

## **CITY OF MEDINA PLANNING COMMISSION**

### Meeting Minutes

Tuesday, February 12, 2008

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

Present: Planning Commissioners Jeff Pederson, Charles Nolan, Michele Litts, Robin Reid, Victoria Reid, and Mary Verbick.

Absent: Planning Commissioner Jim Simons.

Also Present: Associate Planner Dusty Finke, Planning Consultant Andrew Gitzlaff, and City Wetland Conservation Act Agent John Smyth.

**2. Public Comments on Items not on the Agenda**

No Comments

**3. Update from City Council Proceedings**

Verbick read a report from Councilmember Weir regarding actions by the City Council since the last Commission meeting.

**4. Planning Department Report**

Finke stated that at this point, no new land use applications are pending. The City Council approved of the draft update of the City's Comp Plan and staff is getting ready to send the draft to neighboring jurisdictions for comments. Finke noted that staff is preparing a work plan to prioritize and schedule the vast amount of ordinances which will need to be completed in order to implement the updated Comp Plan.

**5. Approval of January 8, 2008 Planning Commission Minutes**

**Motion by Nolan, seconded by R. Reid** to approve the January 8, 2008 minutes, with one noted change. **Motion carries unanimously** (Absent: Simons).

**6. Ordinance Amendment – Section 828.43 – Pertaining to Regulations Related to Wetlands. Continued Public Hearing**

**Public Hearing continued at 7:20 p.m.**

Madeleine Linck (1762 Morgan Road) stated that she understands the concerns people have regarding what can be done on property. She stated that she has done a lot of research on wetland buffers and wildlife habitat. Massachusetts requires 100 foot buffers, which, in terms of wildlife value, is not a lot. Amphibian populations have declined considerably. She urged the Commission to support the ordinance. She stated that the buffer is actually quite

minor from a wildlife standpoint, and the Commission has done a good job balancing private interests.

Roger Anderson (representing Process Systems Integration, PID 03-118-23-32-0007) states that engineers attempt to work with cities within ordinances and regulations. Wetland regulations are only one component. He stated that when ordinances aren't in balance, applicants are forced to go in directions they don't wish to. He stated that you sacrifice upland interests in order to protect wetlands. For instance, woods may need to be cut down to leave area for buffers. Every site is different, yet the Commission has to try to apply rules for everywhere. He stated that under the current draft, a wetland of 2000 sq. ft. would require 6 to 7 times as large of a buffer on the property. For property with a ditch running through it (perhaps 6 feet wide), the buffers push out significantly further. He stated that constricting buildable land in this way pushes everything out, including roads, sewer, commercial districts, etc. This will hurt Rural Values, not help protect them. He stated there has to be flexibility. On their 11 acre parcel, they have 2.5 acres of wetlands and would have to give up another 2.75 acres of buffers and setbacks.

Reg Pederson (landowner, Mohawk & Highway 55) stated that his property has a number of wetlands. He has been in business in Medina for 30 years. He said the combined buffers and setbacks are approximately double the requirements of the watersheds and takes a lot of land from property owners. If you have a wetland in the middle of the property, it is a 200% increase in unbuildable property. He stated that this is a fairness issue. He asked why the City would require more than the watersheds, who have done a lot of research and that it would be fair for the City to be like the watersheds.

Susan Seeland (landowner, Homestead Trail & Deerhill Road) asked the Commission to use common sense on the matter. There is a need for cities to take a step back, and work with developers instead of being rigid. She said she agrees with the buffers for Preserve and Manage 1 and they seem reasonable. She stated they have a 9 ½ acre wetland on their property in Orono and have proposed a 35-foot buffer. However, there is no incentive to enhance that wetland. She asked what the City would accomplish by protecting a tire rut which technically classifies as a wetland; it doesn't protect water quality and isn't sustainable. She said after talking to the watersheds, it appears the district and state are going to start requiring rigid buffer widths, which doesn't make any sense. There is a need for people in the Commission's shoes to step back and take a second look.

