

CITY OF MEDINA PLANNING COMMISSION

Meeting Minutes

Tuesday, January 8, 2008

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

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

Absent: None

Also Present: Councilmember Elizabeth Weir, Planning Director Tim Benetti, City Wetland Conservation Act Agent John Smyth, and Assistant to Planning Dusty Finke.

2. Nominations and Elections for Chair and Vice-Chair for 2008

Verbick asked for nominations for Planning Commission Chair and Vice Chair. Commissioners nominated Charlie Nolan, Jeff Pederson, and Robin Reid.

Following statements from the nominees, ballots were handed out, and Pederson received four votes.

Commissioners nominated Robin Reid and Charlie Nolan for Vice Chair. Ballots were handed out and Nolan received the majority of the Vice Chair votes.

Motion by V. Reid, seconded by R. Reid to approve the election of Jeff Pederson as Chair and Charlie Nolan as Vice Chair. **Motion passes unanimously.**

3. Public Comments on Items Not on the Agenda

Terry Heitland (1300 Oakview Road) stated he had received a letter from a neighbor regarding the Tamarack right-of-way across Elm Creek between Blackfoot Road and Hamel Road. He stated that the rural atmosphere is extremely important to Medina and he shares the concerns of Seth and Nancy Hoyt, the authors of the letter.

R. Reid stated the Comprehensive Plan does not identify a road in this area within the next 20 years, but that the appearance of the right-of-way is confusing.

Weir stated the fear is likely because of the City approaching state-aid eligibility. She stated that people are afraid because Tamarack may be one of the few opportunities for a north-south connection through the City and other agencies might apply pressure to the City.

4. Update from City Council Proceedings

Weir wished members a Happy New Year and welcomed the new members. She summarized Council actions since the last Commission meeting, including: approved Landform as consultant planner; swore in Jodi Wunsch as Deputy Clerk; accepted feasibility study on

Hamel Road reconstruction and called a public hearing on street improvements for January 15; discussed the Highway 55 Coalition's long-term concept and the City Council's goal to prevent impacts on Elm Creek, as well as studying ways to lessen impact on local business; reviewed the Farr memory care/office concept plan; and advertised for Well 7 project.

5. Planning Department Report

Benetti stated that Chapters 6 and 7 of the draft Comp Plan are being updated by the Advisory Panel's drafting committee, and maybe a bit different when presented to the City Council than when the Commission reviewed them. He stated that at this time, there are no land use applications pending for the February meeting, but there may be some in the next couple of days. He stated that he took part in an orientation with the new members. Benetti also stated he had updated the Planning Commission procedures manual ahead of that training and the Commission could discuss the manual later in the meeting.

6. Approval of December 11, 2007 Planning Commission Minutes

Motion by Nolan, seconded by Pederson to approve the December 11 minutes with the noted changes. **Motion carries unanimously** (Abstentions: Simons, V. Reid).

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

Smyth delivered a brief staff report. He reviewed the benefits of wetland buffers, and suggested buffers widths for various functions. Smyth described the four functional classifications of wetlands. He described the various regulations of the three watershed districts in the City. Smyth summarized the draft ordinance, including what triggers would require the establishment of buffers, the size of the buffers, and the other regulations in the ordinance.

Public Hearing continued

Bob Trojan (3505 Pioneer Trail) asked if you would have to put buffers around all the wetlands on the property, even if they're uphill and 1000 feet away.

Smyth replied that all wetland would require buffers.

Trojan stated that if you can't measure something, you can't improve it. He asked if there was a measurement that is meant to be improved by the ordinance. If you can't measure it, you don't know if you're improving it. He stated that 3/5 of the wetlands in the City are at the highest quality, so maybe there is no need for a buffer. He stated there is no evidence that our Preserve wetlands are getting any worse. He said 90% of harmful nutrients come from agriculture, and this ordinance does nothing about it. Trojan stated that landowners have to grant an easement over the property, which would allow the City to push trails through peoples' back yards as well. He said everyone wants to be a good steward of the environment and that mowed lawn is phenomenal at filtering nutrients as well.

Verbick stated the goal is to maintain and protect the wetlands. She said going back to repair wetlands is more difficult than protecting them now.

