

**MINUTES OF THE REGULAR MEETING OF
THE EDINA PLANNING COMMISSION
WEDNESDAY, JANUARY 29, 2003, 5:30 PM
EDINA CITY HALL COUNCIL CHAMBERS
4801 WEST 50TH STREET**

MEMBERS PRESENT:

**Chairperson Gordon Johnson, John Lonsbury, Ann Swenson, David Byron,
Helen McClelland, David Runyan**

MEMBERS ABSENT:

Geof Workinger and Stephen Brown

STAFF PRESENT:

Craig Larsen, Joyce Repya and Jackie Hoogenakker

I. APPROVAL OF THE MINUTES:

The minutes of the November 27, 2002, meeting were filed as submitted.

II. OLD BUSINESS:

**Z-03-1 Edina Heritage Preservation Board
 Edina Country Club District, Brown and Fairway Sections**

**Add Edina Heritage Landmark Overlay Zone to the R-1 Zoning
Designation**

Ms. Repya informed the Commission the Edina Country Club District was placed on the National Register of Historic Places in 1980. The designation recognizes the district as the first planned subdivision in Edina comprised of a significant and well preserved concentration of historic domestic architecture. Due to the National Register designation, many people assumed that there were controls in place to regulate building activity in the district. However, the National Register only identifies historically significant properties. The National Park Service depends on the local government to provide controls and regulations.

Ms. Repya explained since the 1980 National Register designation, the Heritage Preservation Board has struggled with addressing the preservation needs of the district. Ultimately, it was determined that the Heritage Preservation section of the Zoning Ordinance which required HPB review and control of all

exterior changes for designated properties, did not provide standards and guidelines and was not designed to meet the needs of a district designation.

Ms. Repya told the Commission the Heritage Preservation section of the Zoning Ordinance, amended in June 2002, has been designated to provide for flexibility when designating landmark properties. As part of the nomination report, a preservation plan is established, clearly defining the significance of the landmark property and the goals and objectives for preservation. This plan of treatment includes guidelines and procedures defining the heritage preservation expectations for the designation.

The provisions of the new ordinance will require that a Certificate of Appropriateness be approved for the demolition and new construction of homes and garages and the moving of buildings in the district.

Ms. Repya noted a moratorium on demolitions of principle structures in the Country Club district has been in effect since December 2001. The moratorium expired on December 19, 2002. At a special meeting of the City Council, the moratorium was extended until June 26, 2003; however, the City Council is very anxious to complete the landmark zoning of the district at which time the moratorium would be lifted. This rezoning request is scheduled to go before the City Council next Tuesday, February 4, 2003.

Ms. Repya concluded staff recommends Heritage Landmark overlay zoning be added to the County Club District. In doing so, the City will be able to protect the district's historic integrity by ensuring that new construction is in keeping with the goals and objectives identified for the district.

Mr. Robert Vogel, Edina Heritage Preservation Consultant and interested neighbors were present.

Mr. Vogel addressed the Commission and explained in a "nutshell" what the Heritage Preservation Board is trying to accomplish by this amendment is preserving the historic character of the Country Club District. Mr. Vogel explained the goal is to create a partnership between the City and the individual property owners with regard to preservation with the primary responsibility on the individual property owner. Continuing, Mr. Vogel explained the City wants active participation with property owners when they desire to demolish and/or move buildings adding new construction within the district. This will be accomplished by requiring Certificates of Appropriateness.

Commissioner Runyan asked Mr. Vogel if a homeowner in the Country Club District wants to demolish their home and construct a new home what type of permits would be required. Mr. Vogel responded the property owners would have to go through the regular established building permit process (demolition permit, building permit) along with a Certificate of Appropriateness. Mr. Vogel

said the purpose of the Certificate of Appropriateness is not to embalm the district but to establish guidelines whereby the height, size, scale, color and texture of the homes in the district are recognized and documented. Mr. Vogel concluded new construction should be complementary to the district.

Commissioner Byron questioned if the City Council has made the decision on their scope with regard to the district. Commissioner Byron pointed out the Country Club District is private property and impinging on property owners' rights may be difficult to legislate. Commissioner Byron asked if the Certificate of Appropriateness only covers demolitions. Mr. Vogel responded the new code language is actually less intrusive, with the new language focusing on demolition and resulting new construction, new construction on vacant lots or the moving of buildings. All those factors would require a Certificate of Appropriateness. Mr. Vogel reiterated much of the responsibility is on the individual property owners and in his opinion so far the property owners of the district have done an excellent job maintaining the character of the district.