Paul Robinson (Bancor Group, developer with Medina Golf & Country Club) stated that he agrees with the point about flexibility. It obviously is difficult to legislate such a broad ordinance. He stated that the Commission listened to people and made some reasonable changes. He said one of the goals was for the City to be a one-stop shop. Elm Creek often recommends 20 feet, Pioneer-Sarah recommends 20 feet, and Minnehaha recommends 16.5-35 feet. He stated the current draft far exceeds these recommendations. The City should consider applying a similar standard to the most restrictive watershed districts, perhaps 35 feet on Preserve, and down from there. He noted that none of the watersheds has an additional setback requirement. Obviously Mr. Smyth has had issues in situations where no setbacks existed. The City should look at a more reasonable setback (5 feet), and the market

could decide the rest. Robinson suggested the City look at some way for wetland size to be considered. Within the current draft, a very small wetland would require a buffer four times the size of the wetland. He said if the goal is to have a standard across Medina, regulations similar to Minnehaha Creek Watershed district would accomplish that.

Bob Trojan (3505 Pioneer Trail) stated he had done a lot of research. Wild Meadows is a good example of these buffers, and is a showcase for the state. He said his family bought property, but has not yet been able to build and probably won't for two years. They are excited to get out here, but are disturbed by the impact this ordinance may have on them. He said they intend to leave the area they won't use in its natural state. He stated that this isn't the 1970s; people are now good stewards of wetlands. He stated that while salamanders are good and everyone likes wildlife, buffers are forever. He said he loves nature and is a duck hunter. Trojan stated that the buffers will be taxed, but you will forfeit what you can do on the land. He mentioned that there are a lot of good studies out there. The study from Westwood (on behalf of the Builder's Association and Met Council) is an excellent research model. Most of the research that the State and Bonestroo uses is 15-20 years old, not based in Minnesota, and looks at riparian streams and creeks, and averages homes in with the contamination downstream from major polluters like pig farms and heavy metal polluters. He stated that we all want to work together for the good of Medina and that Planning Commissioners do this because they care. He said the simplest possible solution is to use subdivisions as the trigger. He stated that he spoke with Delano, Maple Grove, and Plymouth who said it has worked very well. He suggested the City use setbacks instead of buffers. He suggested the Commission direct staff to look at the study completed on behalf of the Builder's Association, which says that infiltration doesn't require more than 20 feet. He also stated that he does not understand why the City would treat people with existing homes differently than people who own vacant property, and the City should compensate for the change in value of the property. The ordinance does nothing regarding agriculture, which is the most likely to damage wetlands. He stated that salamanders are good, but inquired as to how many we really need.

Bruce Workman (2212 Chippewa) stated he wanted to build affordable housing, but that this wetland ordinance will make him look towards high-end housing. He stated that he doesn't care; he'll do what he needs to. He said when his property develops, he'll no longer be dumping thousands of gallons of phosphorus fertilizers next to the wetland like he is currently. He said there should be flexibility if the developer can prove they can improve the wetland. There shouldn't be a rush since the City will have a moratorium. He stated that he is not opposed to reasonable setbacks, but 70 feet is unreasonable. They have a ditch running right through the middle of the property and this draft would make 35% of the land unusable.

Abdhisv Bhavsar (2105 Chestnut Road) stated that they had been researching raingardens. It is important and should be addressed in a wetland ordinance. They are researching it because, with their barn, they would like water from the roof to run into the raingarden, and they are also planning on installing one for the runoff from the home and driveway. The ordinance should also give credit for someone who remediates or improves the wetland. Staff should be given the freedom to give this credit in order to reduce buffers. The area of a buffer increases as a square of the size of the wetland. Proportionality should apply in some cases,

but not all cases. For large property owners, even 20 feet can be a lot of land around thousands of feet of wetland.

Ben Hodapp (Anderson Engineering, Plymouth) stated that the ordinance has made some vast strides. He suggested some remaining issues may be: 4c2 inconsistency with “may” and “shall”; 4c3 still requires MnRAM 3.0, but it is difficult to even find that version anymore; he also suggested the language for the smaller projects not require a formal buffer.

V. Reid stated she appreciates all of the comments. It appears that most people feel there is a need for additional flexibility. We want people to know the rules, and we want consistency. Yet, there is a need to step back and look at what we’re trying to accomplish. She stated that some sort of wetland size consideration sounds reasonable as well. To have a tiny Preserve with a huge buffer doesn’t seem fair.