Weir stated that wetlands tend to have lower values as you get more and more hardcover, so Medina should seek to protect the quality of wetlands now. For examples of why wetland protection is needed, there are two impaired water bodies in the City and Holy Name will soon be designated as impaired. Additionally, high quality wetlands with buffers can protect land values.

Paul Robinson (RGN Development, 1521 94th Lane, Blaine) said he had submitted a letter. They are not opposed to an ordinance, and have plenty of examples of working with them. The City should take incremental steps with the buffers. Distance from the wetland doesn't help keep people out of buffers as much as good signage, a defensible easement, and education. He stated that existing roads and right-of-ways should be exempt from buffer requirements. He said there should be more flexibility to reduce the buffer to 5 or 10 feet over a small distance if you have thousands of feet with larger buffers.

Bruce Workman (2212 Chippewa Road) stated that he has interests in a number of points, including quality of wetlands, and how it impacts property owners. If you have higher quality, you will get a better value. However, if you make things entirely undevelopable, you take all value away. He stated that, in his case, he would lose 20% of his lots. The property would be better if developed, because it is farmed right up to the wetland edge with 10 tons of phosphorous/year. Larger developments should be able to work out deals and get what the City needs. However, if the ordinance is too strict, you lose out on that. He stated that if the intent is to clean up a certain watershed, it shouldn't be just a blanket ordinance.

Abdhisht Bhavsar (2105 Chestnut) stated that they moved in four years ago. They have delineated their wetlands and knew where the rules would allow them to build. They were excited to build up their wetlands to improve habitat. They wished to build a house for the family, build a barn for some horses, and then rehabilitate the wetlands. He stated that buffers are used by cities because they are easily quantifiable. Buffers give a false sense of security that the wetland will be secure. He stated that buffers are a simplistic way to help wetlands, but there are better ways. Bhavsar stated that the large number of Preserve wetlands shows not that they deserve some special protection, but rather that many, many people may get severely impacted. He stated the ordinance is taking a family that is trying to do good things for the wetlands and disallowing them from doing things they wish to do with their lives. If you wanted to protect wetlands, you would tell everyone that you have to put buffers around every wetland automatically. However, if you did that, there would be a revolt. He said having these triggers just hits a few people every year, and it may take hundreds of years to protect all the wetlands.

Verbick stated that the ordinance with triggers allows the City to get to the point where there are buffers around all of the wetlands. The City can monitor it as certain things happen, and it is the most reasonable and legal way of establishing the buffers.

Bhavsar stated that wetland regulations are very complex and have passed under the radar of most residents, because they don't know how it would impact them. The City should send out information to all of the residents every time something may change that could impact them. Publishing a notice is not enough. He suggested that if the triggers are left in to impact existing property owners, then it should be delayed so that property owners know it is coming.

Doug Dickerson (2625 Pioneer Trail) stated that the map shows that he has a Manage 1 wetland on his property, although if he had it delineated, it likely would not even be a wetland. Dickerson suggested buffers of 35 feet; 25; 20; 20. He also suggested keeping the structure setback at 20 feet. He stated that he would like to entertain the idea of creating an area within the highest quality natural resource areas where there would be larger buffers.

Ben Hodap (Anderson Engineering, Plymouth) stated that he has done a lot of work in the community, the surrounding watersheds, and is familiar with state regulations. He stated they had questions from clients to see how it would impact them. He stated that the ordinance should reference MnRAM 3.1, since that is the current standard. He said the setback from the edge of the buffer is also questionable...this is like having a buffer, on the buffer, on the wetland. Hodap stated that the City Engineer uses the information from the state study. However, a study in Eden Prairie showed that the bulk of the pollution and nutrients are captured within the first 15 feet of the buffer. He said the City's assessment covers up vast differences among the Preserve wetlands within the City.

Smyth stated that the Eden Prairie study was done under the best possible conditions with the best possible vegetation. The state report was broader.

Simons asked if it would be the responsibility of the property owner to classify wetlands that aren't previously classified.

Smyth replied that it would be, but most of the information needed could be acquired while they were already out delineating the wetland. They then would only need to enter it into the program.

Nolan stated that an easement can have very specific language that states what its purpose is, and the City can't just push public trails through everywhere.

V. Reid inquired if someone could place a path through the buffer to reach a pond.

Finke stated that the current draft doesn't explicitly allow for a path.