Commissioner McClelland said her understanding of the ordinance before this change was that if a building is demolished what replaces it must preserve the character of the district and be of similar architecture, but as she understands it now, that isn't necessarily the case. Continuing, Commissioner McClelland added if she understands pages 2-3 correctly replacement is complementary, not necessarily replacing what was with the same. Mr. Vogel responded that is correct. The City is not requiring that an exact replica be constructed. Commissioner McClelland commented we could be giving residents too much leeway. Mr. Vogel reiterated it is not the intent of the City to prohibit design creativity, or embalm the district. Continuing, Mr. Vogel said the City policy decision in terms of regulations and what requires a Certificate of Appropriateness is that additions and alterations would not need a Certificate, only entire or partial demolition of a structure and the subsequent new construction of the moving of a structure requires a Certificate. Commissioner McClelland said her past understanding was that at least the exterior of these homes would be maintained with architectural compatibility with the district. Mr. Vogel said that is still the case but reiterated additions that do not involve any demolition or movement of the structure do not require a Certificate. Mr. Vogel concluded if every addition would require a Certificate of Appropriateness staff size would need to more than double.

Commissioner Lonsbury asked a hypothetical question that if he resided in the Country Club District and his house burned to the ground and he wanted to rebuilt a new house in the "prairie style" that isn't recommended on the guideline form does that mean he can't do it. Mr. Vogel responded not necessarily so, he pointed out certain elements of the "prairie style" would not fit in with the Country Club District but other "prairie style" elements may fit with the District, and it is possible the Board would not say no to a compatible prairie style home. Mr. Vogel stated the Board does not want to design people's houses for them. The

Board wants the property owner and their architect to design a complementary structure. Commissioner Lonsbury questioned why the Board is taking on this responsibility if it really isn't enforceable. Mr. Vogel responded it is enforceable. A judgment will be made, and a Certificate will be issued or not issued. Concluding, Mr. Vogel said the Board isn't looking to create a carbon copy of a house, adding Commissioner Lonsbury is correct in that that can't be mandated, but a complementary structure can be required.

Chairman Johnson asked for clarification from Ms. Repya on how she wants the rezoning items handled with regard to the motion. Ms. Repya said Z-03-1; the Country Club District should be handled with a separate motion. The other HLD properties can be handled with one motion. Chairman Johnson opened the floor to the public.

Mr. Mark Rurik, 4529 Arden Avenue, addressed the Commission and told them in his opinion the majority of the Country Club residents do not know what is going on with regard to the change in code. Mr. Rurik asked staff if staff has received the response from the State and the Secretary of Interior with regard to the landmark designation of the district. Ms. Repya responded the State/Secretary of Interior has received the appropriate information from the City, but in response to the question to date the City has not received the written response. Mr. Rurik said he believes if that response has not been received the "project" is only half complete and the Commission should not act until the City receives the required responses. Mr. Rurik added he is unsure from what he has read how variances will be handled. He pointed out if he understands correctly if he demolishes his house nothing will compel the heritage board to give him a Certificate of Appropriateness, and what is appropriateness? Is there a definition anywhere of what the City means by appropriate? Mr. Rurik asked if his house is placed on his lot in a non-conforming location, who addresses that? He pointed out in the packet of information he received everything states "recommended" or "not recommended" which is subjective. Continuing, he said if he decides to construct a new home in the district with the "recommended" guidelines nothing actually states he will receive a Certificate of Appropriateness if he follows those "guidelines". He added in his opinion this opens up the City to litigation. Mr. Rurik also pointed out there is no mention of a casualty clause in the new ordinance. He asked what would happen if 40% of his home is destroyed by fire. Would the City consider his financial stake in rebuilding and what if he can't rebuild his home to the standards stipulated by the City with the money he receives to rebuild after a casualty has occurred. Concluding, Mr. Rurik said in his opinion the board has done a good job, but their work isn't complete, the ordinance is not clear enough and they are putting the cart before the horse. Now the City states only demolition triggers a Certificate, in a few years it could be additions. The City is putting its foot in the door.

