear-cut. She stated that if that developer was able to get around the ordinance, Medina should make sure to prevent that.

Benetti noted the developer could have done a lot of replacement in that case, or may have been granted a waiver.

Reid stated that it appears the draft ordinance appears to require less replacement than most surrounding communities.

Finke noted some cities required 1:25:1 or 1.5:1, but that the charts used by Savage and Eagan actually result in replacement requirements less than 1:1. He stated that some, mostly larger, cities did allow an applicant to pay a fee in lieu of replacement. He stated that he does not have a lot of information on those programs, but can find more information if the Commission and Council is interested.

Weir stated that her fear was developers would just see it as a cost of doing business and wouldn't strive to protect trees.

Verbick stated that she believes protecting the wooded areas is the first step, and that it is important to allow replacement if it is absolutely necessary.

Nolan said he thought it would be perhaps worthwhile to allow payments at the discretion of the Council. There may be an area where replacing trees may not make sense, and the City could find a better use for the money.

Finke noted that one concern the builder's association is quick to raise, is that it is sometimes difficult to find room to replace a 30" tree with fifteen 2" trees on a site. He noted that the concept used by Savage and Eagan gives more credit for planting larger, more mature trees.

Finke summarized some of the other changes suggested by the Commission and Council. He stated there was no consensus for the number of BMPs needed to be considered for a waiver, and suggested the Commission take a position if they are in favor of increasing from two. He stated the draft exempts cutting of invasive and pioneering species of trees such as buckthorn and box elder. A clause was added to the draft that gives a property owner credit for trees they have planted previously in terms of replacement. Finke stated a clause was added stating that tree removal is considered in the aggregate, in order to disallow a property owner from clearing just under the allowed amount a number of separate times. Finke also noted that staff would work with the DNR and Hennepin County Environmental Services to fix any issues with the tree list in the ordinance.

Weir stated she believed the list was from the DNR, but that Ash trees were removed out of fear of a pending Emerald Ash Borer problem. Why would we want a bunch of trees planted that would be killed in the near future?

Reid inquired if there would be a specific list of invasive and pioneering trees.

Finke stated that a specific list could be added. He was unsure if that classification would ever change in the future. If the "experts" state the list will not change in the future, perhaps it would be worth adding.

Weir said she believed the flexible language is better. Things will change into the future.

Verbick asked why the Council wished to add the credit for previously planted trees.

Finke stated that it prevents it from being a disincentive to plant trees if a property owner then wants to do something with their property in the future.

Verbick inquired how long that could go back, and how it could be monitored.

Finke stated the draft requires the property owner to provide proof acceptable to staff of what was planted and when. In this way, staff would know how much "credit" to grant.

Verbick stated there are developments that occur on empty fields, and any tree planted would then be allowed to be removed.

Reid asked if there was a way to protect undeveloped property. What could stop a person not applying for a building permit or a subdivision from cutting down all the trees they wished?

Finke stated the ordinance is applicable to any removal of significant trees. He directed members to the Applicability section. In effect, if anyone wants to cut down a single significant tree, they would need a permit. Finke stated it may be worth discussing allowing a property owner to clear one or two trees per year without a permit, if only to prevent staff from being inundated with tree permits.

Nolan suggested two trees allowed to be removed per year. **The general consensus of the Commission was to add an allowance of two trees per year.**

Reid suggested that it be made clearer that the applicability includes undeveloped property.

**Public Hearing continued at 7:58 p.m.**

Nolan suggested “including” instead of “limited to” in the definition of initial development.

Nolan stated he likes the premium for Old Growth forests, but asked about a premium for larger trees. He stated that a 32” tree should be worth more than a smaller tree.

Finke responded it was true that larger trees did not count for more when deciding how many trees may be removed. However, there would be some disincentive if an applicant has to replace trees, since a larger tree would require more replacement.

Weir stated the Old Growth forest is more ecologically significant than a larger tree.

Nolan suggested adding that the trees damaged by storms should have to be “significantly damaged” in order to be exempted.

Verbick stated that she agrees.

Reid stated that a comma in definition of forestry specialist definition should be removed. She inquired about the term “definite crown” within the definition of tree. She suggested the term “defined crown.”