Litts stated the Commission should definitely approach the issues brought up. She stated that water quality isn’t the only purpose. Even though studies show that a smaller buffer may work well for water quality, it just doesn’t cut it for wildlife, such as the wood duck and trumpeter swan. She stated that flexibility is important, but it is difficult to do citywide.

Pederson stated that staff did a good job with this newest version. He said he is concerned that the regulations are more restrictive than the watershed regulations. He stated that wetlands are an important part of Medina, and he enjoys his wetlands and wildlife. He also stated that the City shouldn’t require more than the experts and the watershed say we need. He recommended buffers similar to what Mr. Robinson had suggested; 35-25-20-20. He also stated that he thinks there could be reduced setbacks. The numbers, put together, are too large.

Nolan stated that he agrees that staff did well incorporating changes suggested by the Commission. He stated that he had tracked with Mr. Robinson’s comments on the severity of the buffer, plus the additional setback. He said he has no problem cutting the setback to 10 feet. He is also interested in working size parameters into the buffer requirements. A tiny wetland, even with a 20 foot buffer, isn’t going to be a wildlife haven. He said he is in favor of taking another slice at the buffers and setbacks, and adding a size component. In terms of flexibility, we can put ourselves on the same side of the goals with developers.

Verbick inquired if professionals believed that we don’t need such large buffers and setbacks.

Smyth stated that on the water quality side, it may be true. For wildlife, however, studies suggest 100 feet is the minimum.

Madeleine Linck (1762 Morgan) stated that certain types of wildlife actually require smaller wetlands to thrive.

Nolan stated that perhaps that wouldn’t support additional flexibility.

Seeland stated that she agrees that some small wetlands are important. However, if you focus on the little details, no one sees the big picture. Wetlands with lower functions need a lower threshold.

Verbick stated that it is almost always better to protect existing, than to create new. From a biological standpoint, mitigation, even at a higher rate, may fall short of the original quality and functions of a wetland. She said they are trying to create an ordinance that looks broadly at the community, and look beyond only the human community. Verbick inquired if mitigating at 2:1 is equal to, better than, or worse than leaving the wetland alone.

Smyth stated that the primary objective is avoidance, for some of the reasons Verbick described.

Jerry Pederson (1295 Hackamore) stated that he has a six foot wide ditch that was classified as a wetland.

Smyth described how if wetlands are delineated why some areas may be called wetlands and some, which seem very similar, may not.

Verbick pointed out a clerical change on page 14 (than instead of then).

R. Reid stated that it sounds like the draft isn't quite there yet. In an ideal world, we would treat each proposal differently. Size of the property should be looked at, the location of wetlands, in order to create some sort of matrix or point system to give more flexibility.

Verbick stated that there is some reasonable flexibility worked in. She stated that she likes flexibility, as long as staff and the Council have some rubric to work within.

R. Reid stated that it could become very political if this wasn't done with good guidelines.

Verbick stated that "reasonable access to wetlands" should be defined in the ordinance.

Verbick expressed concerns that public trails could be placed within the buffers. She said the ordinance is not an attempt to rob property from owners. Even though some have said that education is the best way to protect the environment, the latest research is not supportive of this claim. Just because people know what is right and safe doesn't mean they'll do it. Verbick said the ultimate outcome of the ordinance will be a great enhancement for the public good.

Nolan stated that he had written down five major subjects which had come out of the discussion:  
1) Overlay for size adjustment; 2) Credit/adjustments for developers who implement BMPs;  
3) Consensus on buffer/setback widths; 4) Flexibility on "minimum buffer"; and 5) Quality of wetlands

V. Reid stated that it wasn't either/or on size and quality. Rather there should be some consideration.

Nolan stated that it seems like you should have some way to protect against the disproportional buffers.

Paul Robinson stated that flexibility is good but it is tough to legislate. The City should start with a realistic set of ordinances and then work from there.

Trojan stated the state's CRP program is great. He suggested that perhaps a tax credit system would get to that. He added that limiting the ordinance to new subdivisions, instead of applying it to all vacant property might limit the amount of variances.

Verbick stated that she would not like to reduce the buffers or setback, but rather deal with it with additional flexibility.

V. Reid stated that it should never go beneath the requirements of the watersheds. This should be the lowest.

Pederson stated that the draft more than covers the watershed requirements.

Smyth suggested that a new level for the DNR mapped areas could be a place to start. He stated that he strongly urges not reducing the setback below 10 feet.

