

CITY OF MEDINA PLANNING COMMISSION

Meeting Minutes

Tuesday, July 12, 2011

1. **Call to Order:** Commissioner Nolan called the meeting to order at 7:00 p.m.

Present: Planning Commissioners John Anderson, Kathleen Martin, Victoria Reid, Kent Williams, Charles Nolan and Robin Reid

Absent: Beth Nielsen

Also Present: City Council member Elizabeth Weir, City Planner Dusty Finke, and Associate Planner Dale Cooney

2. **Public Comments on items not on the agenda**

No public comments.

3. **Update from City Council proceedings**

Council member Elizabeth Weir presented a report of recent activities and decisions by the City Council.

4. **Planning Department Report**

Finke provided an update of upcoming Planning projects. Finke also noted that the City Council agreed that a Planning Commission report was needed at only one City Council meeting a month.

5. **Approval of the June 14, 2011 Draft Planning Commission meeting minutes.**

Motion by Anderson, seconded by Williams, to approve the June 14, 2011 minutes with the recommended changes. Motion carried unanimously. (Absent: Nielsen)

At the request of Wallace Marx in order to allow for one of his associates time to arrive, Commissioner Nolan asked if there would be any objections to reorganizing the order of the agenda items. There were no objections.

6. **Right-of-way Width Regulations within Subdivision Ordinance**

City Planner Dusty Finke presented a staff report and an ordinance that would allow flexibility in determining required right-of-way widths for city streets. Finke noted

that no public hearing was needed, but that he would like to hear the Planning Commission's thoughts on the matter.

Current regulations require a 60-foot right-of-way and do not allow for flexibility. However, several recent projects have requested variances to reduce the required right-of-way to 50 feet. Recent projects requesting variances include the Enclave development which requested a 50-foot right-of-way in order to limit hardcover and meet density requirements due to wetlands. Other recent projects requesting and receiving variances to right-of-way standards were the Hamel Station and Bridgewater developments. Finke suggested that the approval of these variances reflects more of a policy issue to limit hardcover rather than the hardship standards required to be met through a variance. Finke also noted that the Pemtom variance request on tonight's meeting agenda would likely not meet the hardship standard.

Commissioner Nolan pointed out that pavement is typically 24 feet. Reduction of the right-of-way width is really a function of boulevards where there is the potential for utilities to get squeezed. Finke pointed out that 50 feet is the minimum. The city can use a greater width if utilities are a problem. The language proposed is intended to be flexible.

Commissioner Anderson asked about public safety's thoughts on the matter. Finke replied that public safety has less of an interest in this and he noted that the language allows accommodation for wider streets.

Commissioner Williams commended Finke for his proactive nature on this matter.

Motion by Martin, seconded by V. Reid, to recommend approval of an ordinance amending Section 820.29 of the Code of Ordinances regarding Right-of-Way Width and Roadway Width. Motion carried unanimously. (Absent: Nielsen)

7. **Public Hearing - Pemtom Land Company – Rezoning, Preliminary Plat and Mixed Use Stage II Plan to subdivide 65 single family home sites on 32.2 acres, to be known as “Fields of Medina” (PID #02-118-23-43-0002 & #02-118-23-44-0054) and Variance to the right-of-way width.**

Finke presented the staff report. The proposal is for 65 single family homes on 26 acres, for a net density of 3.3 units/acres. Finke noted the applicant proposes to dedicate 6 acres for park. The Mixed Use zoning district allows for residential and commercial, but at least half must be residential. Finke noted that the Stage II plan is required to be consistent with the Stage I plan, and that generally the conditions from Stage I were met. Finke noted the Stage I plan includes more than the minimum number of housing units and is proposed to be approximately 65% residential with a net density of 5 units/acres.

Finke noted the applicant will construct Meander Road to the southwest corner of the future park. This arrangement is sufficient from a traffic perspective, but the fire

marshal has concerns regarding single access point and also the single entrance into the subdivision.