Weir stated defined seems like a better word.

Dickerson quoted a study that one tree can save 4,000 gallons per year in stormwater run-off. A study shows that the overall cost of planting and raising a tree returns a \$1.31 on a \$1 investment. He stated that tree selling at Spring Clean-up is a great program. Dickerson stated that he felt the trees should be supplemented even more by an environmental fund.

Pederson stated that Highway 55 Rental and MetroWest had donated extra trees last year for planting in parks. If the City wished, Highway 55 Rental would purchase and donate any extra trees, so that the number ordered could be increased without fear that they may not be purchased. In this way, there are as many here as possible and the extras could be planted in parks.

Dickerson stated that he thought the Purpose section was much too wordy. The same went for the definition of Best Management Practices. He stated that the most important thing he wished to address was the replacement tree requirements. He suggested striking that they have to be nursery stock and not bare-root. Since there is a two-year guarantee, any trees which do not survive need to be replaced anyway.

Weir stated that she thought part of the reason behind that language was to make sure people don't just dig up trees out of the woods.

Dickerson stated the Zoning Administrator should be able to waive the requirement that replacement trees be no more than 25% of the same species. He stated it would be silly to require someone replacing four trees to have one of each type. Also, there may be situations where planting more of one type may actually help diversify some areas.

Dickerson stated he wished the minimum size of replacement trees be 1 caliper inch, rather than the 2 inch. He stated that these trees survive better. Additionally, if we allow smaller diameter, the City could get more trees to make up the caliper inches.

Dickerson suggested asterisks next to the trees in the list that are native to Medina.

Verbick stated requiring that trees be planted in the correct type of soils should help.

Dickerson stated the most successful trees in Medina could be noted, even if they're not required.

Dickerson inquired about adding more spruces, perhaps Willows, because they can soak up more gallons of water every day.

Verbick stated those trees are not native, in fact the Willow is native to China.

Reid stated a person could certainly plant those types of trees, they just wouldn't receive replacement credit for them.

#### **Commissioner Litts arrives at 8:15 p.m.**

Weir introduced Michele Litts, who will be filling the vacancy left by Sharon Johnson's resignation. She thanked Litts for agreeing to serve.

Reid suggested adding language to say that the maximum 25% of one species only applies if there are over 12 replacement trees required. **The general consensus was to recommend this change.**

Weir stated that allowing smaller trees for replacement doesn't work as well as a disincentive.

Verbick suggested that perhaps this could be forwarded as a question for discussion to the City Council, rather than taking a position on the question.

Nolan stated that he supports the larger trees in general, if only because you get a little more instant gratification and don't have to wait a decade for the smaller trees to "catch up."

Verbick stated that in terms of screening and fenestration, larger trees accomplish this quickly, rather than having to wait to see it.

Pederson inquired where off-site replacement could occur. Would this occur in parks?

Finke noted this isn't stated in the ordinance, but gives the discretion to the Council. Finke noted the City would have to be diligent to make sure developers wouldn't swap trees. In other words, a developer could seek to replace trees on another developer's property that has yet to develop. Later on when that property gets developed, they would, in effect, be allowed to cut more trees because of the replacement. Finke noted that the City Council could control that from happening, by where they allow replacement.

Nolan pointed out that Best Management Practices are defined under the Definitions section, and yet reference in terms of Waivers. These lists and definitions are not consistent.

Finke stated the City would need to be careful about granting waivers in the future. Does moving one utility line just a little bit in order to avoid one tree count as a BMP? The language can be improved to make sure it does not seem like a waiver is ever assumed just because an applicant does some minor things which fall on the list.

Nolan stated he likes the ideas of the incentives and doesn't want to lose it. If it is left up to the Council, they will pick it apart and make sure there are actual legitimate efforts being made with the BMPs.

Dickerson inquired about who would grant waivers.

Finke stated the current draft would be interpreted to say that the Council would grant waivers for anything, including an official land use application that they would review. It would leave it open to the Zoning Administrator to grant waivers for things such as building permits, or someone who just wants to remove trees. Finke stated the Zoning Administrator could decide to go to the Council if there was a large request that staff wasn't comfortable handling themselves.