Nolan stated that the draft requires 2x to 3x more than the watersheds. The setback seems like the easiest place to reduce it.

Reid stated that the overall impact should be reduced somehow, and the buffers are more important than the setbacks.

Finke inquired if the Commission feels it is necessary for the City to establish a formal easement over the smaller buffers required with additions and accessory structures. The area of the buffer will be much smaller, and maybe it begs the question if it is worth a formal easement being recorded.

Nolan stated that he favors making these smaller buffers as easy to establish as possible. He stated that he doesn't think it gains a lot to require it.

Verbick stated that she supports things that will make it less cumbersome for staff, as long as the parameters are clear. She stated that she has strong confidence in current staff.

Finke inquired if the Commission supported adding the additional level of Preserve wetlands which are within DNR mapped areas and apply the largest buffer to them.

Commissioners expressed support for this new level of Preserve.

Finke inquired if the Commission supports the exemption language staff had created for existing lots, which would be completely covered with buffers, or if there was support for some lower threshold to trigger the exemption.

Verbick stated that having some maximum buffer to wetland size ratio may take care of these issues.

Finke noted that an applicant could apply for a variance if they believed that the amount of property within buffers creates a hardship.

Finke stated that he believed the Commission supported treating new construction on a vacant parcel as “new development” and to require the full buffers, but he wanted to confirm.

Verbick stated that she believed it made sense as a trigger.

Trojan stated that previously subdivided property was purchased with an understanding of what the rules are, and people may have plans about what they want to do, where they want to locate the house, or a swimming pool. He stated that it doesn't make sense to treat them differently just because they haven't built a home yet.

Nolan stated that it is a matter of flexibility. When placing a home on a vacant piece of property, it can be adjusted a bit in order to meet buffer and setback requirements. However, if the home already exists, there may be fewer options for where to place an addition. He noted the variance provisions exist in situations where the constraints mount. He stated that especially in a rural residential situation, he would assume that 98% of the lots could make relatively minor adjustments and meet the buffer and setback requirements.

Nolan recommended that staff look at the language on page 10 regarding buffer averaging. As currently written, staff would have the right to disallow averaging in some situations.

**Motion by Verbick, seconded by Litts** to table the wetland ordinance discussion and leave the public hearing open. **Motion carries unanimously** (Absent: Simons).

**7. Abdhish and Mary Bhavsar – 2105 Chestnut Road (PID 15-118-23-24-0003) – Conditional Use Permit for construction of a 8,400 sq. ft. accessory structure in the Rural Residential (RR) zoning district. Public Hearing**

Finke delivered a brief staff report. He reviewed the purposes of a conditional use permit, and details regarding the application. 2105 Chestnut is approximately 20 acres in size, zoned and guided rural residential. He identified the location of the proposed structure and noted its proximity to the wetlands. He stated that it would meet the current draft of the wetland ordinance, however. He said the project is similar in size to a number of other large structures approved in the past couple of years. He noted that the fire marshal had requested an access drive to the structure. Finke stated that the City should approve of a CUP if it meets the ordinance regulations, but does have the ability to apply reasonable conditions. He concluded that staff recommended approval with the conditions in the staff report.

Abdhish Bhavsar (2105 Chestnut) stated that they used a barn recently built in the area as a prototype. They would like to have horses in the future, and they currently raise ducks. The property has had large numbers of horses in the past, up to 15, but they don't plan to have this many. The pastures are fenced off, and this area has been pasture land for a long time, even though it is technically wetland. He said they wished to continue utilizing these areas as pastures. He stated that in addition to the raingarden near the barn, they are hoping to install an additional raingarden to capture the run-off from their home and driveway.

**Public Hearing opened at 10:29 p.m.**

Cody Turnquist (2000 Chestnut Road) stated that his parents submitted a letter and read the letter. He said he graduated with a degree in architecture and had created a mock-up of the proposed structure from a perspective in his family's southern pasture. They would see all 38 feet, 9 inches of the structure from the pasture. If they would subdivide the property, there may be some prime building sites there, and this building would decrease the property value. He said this structure is much taller, in gross terms, than their barns.

Norma Friedrichs (Willow) inquired what corrugated steel is, and she asked if it would be heated and cooled.