Finke noted that staff recommends approval of rezoning in order to be consistent with the Comp Plan. Finke stated that the right-of-way variance may not be necessary if the Council adopts the ordinance recommended by the Commission. Finke inquired if the Commission would recommend approval of the variance. Staff believes it is a stretch to justify a hardship for a variance. Finke noted that staff recommends approval of Stage II and preliminary plat with the conditions noted in the staff report.

Williams requested additional information related to the second emergency vehicle access.

Finke noted that the applicant proposes to dead-end Meander at the southwest corner of the proposed park. Development to the south or west would ultimately link to this road and provide the additional access. The question was for the short-term prior to development and whether the City should require an additional access. Finke stated that there would be various options including requiring the developer to construct Tamarack, require a temporary fire lane, or have the City construct Tamarack or the fire lane and assess all properties based on benefit.

Nolan inquired if the connection to Highway 55 wouldn't improve traffic on CR116 in addition to providing emergency access.

Finke stated that it seems unlikely that MnDOT would allow eastbound turns onto Highway 55, even if Tamarack was constructed, until additional development occurs. Therefore, it is unlikely that the connection would help with traffic on CR116.

Anderson inquired about the traffic study. Finke responded that the city and county engineers reviewed the study and agree that existing improvements are adequate.

Dan Herbst (Pentom Land Company) stated that they had worked hard to address concerns and had held a neighborhood meeting. He believes this will be a positive addition to the community. Herbst mentioned that divided entrances are common and are not an issue and can add safety. He stated that this number of homes on a single access road should not be an issue in his experience, and that removing the landscaped entrance would diminish the community feel.

V Reid inquired about the price point of the homes.

Steven Logan (Mattamy Homes) responded that they planned for upper \$300,000 to mid-\$400,000.

Williams asked the developer if they conducted a cost analysis of a fire lane.

Dave Nash (EVS Engineering, developer's engineer) stated that they used a cost estimate similar to the proposed construction of Meander which was \$250K.

Public Hearing opened at 7:52 p.m.

Bill Ciora (915 Sunset Court) stated that traffic is very backed up between 7 and 8. He inquired if a full study was conducted measuring all 200 homes.

Finke replied that an in-depth traffic study was completed for 65 homes. A more conceptual study was completed for the whole development, which suggested that when the townhomes are constructed, Tamarack would be constructed with access to Highway 55. The study assumed most of the townhome traffic would exit onto Highway 55.

Mike Spack (Developer's traffic engineer) stated that it was a twofold study. It first looked at 65 homes and concluded that things should be fine as is. The long term traffic study concluded that once the signal is added on Highway 55, it will work well. He noted that MNDOT will only allow the signal when sufficient trips warrant.

V. Reid inquired about the number of cars currently. Spack replied that through-traffic on southbound CR116 is 940 cars during peak time.

R. Reid inquired how soon CR116 will be improved. Spack and Finke noted that they are in the design stages and still evaluating. Finke stated that no funding has been allocated, so it is not likely to be soon.

V. Reid inquired if the traffic study considers the backup. Spack replied that it does, and that the delay to enter onto CR116 falls within standards.

Ciora asked if Meander will have a berm and trees on the north side through the wetland. Finke stated that the road falls quickly to the wetland on both sides and would require additional impacts. Weir stated that planting is not allowed in wetlands.

Ciora stated that he is concerned about additional usage of Foxberry's park if there is a pedestrian connection between the neighborhoods.

Public Hearing was closed at 8:04 p.m.

Nolan stated the issues seemed to be the single access point, the divided entrance, and the right-of-way variance.

Williams stated there was also the comment related to drainage.

V. Reid stated that the landscape entrance should be addressed in a homeowner's document and doesn't see it as an issue for snow removal.

Finke explained that it results in extra plowing time because the trucks have to make multiple passes to clear the ends of the island.

Anderson asked how big of a deal it is. Finke stated that Public Works brings it up every time. If they are allowed in all neighborhoods, it multiplies. It is a policy decision which the Council can make. The trade-off is aesthetics for paying additional overtime to get the plowing done.

Martin stated she likes the landscaping and has no objection. V. Ried agrees. Nolan stated that it seems to be possible to beautify the sides of the street, but he is ok with the island. Williams concurred.

