

CITY OF MEDINA PLANNING COMMISSION

Meeting Minutes

Tuesday, November 13, 2007

1. Call to Order: Vice Chair Jeff Pederson called the meeting to order at 7:02 p.m.

Present: Planning Commissioners Mary Verbick (arrived at 7:07 p.m.), Jeff Pederson, Doug Dickerson, Michele Litts, and Robin Reid.

Absent: Planning Commissioner Charles Nolan.

Also Present: Councilmember Elizabeth Weir, Planning Director Tim Benetti, Planning Consultant Andrew Gitzlaff, Assistant to Planning Dusty Finke.

2. Public Comments: None

3. Update from City Council Proceedings:

Weir thanked Mary, Robin, Doug, and Michelle for being present and taking part in a station at the Open House. She noted that Jeff was also present and available for questions.

Weir summarized the activities of the Council since the last Commission meeting: re-advertised for Planning Commission vacancies; adopted ordinance requiring 75 acres for AAT; ordered a traffic counter on Parkview and Homestead; accepted a bid from Randy's Sanitation for garbage, recycling, and the option for organic recycling; approved a tri-city agreement to provide sewer for 50 residences in Greenfield and Independence with failing septic systems; heard from the Mayor of Corcoran regarding water/sewer service; and approved plans/specs for well #6.

4. Planning Department Report

Benetti stated that the City had received a concept plan from Farr Development for a Memory Care building and Office Condominiums in Uptown Hamel that would likely be on the Commission agenda in December. The Comprehensive Plan would also likely be on the agenda for a recommendation.

Benetti reminded Commissioners about the Comprehensive Plan Public Hearing on November 27 at 7:00 p.m. at the Community Building.

5. Approval of October 9, 2007 Planning Commission Minutes

Motion by Reid, seconded by Pederson to approve the minutes of October 9, 2007 as presented. **Motion carries unanimously** (Absent: Nolan).

6. Minnesota Linking Individuals, Nature and Critters – Interim Use Permit for operation of an Animal-Assisted Therapy facility in the Rural Residential (RR) zoning district – 2000 Chestnut Road (PIDs 15-118-23-13-0001 and 15-118-23-12-0003). Public Hearing

Benetti delivered a short staff report. He reviewed the path the application had followed through ordinance amendment, CUP review, another ordinance amendment, and now Interim Use application. He described the interim use provisions of the zoning code. Under normal circumstances, IUPs are used for areas in transition. While there is no foreseeable change in land use in this area, the Council saw the interim use permit as a viable option. Benetti reviewed the proposed use of the property and the conditions suggested by staff. He noted that almost all of the conditions were the same as under the CUP application.

Dickerson inquired how the Police Chief's recommendation is addressed.

Weir stated that it is referenced in Condition 7.

Public Hearing opened at 7:25 p.m.

Jim Lane (representing the Turnquists and MnLINC; 1055 E. Wayzata Blvd., Wayzata) stated that they had quickly submitted the application for an IUP as requested by the City Council. He stated they look forward to positive action on the application as quickly as possible. Lane stated the condition restricting client age unfairly leaves out some participants. He suggested that this be expanded to allow existing clients of MnLINC.

Jim Simons (1862 Morgan Road) inquired concerning what happens if the IUP is approved.

Benetti replied that the CUP deadline is November 29. The application must be acted on before that time. The Council's goal is, once the IUP is approved, the applicant would withdraw the CUP application.

Simons asked about condition #7, regarding fire safety. The language seems to have changed and could be seen as more permissive.

Lane stated that he wished to confirm that the Turnquists intend to withdraw the CUP application contingent upon approval of the Interim Use Permit.

Abdhish Bhavsar (2105 Chestnut Road) stated that he and Jeff Dobbs had agreed to donate a year's rent to MnLINC if they found another location, but there seemed to be no interest. They had been working towards forming an agreement and seem to be moving in the right direction. The idea of the agreement came from the Council in order for the neighbors to get satisfaction that the use will cease after two years. Fifteen cars per day is a hefty amount of traffic on a daily basis. He stated that he and T. Cody Turnquist were looking at ways to improve the road and the erosion control, and had been in contact with Jim Dillman on how to maintain the road. While they would prefer less trips, if the trips per day were to stay at 15, they could live with that. He stated that they appreciate the time and effort that has gone into this. It was Mr. Dobb's hope, and is Mrs. Dobb's wish, to work to resolve this as expeditiously as possible.

Verbick inquired about condition 14, and if it was the Council's intention to disallow adults.