Bhavsar stated that it is similar to some of the larger barns in the neighborhood. It can be painted almost any color. He stated that it would be heated and ventilated, but not air conditioned.

Friedrichs stated she was concerned about the look of the structure.

Bhavsar said he and his family didn't want to look at something ugly either; it will be painted to be attractive.

**Public Hearing closed at 10:44 p.m.**

R. Reid stated that she is concerned not only about the size, but that it looks like an industrial building. Part of the reason they approved of the Hasselquist barn last year was because it was attractive and looked like a traditional barn.

Verbick stated that one thing that is looked at is precedent. However, conditions in the surrounding area and future use of the property should be considered. Maybe something this size wouldn't make as much sense somewhere north of Highway 55. She said the property value issue is hard to nail down. She agrees with Condition 7 very strongly; future grazing shouldn't be allowed within wetlands just because animals grazed there in the past.

Nolan stated that he also agrees that it is very large. He was not in favor of the Hasselquist barn, but they used good materials and designed the building in an "L," which salvaged the situation. He stated that it is more about the massing than it is about the size. He stated that he asked last year why the City would allow such massive buildings. He said the applicant is not being considerate to their neighbors by proposing such a building.

Bhavsar stated that they would not put up a building that is ugly or damaging. However, at the same time, some people may look at the architecture of their home and say that they don't like the design; that it is ugly.

Finke suggested the Commission add a condition requiring the applicant to break up the massing of the structure through architectural elements, material use, screening, plantings etc.

Pederson stated that he thinks the road has to meet the fire marshal requirement. He believes Chestnut should not be used as primary access. He said some lap siding could be used, and perhaps some shrubbery to break things up.

Litts stated that the wetlands seem very large and horses could have a negative impact on them.

Bhavsar stated that he didn't know it was an architectural review. They could have put more details in.

Nolan stated that he strongly urged the applicant to break up the massing and make it an attractive building.

V. Reid stated that their house is beautiful, which is part of the reason she was puzzled by such an industrial-looking building.

Commissioners described ways in which the massing could be broken up, and the building could be made to seem as if it were not as large. Commissioners discussed if they should table the application so they can review the architectural plans, or recommend an additional condition for when it moves to the Council.

Finke stated the Commission could surely add a condition and the applicant could have a new design ready for the Council.

Nolan stated this would seem as if the Commission wasn't fully reviewing the application. He said that what the applicant proposes would very much impact whether he would support it or not.

**Motion by R. Reid, seconded by Nolan** to table the application so that the applicant can prepare a more detailed design to show how the application fits into the Rural Residential. **Motion carries** (Opposed: Verbick; Absent: Simons).

**8. Robb Stauber – 705 Hamel Road (PID 12-118-23-32-0001) – Site Plan Review for the construction of three townhome units in the Multi-Family Residential (MR) zoning district. Public Hearing**

R. Reid asked if very much has changed since they reviewed the application last year, other than the back three units being removed.

Gitzlaff replied that it is essentially the same plan with the back lopped off.

Commissioners discussed that they had already reviewed this and made their recommendation, so should move it along to Council.

Finke reminded Commissioners to call a Public Hearing.

**Public Hearing opened at 11:35 p.m.**

**Public Hearing closed at 11:37 p.m.**

**Motion by R. Reid, seconded by Verbick** to recommend approval of the Site Plan Review with the conditions in the staff report. **Motion carries unanimously** (Absent: Simons).

**9. Ordinance Amendment – Section 815 – Pertaining to regulations related to signage.**  
*Public Hearing*

Pederson stated that he didn't believe the Commission could adequately consider the ordinance so late in the night.

Finke reminded Commissioners that the moratorium on electronic and off-premise signage will be up before the next Commission meeting and the Council won't be able to act on the ordinance. He strongly urged Commissioners to make a recommendation on the electronic and off-premise portion of the ordinance.

**Motion by Verbick, seconded by Reid** to table the public hearing until the March Planning Commission meeting. **Motion carries unanimously** (Absent: Simons).

**10. City Council Meeting Representation Schedule**

Finke informed Commissioners that there had been some absences from the last couple of City Council meetings. He reminded Commissioners to check on the schedule.

**11. Adjourn**

**Motion by R. Reid, seconded by Verbick** to adjourn at 11:46 p.m. **Motion carries unanimously** (Absent: Simons).