

**MINUTES OF THE  
REGULAR MEETING OF THE PLANNING COMMISSION  
CITY OF EDINA, MINNESOTA  
CITY COUNCIL CHAMBERS  
MAY 14 2014  
7:00 PM**

**I. CALL TO ORDER**

**II. ROLL CALL**

Answering the roll call were: Scherer, Olsen, Kilberg, Halva, Lee, Forrest, Platteter

Members absent from roll: Staunton, Potts, Carr

**III. APPROVAL OF MEETING AGENDA**

Commissioner Olsen moved approval of the May 14, 2014 meeting agenda. Commissioner Lee seconded the motion. All voted aye; motion carried.

**IV. APPROVAL OF CONSENT AGENDA**

**A. Minutes of the Regular Meeting of the Edina Planning Commission April 23, 2014**

Commissioner Olsen moved approval of the April 23, 2014, meeting minutes. Commissioner Lee seconded the motion. Commissioner Scherer noted a change to the minute's pg. 1 removing Chair Staunton and replacing it with Acting Chair Potts. All voted aye; motion carried.

**V. COMMUNITY COMMENT**

Acting Chair Platteter asked if anyone would like to speak to an issue not currently on the Agenda.

Jim Grotz, 5513 Park Place, addressed the Commission suggesting that Residential Building Permits be required to have a residential check attached similar to the commercial check list attached to Commercial Building Permits. Grotz further suggested that the City conduct an open work session with the Watershed Districts on the permitting process.

Commissioner Forrest moved to close community comment. Commissioner Olsen seconded the motion. All voted aye; motion carried.

## **VI. PUBLIC HEARINGS**

### **A. Variance. Thomas Raih. 5528 Woodcrest Drive, Edina, MN**

#### **Planner Presentation**

Planner Aaker informed the Commission the homeowner has decided to replace the existing fence on the property that is required for protection given the in-ground pool in the rear yard. Most of the fence is proposed to be 6 feet in height, (conforming to the fence height code), with a section adjacent to the neighbor at 5537 Park Place, to the west, that will be 8 feet in height. The 8 foot tall section of the fence requires a 2 foot fence height variance. The property to the west is a recent tear-down re-build that received a Conditional Use Permit in 2012 to allow the new basement and 1<sup>st</sup> floor to be raised 3.75 feet above existing to bring the new basement floor elevation above the 100 year, (1%), flood elevation. It was necessary to elevate the basement of the adjacent house to remove the structure from the flood zone. The elevated basement resulted in an elevated back yard with retaining walls along the proponent's westerly lot line. The neighbor's back yard is now 3 feet higher than it had been previously. Fence height near the pool on the neighbor's side is approximately 2 feet in places. The Edina Health Code requires a minimum 4 foot tall fence for protection around a pool. While fence height is measured from grade on the subject property, the existing height from the neighbor's yard is as low as 2 feet in some areas and perhaps an attractive nuisance with the pool only 5 feet from the lot line. Attached is a Memorandum from the City's Environmental Health Specialist in support of the requested variance for fence height.

Planner Aaker concluded that Staff believes the proposed variance is reasonable given the altered grade on the adjacent neighbor's property. The practical difficulty is therefore, caused by the necessary elevation of the neighbor's basement to bring it above the flood elevation and the subsequent regard of the property. Staff recommends approval of the variance based on the following findings:

- a) The practical difficult is caused by the grade elevation changes of the adjacent property.
- b) The City Health Code requires adequate fence protection around an in ground pool. The proposal is reasonable in that it provides the pool protection as supported by the City Pool Inspector.

Approval of the variance is also subject to the following condition:

- I. The fence must be construction per the proposed plans date stamped: May 15, 2014.

#### **Appearing for the Applicant**

Thomas Raih, property owner.

### **Applicant Presentation**

Mr. Raih asked the Commission to note that the grade was changed on a lot that abuts his property to accommodate the construction of a new home. Raih said as a result a portion of his fence surrounding his pool now presents a safety issue because it is too short. Raih said he is requesting a variance to allow an 8-foot high fence to ensure safety.

### **Discussion**

Commissioner Scherer raising the safety issue asked Mr. Raih if he would like the entire length of the fence 8-feet, adding if so, she would be willing to support that. Raih pointed out the area adjacent and along the pool is the only area that needs an 8-foot high fence; the existing fence adequately addresses safety.

### **Public Testimony**

Acting Chair Platteter asked if anyone was present that would like to speak to the issue; being none, Commissioner Scherer moved to close the public hearing. Commissioner Olsen seconded the motion. All voted aye; motion to close public hearing carried.

### **Discussion/Motion**

Commissioner Lee thanked the applicant for his well-documented submittal. Lee stated she supports the variance as presented.