R. Reid inquired about parking in the park. Finke stated that the design will be discussed by the Park Commission.

Nolan returned to the single entrance issue.

Williams stated that having a landscape island provides two entrances and mitigates the issue.

Finke inquired about the Meander dead-end.

R. Reid stated that it is a temporary problem and the City shouldn't make this development pay for it.

V. Reid stated she is more concerned with the CR116 traffic issue. She stated that CR116 isn't usable during morning rush hour and that she uses back roads.

Anderson inquired about the ability to delay development because of the CR116 issue.

R. Reid stated that cities can't punish the developer for the county's negligence on this issue.

Nolan summarized that the Commission is okay with Meander as the temporary single access point as proposed.

Finke stated that staff is concerned about the impact of sump pump water on neighboring lots. Staff recommends a design that alleviates problems. Some neighborhoods have installed a separate pipe in the street for each house to hook their sump pumps into. The Enclave project was required to install individual underground pipes on each lot to dump water into ponds or wetlands.

R. Reid stated that condition 9 states the developer has to work out a solution.

Nash stated that the design incorporates a minimum 2% grade and sump pumps would discharge in side yard swales for each home. This water then would get to the ponds and the development would have the opportunity to reuse water.

Nolan stated that the City is looking for a solution for each lot and that we don't want future homeowners to decide.

Nash stated that they would sit down with staff.

R. Reid summarized that the conditions recommended by staff were mostly unchanged. The Commission wished to strike condition 8 and add maintenance of landscape island for homeowners.

Motion by Williams, seconded by Anderson to recommend approval of the rezoning of the single family to Mixed Use and the park to Public/Semi-Public. **Motion carried unanimously.**

Motion by R. Reid, seconded by Martin, to recommend approval of the Stage II Plan and Preliminary Plat with the conditions noted in the staff report, excluding condition #8, and modifying condition #13, as noted. **Motion carried unanimously.**

Nolan stated that the Commission seems to support the narrower right-of-way, but he couldn't support a variance. The general consensus of the Commission concurred.

8. **Public Hearing – Wallace Marx – 2500, 2700, 2702, 2900 Parkview Drive – Planned Unit Development (PUD) Concept Plan for a Conservation Design subdivision of four contiguous parcels totaling 109.58 acres – proposing ten Single Family Home sites and 57.5 acres into a conservation easement.**

Finke stated that this is a conservation design proposal, which under City regulations allows the City to grant flexibility from existing zoning district standards to the applicant as an incentive for that property owner to conserve natural resources via a permanent conservation easement. The degree of flexibility granted by the City should be based on how well a particular proposal meets the conservation objectives of the Conservation Design ordinance above and beyond those protections that are already required by existing regulations. The primary incentive for this type of development is to allow for a density bonus. Finke went on to point out that this proposal was the first of its kind under the new Conservation Design ordinance.

Finke describes the development as proposing ten single family homes, which would put 57.5 gross acres into a conservation easement, of which 9.65 of those acres would be considered buildable as defined by the ordinance.

Finke describes the property in question as located on the east side of Parkview Drive, to the southwest corner of School Lake. The property is 109.58 acres in size, approximately half of which is considered wetland. The property encompassing the proposed development is currently four PIDs on which there are two existing houses. Finke went on to describe the property from an aerial photograph, pointing out the wetlands, lake, and maple-basswood forest areas.

Finke described the PUD process as a three step process, the first of which is the concept plan (being reviewed tonight) where recommendations are passed along to the City Council. The Concept Plan is actually formal action taken by the City Council via resolution. The next phase in the PUD process would be a Preliminary Plat, and the third step is Final Plat.

Finke went on to note the primary and secondary objectives of the Conservation Design ordinance. The primary objectives are protection and restoration of ecologic resources; the protection, restoration and creation of moderate quality ecologic resources as identified in the composite map of the open space report; and the preservation and restoration of land connecting these resources in order to create habitat corridors. Meeting these objectives gives heightened consideration for development flexibility. Secondary objectives are the protection of viewsheds, and land used for trails and parks.