Mr. Lee McGrath, 4614 Moorland Avenue, told the Commission he owns two homes in the district and has found that one of the homes needs to be

demolished because of its condition. He added his question concerns comments found on the back of the pamphlet with regard to the difference between pivotal and complementary houses. Mr. McGrath said the house he desires to demolish is complementary and asked what implications he faces with a complementary structure. Ms. Repya responded if his home (or any home within the district) is completely demolished a Certificate of Appropriateness is required. Ms. Repya referred to a revision for #2 on page 2 of the Edina Heritage Landmark Nomination Study of the Edina Country Club and read into the record the new language. *Certificates of Appropriateness (COA) will be required for the total demolition of any principal dwelling in the district. Permits for partial demolition (including demolition of detached garages) will be subject to design review only in cases involving properties identified in the 1980 National Register registration form as possessing pivotal significance, or properties that have been determined individually eligible for designation as Edina Heritage Landmarks.*

Mr. McGrath questioned his steps in achieving a permit to rebuild his house. Ms. Repya said a demolition permit must be applied for from the building department, along with a COA. Further building department permits would also be required for construction of a new house.

Commissioner Lonsbury interjected and asked if the change just read into the record by Ms. Repya will go before Council. Ms. Repya said Council Members would receive text of the change before their February 4th meeting. Commissioner Lonsbury asked for a copy of what Ms. Repya read. Ms. Hoogenakker excused herself from the hearing to make copies for the Commission and audience of the change in text of #2 on page 2.

Mr. McGrath stated he believes he should have the same rights the City had when they tore down the Hennepin County Library less than 50 feet from where he stands now, and if he understands Ms. Repya correctly he will have another layer of control placed over him that the City didn't have to go through. The house he owns was built in 1936 by the Gambles who saw a house in Palm Beach they liked and had a replica of that house constructed on this lot. Mr. McGrath said the problems of tear downs in the district is minuscule, and the blunt tool the City is presenting because of a fear something undesirable will be constructed stands in the way of renovations in the neighborhood. Mr. McGrath added he believes there is no partnership between the City and the Country Club property owners. A partnership recognizes the residents of this neighborhood are intelligent and willing to invest millions of dollars into their homes and by the imposed restrictions the City is not allowing creative license. Mr. McGrath pointed out not all homes in the Country Club District are significant, and if residents are willing to invest they will be sensitive to the district and in a true partnership you respect the intelligence of the residents.

Mrs. Marie Thorpe, 4526 Edina Boulevard, told the Commission she is in favor of the HPB's recommendation. Mrs. Thorpe said in her opinion she feels

the Board is benevolent and to her it appears they are not trying to prevent people from demolishing their houses, they only want to give advise and protect the homeowners in the district from a “kook” who may want to construct a house that just wouldn’t fit with the area. Mrs. Thorpe said the HPB only wants to be part of the decision making process by protecting the history of Edina and the district itself. Continuing, Mrs. Thorpe pointed out the Country Club District is aged, times have changed, people have changed, and these changes place a burden on the district to redevelop. Mrs. Thorpe said in her opinion the City needs to have some say when people choose to knock down an entire house or a portion of a house. In conclusion Mrs. Thorpe said she agrees with the language of the ordinance and believes it is realistic and reasonable. She noted she doesn’t want the wording of the ordinance too detailed because it reduces flexibility. Mrs. Thorpe stated she supports the HPB.

Mr. Bright Domblasser, 4630 Drexel Avenue, stated he believes the two people who previously spoke against the ordinance are protecting their own self-interests, and in his opinion the larger community needs to be considered.

Commissioner Swenson reminded the Commission she presently sits on the Heritage Preservation Board and there has been no discussion by the board on regulating all additions in the Country Club District. Commissioner Swenson stated she recommends that Commission Members support the ordinance amendment and rezoning.

Commissioner McClelland asked Ms. Repya or Mr. Vogel if they know how many homes in the Country Club District are considered Pivotal. Ms. Repya responded out of the 554 homes in the district 196 or around 35% are Pivotal.

Commissioner McClelland said she supports the work of the Heritage Preservation Board and to her she finds it amusing that at first when this topic was introduced she felt the City was proceeding with too strict of an agenda and now her opinion is that it may not be strict enough. Commissioner McClelland pointed out to the property owners present if they do not agree with what the Heritage Preservation Board recommends with regard to a COA the property owner does have the right to appeal the Board’s decision to the Council similar to how variances are handled by the Zoning Board.

Ms. Betty Burg, 4633 Arden Avenue, told the Commission she has concerns with regard to her neighbor who is constructing a large addition out the rear of their home and if that addition complies with the ordinance. Chairman Johnson directed Ms. Burg to contact the building and planning departments in the morning with her concerns. Ms. Burg concluded she supports the Heritage Preservation Board and agrees with its guideline.