V. Reid stated the ordinance is for the common good, but it also has to be reasonable.

Weir inquired if there should be an exemption for a lot of record that would be rendered unbuildable.

Nolan stated the setback from the buffer is a setback on top of another setback. He stated that he could see how this could be burdensome. Flexibility is important, because Medina is unique. The issue with burdening homeowners has been troubling. He stated that under the ordinance they could only apply during the growing season, and they would have to go get engineers and wetland scientists. He said he supports triggering the ordinance on subdivisions, commercial projects, and new homes. Other activities, such as garages and barns, should have some sort of minimal buffer so people aren't building right up against the wetland.

Simons stated he understands what Nolan is getting at. Rather than trying to decide how many square feet should be considered a "major project," this would be a bit cleaner.

R. Reid stated that a large majority of wetlands would have the highest restrictions, so the impact may be more than we first thought, because there are so many preserves. The ordinance should differentiate between developers and single-family homeowners. The triggers should be updated to be more consistent with Minnehaha Creek Watershed, but adding in new construction. There should be more flexibility so that there doesn't have to be a formal variance.

Litts stated staff should also look at the exemption for lots which are made unbuildable.

Verbick stated that animal grazing within wetlands/buffers and paths/trails should also be addressed.

Litts leaves the meeting at 10:02 p.m.

Nolan stated that he believes the minimum buffers in the draft are not flexible enough and are excessive.

Workman stated the buffers may not be a big deal for large lots, but could hurt more dense development.

Robinson stated that with attached residential units, the buffer could be within commonly owned land, and it would be someone's back yard. In these cases, setbacks aren't as important.

Smyth stated he is a big proponent of the setbacks, as it helps so much with enforcement.

Pederson inquired if something more shouldn't be done regarding horses and agriculture.

Smyth said some of that will also be addressed with the City's stormwater plan.

Weir stated even if we differentiate between developers and homeowners, we shouldn't just write off all regulations for existing lots.

Motion by R. Reid, seconded by Simons to table the wetland ordinance until the February meeting and direct staff to prepare an amended ordinance with the recommendations from the Commission. **Motion carries unanimously** (Absent: Litts).

Motion by Simons, seconded by Nolan to keep the public hearing open, to be continued at the February Planning Commission meeting. **Motion carries unanimously** (Absent: Litts).

8. Ordinance Amendment – Sections 825.07, 826.21 and 826.98 – Removing Animal-Assisted Therapy as a Conditional Use in the Rural Residential (RR) zoning district.
Public Hearing

Benetti delivered the staff report. He stated that following approval of an Interim Use Permit for the MnLINC application at 2000 Chestnut Road, the Council directed staff to prepare an ordinance removing Animal-Assisted Therapy as an allowed use within the RR district. He noted this ordinance amendment will not impact the MnLINC operations, because they are operating under a valid IUP for two years. He stated the staff report described four options, the first of which is to remove the use as suggested by the Council.

V. Reid inquired if removing this language would disallow the group who received the Interim Use Permit from bringing in an application.

Benetti stated that it would not allow them or future applicants to apply for a Conditional Use Permit.

Public Hearing opened at 10:20 p.m.

Abdhish Bhavsar (2105 Chestnut) stated that they agree with repealing the ordinance, and that was their assumption when they signed an agreement to allow MnLINC to operate at 2000 Chestnut Road for no more than two years.

Motion by Simons, seconded by Pederson to recommend Option 1 from the staff report; adoption of the ordinance as presented. **Motion carries unanimously** (Absent: Litts).

Public Hearing closed at 10:21 p.m.

9. Review and Approval of the Revised Planning Commission Training and Orientation Manual and related Operational Procedures document

Benetti stated that staff had updated the Commission's Orientation Manual, as well as the Operational Procedures. The changes are identified in the document, which was in the packet.

Weir suggested a number of changes. She stated that she had written them down and she would make them available for staff.

Reid suggested a map of the City be added as well.

10. City Council Meeting Representation Schedule

Finke stated that the City Council wishes to have a Commissioner present at each meeting in order to update them on Commission activities and recommendations. He asked Commissioners to look at their calendars and leave him a list of availability. He stated that he would lay out the schedule and email it to members.

11. Adjourn

Motion by Nolan, seconded by Reid to adjourn at 10:29 p.m. Motion carries unanimously.
(Absent: Litts)