**Commissioner Lee moved variance approval based on staff findings and subject to staff conditions. Commissioner Olsen seconded the motion. All vote aye; motion carried. 5-0**

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## **VI. B. Zoning Ordinance Amendment – PUD applicability in an R-1, R-2 and PRD-1 Zoning District**

### **Planner Presentation**

Planner Teague informed the Commission that current City Code regulations do not allow R-1 properties to be considered for Planned Unit Development (PUD) rezoning. When the PUD Ordinance was created, there was a lot of discussion as to whether or not R-1 property should be eligible for PUD rezoning. The general purpose behind excluding R-1 properties was to protect single family homes from potential redevelopment within single family home neighborhoods.

Teague explained that this amendment would apply to any property that is located adjacent to commercial, industrial, or high density residential property. In general, it

would apply to property that is located adjacent to commercial, industrial or high density residential property. The vast majority of property zoned R-1 would still not be eligible for PUD rezoning. With graphics Teague pointed out potential areas that could be impacted by this change.

### **Discussion**

Commissioner Scherer stated as she read the staff report and looked at the map provided by Planner Teague she became concerned that if the ordinance were approved as amended other zoning districts could begin meandering into the residential neighborhoods. Scherer said she doesn't want this to become a self-fulfilling prophecy; "if it's indicated it can be changed". Scherer asked Planner Teague if that was the intent of the amendment. Planner Teague responded the intent is to allow R-1, R-2 and PRD-1 properties the ability to request a rezoning to PUD with restrictions, adding at this time that is prohibited.

Commissioner Forrest indicated she is not a fan of what she calls "commercial creep;" however is cognizant that there are areas where density is appropriate.

### **Public Testimony**

Acting Chair Platteter opened the public hearing and explained that the hearing this evening is on a citywide ordinance amendment. Platteter explained if anyone present was interested in the previously reviewed Lennar proposal at 6725 York Avenue that public hearing will be held on May 28<sup>th</sup> before the Planning Commission and June 17<sup>th</sup> before the City Council.

Debbie Goettel, Richfield Mayor, 6700 Portland Avenue, thanked the Commission for their thoughtful process and their time, adding Richfield continues to be against the Lennar project because of its direct impact on Richfield residents. Goettel said the City of Richfield continues to believe that the proposed Lennar project is too large and out of scope for the neighborhood.

Carol Lansing, Faegre, Benson, Daniels addressed the Commission pointing out Edina's Comprehensive Plan identifies this as an area of potential change. Lansing said in her opinion the PUD rezoning process provides cities with added flexibility vs. a straight rezoning process. Continuing, Lansing stated the prohibition of R-1, R-2 and PRD-1 properties from even requesting a rezoning to PUD limits flexibility. Concluding, Lansing reiterated the proposed amendment allows flexibility.

Fran Peterson, 6929 Washburn Avenue, told the Commission when deliberating they should consider the people that would be left behind.

Steve and Lisa Schwab, 6740 Washburn Avenue addressed the Commission and said that while they do not object to redevelopment the Lennar project as proposed is too tall and dense. Lisa Schwab indicated that she is friends with many Edina residents and when

she pointed out the areas in Edina highlighted for potential change they were surprised and felt blindsided their neighborhoods abutted such areas. Schwab concluded that if the ordinance is amended what would stop others from coming forward to do the same.

Acting Chair Platteter asked if anyone else would like to speak to the subject; being none Commissioner Lee moved to close the public hearing. Commissioner Olsen seconded the motion. All voted aye; motion carried.

## **Discussion**

Acting Chair Platteter asked Planner Teague if the proposed amendment would allow the residential homes abutting the Best Buy facility to be folded into a redevelopment of the Best Buy site. Planner Teague responded in the affirmative; however, he pointed out regardless of allowing R-1, R-2 and PRD-1 properties to be rezoned to PUD the option to rezone those homes to another zoning district for redevelopment purposes is permitted. Teague further explained someone could buy those homes and request a rezoning to any of the City's zoning districts; however, a rezoning to PUD is prohibited from those three districts. Continuing, Teague explained that the PUD zoning designation is new to Edina and at the time of adoption the Commission and Council were hesitant to include R-1, R-2 and PRD-1 properties because the City was unsure of how the PUD process would evolve.

Commissioner Scherer referred to the map presented by Planner Teague indicating areas that would be impacted by the proposed zoning ordinance amendment, reiterating that she has some concern that the "map" could encourage further encroachment into residential neighborhoods; which is something she stated she doesn't want to encourage.

Commissioner Lee said she agrees with the comments from Commissioner Scherer adding she also doesn't want to encourage commercial creep. She stated she was uncomfortable with an established percentage cap. Lee referred to the map and noted the number of "pockets" impacted by this change, reiterating the percentage cap may not be the way to go.

Commissioner Halva suggested reducing the percentage (20-30%) if Commissioners were uncomfortable with the recommended 50%. Commissioners agreed that would also be an option.