Lane stated that the age restriction is a concern for MnLINC. He urged the Commission to discuss the issue, and they will certainly have information available for the Council on the numbers of adult clients.

Verbick inquired about the City's involvement in the agreement Mr. Bhavsar had discussed.

Benetti replied that the Council wanted to see if an agreement could be worked out between the parties involved in terms of the tenure of the use, and if so, the Council may wish to act on the CUP.

Bhavsar stated that they were under the understanding that even if there was a legal agreement, the Council would allow the IUP to continue to go forward, not the CUP.

Public Hearing closed at 7:49 p.m.

Dickerson inquired if condition 14 was meant to be an age restriction without stating a number.

Tanya Welsch (MnLINC applicant) replied that this seemed to be the case.

Motion by Pederson, seconded by Litts to recommend approval of the Interim Use Permit with 27 conditions in the staff report, but with further discussion about age restrictions with the City Attorney. **Motion carries unanimously** (Absent: Nolan).

7. Robb Stauber – Site Plan Review with Variance for the development of six condominium units in the Multi-Family Residential (MR) zoning district – 705 Hamel Road (PID 12-118-23-32-0001). *Public Hearing*

Gitzlaff delivered a staff report. The property is located at 705 Hamel Road, which is zoned and guided multi-family residential. The property previously included a single family home, which has now been moved. The surrounding land uses include multi-family residential buildings south of Hamel Road, and commercial/light industrial uses to the north of Hamel Road. Gitzlaff stated that there are wetlands on the south end of the property, as well as the floodplain around Elm Creek. No wetlands are proposed to be impacted, and the Elm Creek Watershed has reviewed the plans and requires a 50-foot vegetative buffer which the applicant proposes to also utilize as part of their stormwater treatment. The applicant proposes six condo units through a Common Interest Community (CIC) and will therefore not go through the City's platting procedure. Gitzlaff described the proposed site plan. The plan meets the required 6000 sq. ft. per unit and also meets setback and building height requirements. Gitzlaff stated the Fire Marshal has requested that the driveway meet requirements as a fire lane, that the southern building be sprinkled and that an additional hydrant be added. Gitzlaff noted that the applicant must provide 33 feet of right-of-way on Hamel Road.

Gitzlaff stated that staff recommends the HOA documents be amended to state that driveway parking is only allowed for guests (homeowners would have to use the garage). Gitzlaff stated that the City will be requiring Park Dedication for the five new units. A future trail is shown on the City's Parks/Trail plan, and the Park Commission will be reviewing the proposal at their November 28 meeting. Gitzlaff discussed staff's recommendations regarding the architecture of the units, especially wrapping architectural details to all sides of the buildings, varying the depth/setbacks of the units, and breaking up the roof lines.

Gitzlaff stated that the applicant also seeks a variance from the 25% impervious surface requirements of the shoreland overlay district. The applicant is responsible for showing that they meet the criteria of a variance. Staff believes it would be difficult to develop multi-family housing with only 25% hardcover, and that the large rain garden on the south side of the property is helpful to mitigate.

Reid inquired if the rain gardens would be designed in a way to handle the run-off from the site.

Gitzlaff stated this will be required by the engineer, and the design could be adjusted to make sure there is enough volume.

Dickerson asked how far the rear structure is set back from the wetland.

The buffer is 50 feet in width, and the setback exceeds that in some areas.

Rick Rosatti (representing the applicant) stated that he and Robb Stauber are going to be living in two of the rear units. The architectural design is based on an award-winning design from the Eden Prairie area.

Verbick stated that it looks like the front of the building is well designed with numerous building materials. She added that it seems like the front stairs should have handrails.

Gitzlaff said the building official will review before a building permit is issued.

Public Hearing opened at 8:22 p.m.

Gitzlaff noted that comments were received (attached) from the Elm Creek Knoll Homeowner's Association. There were concerns that six units may be too much for the site, and they were concerned how additional run-off might impact their property.

Rosatti said they have had their eye on the property for a long time, have worked with staff to change their plans a number of times, and look forward to moving forward.

Pederson inquired if there was a way to improve the attractiveness of the rear of the buildings, perhaps with some brick.

Rosatti stated that they look at two things, good construction and salability. Improving how they look will certainly improve the salability.

Weir inquired into the cost of the units.

Rosatti said they have estimated the rear units at \$375,000 and the front units at \$275,000.

Dickerson stated that in terms of architecture, the windows on the side of the buildings are poorly designed and do not seem to line up. Obviously, changing this will cause changes in the floor plans.

Verbick stated, in terms of intensity, it seems like the use actually fits in. In fact, it goes towards the policy of the City of increasing density in the Uptown Hamel area.