Reid suggested that the first clause under Applicability read: "Removal of non-invasive significant trees on any property, developed or undeveloped." She stated this makes it crystal clear that all trees are covered.

Litts stated some of the trees on the list do not have a very good track record. She stated she had tried to plant Bur Oaks and they would live a few years and then die. American Elm are apt to get diseased.

Finke stated the tree list apparently needs a lot of work and he will work with people who know more about trees to improve it.

Nolan stated the 1-5 acre allowance stuck out to him. It seemed like a lot on five acres.

Finke asked for feedback on the allowed disturbance table. He stated that different lot sizes have different allowances. He clarified that the percentage of removal allowed is based on the number of trees. If there are 100 significant trees on a lot, and they are allowed 20%, they could remove 20 trees.

Verbick inquired if a fully wooded 5-acre lot would be able to utilize their property under the allowed in the table.

Reid stated that if the lot was approximately equally wooded, the 23% of trees would correspond to about 23% of the lot. This would be about an acre and a half of area to build. She expressed concern that this was actually more than was allowed under the previous ordinance.

Weir pointed out that the previous draft exempted the house, yard, driveway, etc. and allowed an additional acre beyond that.

Finke noted that if there were areas that were less wooded and some that were more wooded, basing the allowed removal on numbers of trees makes an incentive to aim for the unwooded, or less wooded portion of the lot.

Finke pointed out the waiver would also come into play on a lot that is entirely wooded. If the owner proposes a narrower driveway, is carefully locating the house, is doing everything the City wants them to, and they are still over the 23%, the City could still grant a waiver.

Verbick stated this is very important to her. It will help make sure that no one is prevented from using their property, but also helps prevent more trees than necessary from being cut.

Reid said she believes the percentages were reasonable.

**The general consensus was to leave the allowed disturbance percentages as they were.**

Reid stated that the terms 'removals' and 'disturbance' should be clarified.

Finke inquired if the replacement requirements were acceptable.

Weir and Verbick stated the replacement requirements should be easy for staff.

Finke noted it is common for more restrictive ordinances to have lower replacement requirements. In the same way, less restrictive ordinances have higher replacement requirements.

**Public Hearing Closed at 8:49 p.m.**

Finke summarized the comments from the Commission. He stated there were a number of changes suggested in the Definitions section; new language for the first clause of the Applicability section was suggested by Reid; the words “significantly damaged” will be added to subd. 5(a) under exemptions; it was suggested that the diversification of replacement trees will only apply if more than 12 trees are needed; and adding asterisks in the tree list to trees that have survived well in Medina. More research will be conducted on replacement trees in terms of sizes, prices, survivability, etc. and presented to the Council.

**Motion by Reid, seconded by Nolan** to recommend approval of the tree preservation ordinance with the suggested changes summarized above. **Motion carries unanimously** (Absent: Bryant)

**7. Ordinance Amendment – Section 826 – Pertaining to updating incorrect references within the text of the ordinance. Public Hearing**

Finke stated it was brought to staff’s attention that a reference within the RR1 zoning district regulations was incorrect. Staff found that a subsequent ordinance amendment had been completed without cross referencing. This error led staff to cross reference all of Section 826 and a few other errors were found. The draft ordinance tonight corrects these cross referenced without actually changing any regulations.

**Public Hearing opened at 8:56 p.m.**

**Motion by Dickerson, seconded by Reid** to recommend approval of the ordinance as drafted by staff. **Motion carries unanimously** (Absent: Bryant).

**Public Hearing closed at 8:58 p.m.****8. City Council Attendance Schedule**

Finke asked Commissioners to fill in the remaining gaps for attendance at City Council meetings.

**9. Call Special Meeting of the Planning Commission – November 27, 2007**

**Motion by Nolan, seconded by Reid** to call a Special Meeting on November 27, 2007 at 7:00 p.m. for the purpose of holding a Public Hearing on the Comprehensive Plan. **Motion carries unanimously** (Absent: Bryant).

**10. Adjourn**

**Motion by Pederson, seconded by Litts** to adjourn at 9:04 p.m. **Motion carries unanimously** (Absent: Bryant)