Commissioner Forrest stated she concurs with the comments so far, reiterating she too is concerned with commercial creep. Forrest said the Commission needs to keep in mind as it moves forward how properties are identified in the Comprehensive Plan and how the City has traditionally used "transition" areas between districts.

Commissioner Kilberg said in his opinion the PUD process has been successful and works very well. Kilberg noted everything is a "give and take" and this ordinance amendment only provides the option "to ask". Kilberg noted that as previously mentioned R-1, R-2 and PRD-1 zoned properties don't have that option "to ask";

however, are entitled to that option with other zoning designations. Concluding, Kilberg reiterated this ordinance amendment provides the Commission and Council the option to say yes or no and an applicant to ask.

Commissioner Olsen added she too is having difficulty with the 50% cap. Olsen said she's not opposed to amending the ordinance; however, she has issue with the percentage.

Acting Chair Platteter said he believes 50% is too high and would be more comfortable with a 30% cap if the amendment moves forward. Platteter said it has been his experience that the PUD process has worked phenomenally well in Edina. From the beginning it has been a give and take starting with sketch plan review through the formal application process. Platteter said he believes with the PUD process the City gets a "better product" because it allows communication and flexibility.

Commissioner Olsen being new to the Commission asked why the City eliminated certain districts from the PUD option process and not others, adding in her opinion that is unusual.

Roger Knutson, City Attorney responded that Edina is unique in this area, adding to the best of his knowledge no other city restricts districts in this way. Planner Teague further explained as he previously mentioned that the PUD process was new to Edina and the City wanted to see how it functioned.

A discussion ensued with Commissioners discussing the merits of a percentage based ordinance or open ordinance where all districts are equally treated. Commissioners acknowledged that Edina is a residential community and they want it to remain a residential community; however the City needs to find a balanced way to limit "commercial creep".

Commissioner Forrest asked Planner Teague if the percentage option were eliminated and R-1, R-2 and PRD-1 properties were allowed to apply for a PUD rezoning could any block in the City request a PUD rezoning. Planner Teague responded in that affirmative; however, he pointed out nothing prevents any "block" in the City from requesting any rezoning (PID, PCD, etc.). Continuing, Teague explained that the Commission and Council always have the option of a yes or no vote. Forrest said she is still concerned that residents that abut the areas identified on the map would continue to be leery of the City's intent. Teague explained there are certain actions that require a 4/5 favorable Council vote; one being Comprehensive Plan Amendments and rezoning's from any residential zoning district to any nonresidential zoning district. This is stricter than the majority of Council actions that require a 3/5 vote.

Commissioner Lee asked Planner Teague to clarify their options. Planner Teague responded that the Commission can either vote the amendment up or down as written or modify the language by determining a different percentage, striking certain aspects of

the proposed revision, or striking the last sentence entirely and have the PUD option City wide.

### **Motion**

**Commissioner Olsen moved to recommend amending Ordinance Sec. 36-254. Applicability/criteria by striking the last sentence – Property currently zoned R-1, R-2 and PRD-1 shall not be eligible for a PUD, and further eliminating unless it constitutes less than fifty percent of the total property in the proposed PUD, as suggested by staff. Commissioner Lee seconded the motion.**

Commissioner Lee stated in her opinion all zoning districts should be equally treated and certain areas should not be flagged.

**Acting Chair Platteter called for the vote; ayes, Scherer, Lee, Olson, Forrest. Nay, Platteter. Motion carried 4-1.**

## **VII. CORRESPONDENCE AND PETITIONS**

Acting Chair Platteter acknowledged back of packet materials.

## **VIII. CHAIR AND COMMISSION COMMENTS**

Commissioner Forrest said the work group is continuing to move forward on the Valley View and Wooddale Small Area Plan. She added the process is scheduled to begin in June; with more details to follow.

Acting Chair Platteter said the Tree Preservation Work Group presented the proposed Tree Preservation Ordinance to the City Council at their last Council meeting. Platteter explained they had a great discussion; however, the City Council was hesitant to adopt the Ordinance as written and has tentatively scheduled an August 4<sup>th</sup> work session to discuss the tree ordinance. Continuing, Platteter asked Planner Teague to ask the City Council if the Commission could have the entire two hours for discussion. Teague responded that he would check.

## **IX. STAFF COMMENTS**

Planner Teague reported that Taco Bell received Final Development Plan approval at the City Councils last meeting.

Teague also reported with regard to the Lennar housing/retail project that the developers listened to the Commission and moved the building 10-feet farther back from Xerxes Avenue. Teague added that they also worked on softening the façade by removing some pieces.

**X. ADJOURNMENT**

**Commissioner Scherer moved adjournment at 8:35 PM. Commissioner Olsen seconded the motion. All voted aye; motion to adjourn carried.**

**Jackie Hoogenakker**  
**Respectfully Submitted**