Gitzlaff stated that the feeling of density can be reduced by good design, which is why the staff concentrates on it so much within the staff report.

Verbick stated that very careful attention should be paid to the landscaping plan, as it can greatly soften whatever is built there.

Litts inquired if two cars could pass each other on the driveway.

Finke noted that the driveway is 20' wide and would handle two cars.

Gitzlaff added that it would also be posted as "no parking."

Public Hearing closed at 8:40 p.m.

Pederson suggested adding more architectural elements, especially brick, to the other sides of the structures. He also suggested adding a condition that railings be used on the decks if needed.

Reid stated that condition 17 may approach this issue as well.

Weir stated the Commission could recommend that staff work with the applicant, as opposed to micro-managing the plan at this meeting.

Gitzlaff stated that would be possible as long as the Commission gives some direction.

Verbick said they would trust staff to do a detailed job reviewing the architecture. She stated that she concurs with staff's analysis of the variance request.

Reid stated that if the Elm Creek Watershed accepts the variance, she would support it as well.

Pederson asked if perhaps pavers could be used as well to reduce the hardcover.

Gitzlaff summarized the Commission's discussion. They suggested decorative brick or stone to wrap around the facades and the use of decorative materials/handrails or screening for the

front porches. The Commission suggested looking at overall quality of building materials, and perhaps using pavers to reduce hardcover.

Motion by Reid, seconded by Pederson to recommend approval, subject to conditions suggested by staff and the comments added as a result of the discussion. **Motion carries unanimously** (Absent: Nolan).

Motion by Litts, seconded by Reid to recommend approval of the variance based on the rationale suggested in the staff report. **Motion carries unanimously** (Absent: Nolan).

8. Presentation from WSB Regarding the Wetlands Functions and Values Assessment.
Benetti introduced Andrea Moffatt, Senior Environmental Scientist at WSB.

Moffatt stated that the intent of the assessment was to inventory the functions and values of the wetlands on a city-wide scale. It is important to realize that the wetlands are shown on the map in their general area and were not delineated. The Hennepin County wetlands map was used as a base, and major differences were adjusted, but these should not be used as delineated. Moffatt noted that while they walked all over the City trying to find all the wetlands, it is almost certain that some were missed, and there were also approximately 40 wetlands which they could not get access to. She stated they assessed 640 wetlands using MnRAM 3.0, which is the state approved method. In order to carry out the MnRAM, you answer 64 questions on subjects including vegetation, habitat, water condition, etc. This data is then run through a computer program. Moffatt stated the Board of Water and Soil Resources (BWSR) method was used to classify the wetlands into management classifications.

Moffatt stated there were two things to keep in mind as the ordinance is created. First, make sure to require assessments for wetlands which were missed. She also suggested that the ordinance include an appeals process for applicants who disagree with a classification.

Dickerson discussed Plymouth's wetland map. It seems that Medina has a lot more Preserve wetlands than they do.

Moffatt stated that because the community is less developed, the wetlands tend to be higher quality.

Dickerson stated that one possibility for the wetlands ordinance is to pick out especially high quality wetlands and add larger buffers. He inquired if there was some way to know which of those wetlands would be the highest quality.

Moffatt stated that some of the reference wetlands were identified and photographed for each wetland type, but that should not be the sole basis for extra protection.

Verbick said the wetland ordinance would be a tremendous asset to help protect rural character.

Dickerson inquired if there are a lot of arguments over the classification of wetlands.

Moffatt responded that in Rosemount, there have been three or four appeals over the past decade or so. She noted that perhaps half of these were changed.

A resident inquired if the functions and values have anything to do with the type of wetland.

Moffatt responded they are not linked; any type of wetland could be very high quality and could fall into any of the management classes.

9. Ordinance Amendment – Section 828.43 – Pertaining to regulations related to wetlands

Bob Trojan (3505 Pioneer Trail) stated that they own property which has been subdivided off, but has not yet been built on. He stated that he is in favor of protecting wetlands, even as a homeowner with a lot of wetlands on his property. However, he would hate to see a new ordinance that encumbers property owners who bought property under existing assumptions and are not changing the use of the land. He stated that this could take 4-5 acres of buildable property away from the existing property. Trojan asked the Commission to consider an approach that only applies to new land use requests, and not to previously subdivided parcels.

Reid asked if the appeals process would be just to argue the classification of a wetland, or if it would also apply to situations where the buffers make it impossible to rebuild.

Finke replied that the appeals process would apply to the actual classification, and the variance provision would apply for people who couldn't meet the buffer/setback requirements.