Commissioner McClelland asked how the Planning Department would keep track of the district especially with regard to variances. Mr. Vogel said the internal administration works and every department that needs to address the permit does. He said the district is “flagged” and when Ms. Aaker reviews building plans she has a list of homes in the Country Club District. Mr. Larsen interjected all 554 addresses are “flagged” by the computer and all permits are routed to all significant departments.

Commissioner Byron said in going back to Mr. McGrath’s issue if he understands it correctly what Mr. McGrath needs to do is obtain a Certificate of Appropriateness to raze his complementary house and a demolition permit from the building department. Ms. Repya responded that is correct. According to ordinance requirements he is required to obtain a Certificate of Appropriateness to raze an existing house and rebuild a new structure in its place. She explained complete demolition of a principal dwelling in the district requires a Certificate. Mr. Byron noted even if 4619 Moorland Avenue isn’t documented as pivotal the reason for requiring a COA does not rest only on the uniqueness of the individual structure, as it exists today, but on what will be constructed in its place. Ms. Repya responded that is correct. What is constructed in place of an existing structure is as important as the existing structure.

Mr. McGrath interjected and explained his property at 4619 Moorland Avenue is filled with mold and he needs to construct a new dwelling, his family can’t live in the existing structure as is for health reasons. Mr. McGrath stated he objects that he is required to obtain a COA. He pointed out his house is not pivotal and he shouldn’t be placed under the same restrictions as a pivotal property owner is placed under. He said in his opinion his house is no different from the library that was razed by the City. Mr. Vogel said he understands Mr. McGrath’s comments and explained his house may not be recorded as pivotal, but it is part of the history of the district and that district is comprised of some 550 homes and the significance in that equation needs review. One reason we left in the requirement for a COA for tearing down a non-pivotal house is to meet that historic equation. Mr. Vogel explained a photographic record needs to be maintained of what existed and what is constructed must be compatible.

Mr. McGrath said if he understands what Mr. Vogel said is that all he has to do is submit building plans for a new structure and photos of the existing house. Mr. Vogel responded that is correct photos of the existing house and plans for the new house must be submitted. Mr. McGrath stated he wants his due process. Commissioner Byron said due process for him is to go before the Heritage Preservation Board. That Board will exercise judgment on the plans submitted. Mr. McGrath said approving something that reads “recommending” is too subjective and he believes that would be a problem. Mr. Larsen interjected he doesn’t feel there is a problem with that. All Boards/Commissioner exercise their judgment when making decisions.

Commissioner Byron told Mr. McGrath the Commission this evening can't tell you what you want to hear. The HPB will have to make that decision, the Commission can't. What the Commission is doing this evening is trying to be as responsive to you as we can but this body doesn't have the authority to tell you what you can or can't build on your property, tonight we are only recommending that the Council rezone the district as Heritage Landmark and what that rezoning encompasses. Mr. McGrath told the Commission he wants some guarantees on what he can build, and in his opinion it is appropriate for the Commission to tell him that. Commissioner Byron said our mission is to pass along our comments and recommendations to the City Council. The Commission will also pass along our comments from the two residents of the district that expressed their concerns with regard to the procedures associated with the COA and their belief they were being subjected to a violation of due process.

Commissioner McClelland reiterated to Mr. McGrath he has the right to appeal to the City Council any decision by the Heritage Preservation Board he doesn't agree with. Commissioner McClelland stated Mr. McGrath has the right to be heard by his elected officials.

Commissioner Lonsbury told the Commission he realizes it is growing late but asked staff if they can quickly point out the procedure for a resident to follow if they want to demolish a pivotal property in the Country Club District. Ms. Repya explained all the information a property owner needs to know would be found on the building permit application and they would follow the procedures outlined on that application. Commissioner Lonsbury asked if that is consistent with our existing ordinance and procedures. Ms. Repya responded that is consistent with our ordinance and procedures for obtaining a building permit.

Commissioner Swenson commented that one piece of information she found interesting with regard to this proposal is that it has been found with this type of control property values go up, not down.