Finke noted that the City used these objectives in consultation with the City's ecologist Paul Bockenstedt to identify priorities within the site. Finke stated that the highest priority on the site was the preservation of the moderate quality maple-basswood forest. Also of preservation priority were the deep swamps on the southeast side of the property; as well as the Tamarack swamps to the west and north of the lake.

Finke went on to note that the conservation design process was a four-step process, beginning with identification of those areas that are not buildable (including wetlands, wetland buffers, and steep slopes); followed by identification of priority conservation areas; followed by identification of housing sites, streets and trails; and concluded by delineating the property lines.

Finke discussed the applicant's proposal, and staff's attempt to follow the four-step process previously described. Finke described the location of the ten lots and went on to describe the areas proposed to be conserved on the property.

Commissioner Williams asked what type of development would be allowable without the Conservation Design PUD. Finke responded that standard zoning is four lots.

Finke continues with the presentation and describes what is required under the conservation design ordinance. The minimum conserved area is 30 percent of the buildable property. The development as proposed preserves 29.3 percent of the buildable area. Finke pointed out that much of the buildable area is along the

perimeter of the site. Finke noted that, as proposed, two houses do not meet required setbacks.

Finke stated that the ordinance allows for a maximum of doubling of the base density of what would be allowed under existing zoning. Finke noted that the non-conforming lot in the south would not meet current zoning standards, but that the city should give credit for the lot since there is a high quality conservation area located on the lot. Finke stated that base density for the land would be three buildable parcels, and the southern nonconformity might allow for another. Therefore, doubling base density would be six parcels, with a seventh parcel given for the southern non-conforming lot if you balance the objectives of the ordinance.

Finke also noted that the regulations allowed for siting septic systems if the septic sites did not impact the conservation area. Finke pointed out several septic sites within the proposal impacted conservation areas.

Finke closed the staff presentation with recommendations for how the proposal might better serve the conservation priorities of the city. Finke also mentioned that the property in question was currently in the Agricultural Preserve program, participation in which would not allow the property to develop for another five years.

Commissioner Martin asked about the development restriction issues. Martin asked why we would go through a process now that would require timeline extensions if the plan were approved. Finke pointed out that if the city were to get easements for conservation areas, the city could gain the easements now. But Finke admitted that there were difficulties considering the timeline.

Commissioner V. Reid asked what would happen if the law is changed later. Finke responded that the City Attorney's opinion is that the City Council cannot bind a future City Council.

Commissioner Nolan asked about identifying School Lake as a conservation objective. Finke responded that the lake was unbuildable and also assumed in the city's map. Finke noted that the lakefront area was also mentioned in the staff report.

Applicant Wallace Marx of 2700 Parkview Drive presented his plan. Marx gave a history of his property. Marx stated that he moved to Medina in 1998 and eventually purchased properties in succession as buffers to the north and south. Marx noted the improvements made on the northern parcel, notably removing the large amount of animal remains and trash left by the previous owner. Marx also stated that he restored prairie on the parcel. Marx stated that his improvements helped improve the water quality of the lake.

Marx showed aerial images of what he is hoping to preserve, and described the property. Marx also described many of the landscaping improvements and road improvements completed on the property. Marx went on to describe the high quality

wetlands and conservation areas on the property. Marx then played a four-minute slide show of images superimposed with copy taken directly from the City's Conservation Design ordinance. Marx spoke about how things may change in the future and that what is protected now may not be protected in the future.

Marx stated that the layout of the project was intended to create a homeowners association from the six lots on the north parcel. Marx stated that these homes would be high end and would police each other and protect the natural areas.

Marx noted the time and money he had spent on the project to get to this point. Marx noted that the conservation ordinance, unlike other ordinances, motivates people to do something good for the city and for posterity. Marx concluded his presentation.

Commissioner Nolan asked about the preservation of the horse trail. Marx said that he was not sure how the trail would be preserved, but that he would like to preserve it.