Reid pointed out that "unreasonable impacts on property" is not yet defined on page 7.

Finke stated that he would work with John Smyth to update that definition.

Reid asked if there would be a procedure for single family homes to appeal or get a variance in situations where they may be impacted by the new buffer and setback requirements.

Finke stated that even before a variance would be looked into, the ordinance allows flexibility and averaging of the buffer, which may greatly reduce negative impacts. After that, the ordinance also establishes a variance procedure.

Verbick stated that when she hears people talking about encumbering or causing people to lose property, it is never the City's intent to encumber or cause hardship, regardless of how things are perceived. When thinking about open space, wetlands, and other things that the City values, the wetland ordinance will actually enhance property values, not decrease them.

Bruce Workman (2212 Chippewa) stated that the ordinance should be placed within the context of the Comp Plan update. The buffers around preserve wetlands would reduce the amount of acres which could be built. It is also possible that some of the commercial property along Hwy 55 would become unbuildable. This could cause hardships and the need for variances.

He stated that the commercial districts already had wetland setbacks, and the Commission should think about if an ordinance modeled after Orono's really makes sense.

Susan Seeland (470 Peavey Road, Wayzata) stated that she supports adding the appeals process. She thanked Benetti and Moffatt for the time they've spent. The Hennepin County wetland data showed a wetland on their property linked to a larger wetland in Baker Park. This raised the classification level of the wetland. The Hennepin County wetlands data is on too large of a scale to be reliable. Luckily, WSB took a look at it, saw that it is not connected, and it was corrected. However, this could have happened at other locations, and she urged the Commission to be cautious with how much confidence they place in the data.

Abdhish Bhavsar (2105 Chestnut Road) stated that they had researched wetlands before they purchased their property. He said they wished to be proactive to improve the wetlands. They are looking at building a larger barn, and the buffers and setbacks may limit where the structure could be located, and might cause them to have to cut down trees. Additionally, if the ordinance was triggered, they would not be able to pasture cattle in places where Hunk Scherer said had been used as pasture for years. He stated that if residents were aware of what type of wetland was on their property and how this ordinance might impact them, they may give more feedback. He stated he also supports the comments by Mr. Trojan.

Seeland inquired how Medina's classification system compares to other areas.

Moffatt stated that the state had adopted a flowchart a couple of years ago. They used the state's standard classification method to place the wetlands into the classifications.

Trojan stated there are a lot of wet meadows that do not show up on the map.

Moffatt replied that it actually is more likely that the Hennepin County map included areas which were not wetlands. They had tromped all over the City.

Dickerson inquired if different communities used other names for their classifications. Preserve, Manage 1, 2, and 3 is fairly clumsy.

Moffatt replied that while the City could call the classification levels anything they wanted to, BWSR is trying to convince everyone to be consistent.

Finke stated that one of the Commissioners had raised a concern about the additional cost to a property owner of conducting a MnRAM assessment on a wetland which has not been assessed. He inquired how much additional cost there would be above a delineation.

Moffatt replied that the additional work is entering the data into MnRAM and running the program, which could take an additional hour of time. This cost really isn't impacted by the size of the wetland.

Pederson stated that he doesn't believe a property owner should need a variance to rebuild a house which is in an established neighborhood and is destroyed by a fire or tornado. As long as they wish to rebuild within the same footprint, it should be allowed.

Pederson asked about the ability to put a driveway through a buffer if it was the only way to access a piece of property.

Finke stated the City would obviously avoid that situation with any new subdivision. On an existing lot, the buffer flexibility may have alleviated these concerns, or a variance may need to be applied for. Finke noted that the WCA would come into play if there were impacts to the wetlands themselves.

Finke stated that another regulation that could be considered, although not included in the current draft, is additional wetland mitigation requirements for Preserve wetlands, and perhaps reduced mitigation for Manage 3.

Moffatt noted that some cities include this, but it can become an accounting nightmare. The City has to maintain a 2:1 mitigation rate as a whole, and would have to keep track of all of that information rather than just sticking with a 2:1 in each situation where mitigation is required.

Pederson stated that this is the toughest issue to deal with since he's been on the Commission, because it could have such a huge impact on people.

Pederson suggested the Commission table the ordinance until the December meeting.

Finke noted that the Commission never officially removed the wetland ordinance from the table, so it is still technically tabled. He stated staff will look at the suggestions, update the draft, publish a notice for a continuation of the public hearing, and bring back an updated draft to the December Planning Commission meeting.

10. Adjourn

Motion by Dickerson, seconded by Pederson to adjourn at 10:25 p.m. **Motion carries unanimously** (Absent: Nolan).