Nolan asked for Marx to comment on density and the difference between staff's recommendation of seven lots versus the proposal of ten lots. Marx responded that PUD gives almost a blank slate and that this density would allow the development to put 77 acres in permanent conservation. Marx stated that fewer lots would be unfeasible with costs.

Public Hearing opened at 9:32 p.m.

Janet White of 4642 Brook Street commented that the houses in the proposal were positioned close to the natural areas. White also mentioned not deviating from wetland setbacks. White stated that she didn't see the clustering she had imagined when the City was developing the ordinance.

Richard Haberman of 2782 Parkview Drive stated that he moved to the area to try to get away from housing development and associated problems. Haberman asked why there had been a change of heart on the subdivision of the Ganglehoff property. The previous owners attempted to subdivide property into two parcels, but weren't allowed. Haberman pointed out that the current proposal would have five or more lots on the same parcel. Haberman asked if Wallace Gardens would remain private and who would maintain them. Marx replied that the gardens would be private.

Haberman enquired about how many homes would be in the HOA. Marx replied that just the six homeowners would be in the HOA.

Haberman stated that he was concerned with lot size and clustered homes. Haberman also asked for clarification on buildable areas.

Commissioner Nolan responded that anything within the conservation easements would be conserved. Nolan added that anything not conserved will change as the city changes. Commissioner Martin clarified what "buildable" meant.

Haberman asked about the potential for additional traffic on Parkview. Haberman was concerned that the road was a dangerous road already with existing traffic. Haberman expressed concerns about the reduced exclusivity of the area and that property values may be diminished if more homes are built. Haberman also noted that he would like to see fewer homes in the northeastern part of the development.

Mark Luetmer of 2930 and 2920 Parkview Drive stated that he has concerns with the proposed density of the development and the negative effect on the natural areas. Luetmer had concerns with the five lots proposed for the lakeshore.

Bob Bernu of 2910 Parkview Drive stated his concerns at having a housing site within 100 feet of him.

Larry Le Jeune of 2820 County Road 24 stated that he was concerned with the proposed density and proximity. Le Jeune asked about the fence through the wetland. Marx noted that the fence was designed to keep deer out of his garden.

Commissioner Nolan redirected the conversation back to the application at hand.

Lejeune asked about the selling price of the property and Marx replied that he did not know.

Cindy Piper of 2905 Willowood Farm Road distributed a handout about the School Lake Trail. Piper stated that she was pleased to hear that the horse trail will remain open.

City Council Member Elizabeth Weir of 1262 Hunter Drive expressed admiration towards Marx for his initiative to conserve the resources. Weir stated that what will ultimately be conserved is 9.65 acres of fragmented preservation, perhaps less with setbacks. Weir noted that since this is the first conservation design application, the results of the application would be precedent setting. Weir stated that she feels the proposal maximizes development rather than conservation. Weir noted that Lot 9 was built in woodlands that would be worth conserving. Weir noted that Lot 6 has a primary septic site offsite, while the septic sites for Lots 5 and 6 are in woodlands and are distant from the proposed houses. Weir also pointed out that both septic sites for Lot 3 are in the wooded areas. Weir stated that the primary goal of the ordinance was conservation.

Public Hearing was closed at 9:57 p.m.

Commissioner Nolan asked Marx about the cleaning of the land, and asked if he had done any environmental testing of the area. Nolan stated his concerns about what might be found during excavation and water quality issues related to well drilling. Marx replied that he had not tested the site and that he does not know what is under the cleaned up area.

Nolan asked if staff knows about the soils or groundwater. Finke responded that there are tight soils in the area that tend to prevent pollution of the aquifers. Finke also stated that from a construction and septic standpoint, the pollution issues may be more of a concern and that correction may need to take place.

Nolan recommended that Marx find out what pollution may be in that area.

Commissioner Martin inquired if the HOA would be six lots or all ten lots. Marx responded that the HOA is only for the six lakeshore lots.

Martin stated that the density is limited by express language of ordinance which would mean six lots, or a maximum of seven with the nonconforming lot to the south.

Williams asked why consider the application at all if it would not be economically feasible to develop the land under the ordinance. More over under existing regulations, the maximum of additional two lots would have a minimal burden on the land. Nolan responded that the applicant has the right to apply and we must respond. Nolan stated that the economics are the applicant's concern. Williams clarified that he was more concerned with the proposal meeting conservation objectives above and beyond what was already protected, not whether or not the applicant should have applied.

The Commission had a general discussion of density and concluded the density is at most seven units. Commissioner Martin noted the intensification of development along School Lake.

Nolan summarized the concept review discussion to this point. Nolan reiterated that the density is at most seven units; that the development needs to be sensitive to development along the lakeshore; and that the proposal meets minimum standards of conservation and for septic sites.

Finke stated that in theory under the general PUD process and not the Conservation Design PUD, there is the potential for more density.

Commissioner Nolan summarized further that Parkview lots up on the hill are too close together; Lot 9 is problematic; Lakeshore density is an issue; and that in reworking the plan, three lots would need to be eliminated.

Commissioner Martin stated that if Lots 1 and 2 meet setbacks, they would be reasonable. Martin stated that adjacent landowners may moan about the proximity, but if the lots meet the setbacks they cannot object.

Nolan stated that because of the additional homes and the fact that the development would essentially be creating a variance, the process is more flexible than that.

Finke noted that one lot could be built near the northern property line as zoned. Finke also pointed out that due to the suitable soils and the disturbed nature of the land in the northwest part of the property, these would be good areas for clustering home sites.

Williams and Martin agreed with Finke's observation that the best areas to cluster home sites would be near the northwest corner of the property.

Nolan stated that density would be a maximum of six or seven sites, but also dependent on meeting the other objectives of the conservation design ordinance. Nolan added that meeting the minimum ordinance requirements would not be good enough to qualify the proposal for the maximum allowable density.

Commissioner V. Reid stated that it may seem unfair, but already protected wet areas wouldn't count towards conservation.

Nolan stated that he would have to find the proposal very compelling to offer the maximum density, and that his inclination is to err on the conservative side.

Rose Lorsung, consultant for Wallace Marx, stated that many potentially conservable sites within the city would likely not be preserved because of contiguous suitable soils issues.

Marx stated that he has spent \$50,000 on consultants and legalities.

Lorsung stated that perhaps there should be fewer requirements for upfront submission.

Commissioner Williams replied that Marx should have started with buildable areas first, and was puzzled by the \$50,000 expense.

Commissioner Martin expressed concerns over only having six of the ten lots participate in the HOA, even though they benefit from conservation. Martin was concerned with the potential for uneven distribution of cost burden for maintenance of the conservation areas.

Nolan asked Marx if he would like to continue the process understanding that the Commission would likely deny the application. Marx stated that he would like the process to continue so that he may get feedback from the City Council as well.

Motion by Williams, seconded by Anderson, to recommend denial of the Planned Unit Development (PUD) Concept Plan for a Conservation Design. Motion carried unanimously. (Absent: Nielsen)

9. Site Plan Review – Loram Inc. – Request for a 14,785 gross square foot expansion of parking lot at 3900 Arrowhead Drive (PID# 11-118-23-22-0002).

Cooney presented the staff report. The proposal would add 13,887 square feet of parking, for a total of 43 parking stalls.

Commissioner Anderson inquired how many employees Loram currently has.

Tim Heisel of Loram Maintenance of Way Inc. stated Loram employed 325 people at this time.

Councilmember Elizabeth Weir stated that trees within the parking lot islands tend not to survive. Weir proposed that perhaps day lilies or other more hearty alternatives be placed in the landscape areas and that the trees be located to other parts of the site. The Commission agreed with Weir's recommendation and agreed to add it as a condition to the application.

Motion by Martin, seconded V. Reid, to recommend approval of the Site Plan Review, with the condition noted by staff. **Motion carried unanimously.** (Absent: Nielsen)

10. City Council Meeting Schedule

July 17 – Anderson

11. Adjourn

Motion by Williams, seconded by V. Reid, to adjourn the meeting at 10:57 p.m.

Motion carried unanimously. (Absent: Nielson)