Commissioner Swenson moved to recommend adding Edina Heritage Landmark Overlay Zone to the R-1 Zoning Designation and adoption of the proposed amendment to the code including the revision to #2 on page 2. Commissioner Lonsbury seconded the motion. Commissioner McClelland told the Commission she is not comfortable with all the pieces of the proposed rezoning and ordinance change and feels a bit pressured by the Council to make a decision adding she would like to abstain. Ayes; Lonsbury, Swenson, Byron, Runyan, Johnson. Abstain; McClelland. Motion carried.

Z-03-2	BAIRD HOUSE	4400 WEST 50TH STREET
Z-03-3	GRIMES HOUSE	4200 WEST 44TH STREET
Z-03-4	PAUL PETERSON HOUSE	5312 INTERLACHEN BLVD
Z-03-5	CAHILL SCHOOL	4918 EDEN AVENUE
Z-03-6	GRANGE HALL	4918 EDEN AVENUE

Ms. Repya informed the Commission the properties were all zoned Heritage Preservation District under provisions of the old Heritage Preservation section 850.20 of the City Code. The June 2002 amendment to the preservation section of the code has necessitated a re-certification of the subject properties as Heritage Landmarks.

Ms. Repya pointed out under the new code; each landmark property is to have a preservation plan that identifies the significance of the site and a plan of treatment for preservation. This plan is developed as a collaborative effort between the property owners and the Heritage Preservation Board to ensure that the goals and desires of the homeowner are addressed. During the next year, the Heritage Preservation Board will be meeting with the private property owners to develop the preservation plans.

Ms. Repya concluded that staff considers this a “housekeeping” issue and recommends adding the Heritage Landmark zoning designation to the R-1 Single Dwelling Unit District designation for the subject properties pursuant to the provisions of the amended preservation code 850.20.

Commissioner McClelland moved to recommend adding Edina Heritage Landmark Overlay Zone to the R-1 Zoning Designation for properties located at 4400 West 50th Street, 4200 West 44th Street, 5312 Interlachen Boulevard and 4918 Eden Avenue. Commissioner Runyan seconded the motion. All voted aye; motion carried.

III. NEW BUSINESS:

S-03-1 **Curt Fretham**
 6400 Ryan Avenue

Request: **Two Lot Subdivision**

Mr. Larsen informed the Commission the subject lot is part of the original plat of Normandale, platted in 1914. All original lots were platted as through lots,

that is with frontage on two streets. Mr. Larsen explained the subject property is the last remaining lot in its original configuration.

Mr. Larsen concluded the character of this neighborhood is not how it was platted, but how it was developed. The proposed plat makes sense and should be approved. Lot area variances are needed but are minimal. Staff recommends approval subject to Subdivision Dedication.

The proponent, Mr. Curt Fretham was present to respond to questions from the Commission. Interested neighbors were also present.

Mr. Kohler, 6333 Ryan Avenue (directly across the street) told the Commission he is not opposed to the proposed subdivision. His concern is with garage and driveway placement. Mr. Kohler said if homes are constructed with garage door and driveways facing West 64th Street it would have a negative impact on his property. Mr. Kohler said looking out their window and seeing two garage doors/driveways is not aesthetically pleasing. Concluding, Mr. Kohler suggested one garage/driveway be constructed off West 64th Street and the other off either Sherwood or Ryan Avenues.

Mr. Fretham addressed the Commission and informed them his goal is to construct two nice homes. He added he is not sure on how the houses/garages will be placed on the lot. He said his plan was to leave that up to the individual lot owner.

Commissioner Swenson asked Mr. Larsen if our ordinance regulates how a house is oriented on a lot. Mr. Larsen explained on a corner lot the property owner selects its frontage. He added in this situation it is very possible the property owner(s) may orient one home on Sherwood Avenue and the other on Ryan Avenue but have side loading garages facing West 64th Street.

Commissioner Swenson asked Mr. Larsen what the setbacks would be from West 64th Street. Mr. Larsen responded in this situation the minimum is required. If the house fronts West 64th Street a front yard setback of 30 feet is required. If the garage faces West 64th Street (the house Ryan or Sherwood) a 20-foot setback is required for the garage and the front yard setback is either the average on the block on that side of the street between intersections or meeting the setback of the adjoining house.

A discussion ensued between Commission Members on the merits of recommending home/garage placement.

Commissioner Byron told the Commission he is uncomfortable recommending that type of restriction over these lots. He said it should be up to the future property owners on how they want to design their home. He added he understands the neighbors point in desiring that only one garage/driveway face

West 64th Street but pointed out the homes (including Mr. Kohlers) directly across the street all have their garages/driveways facing West 64th Street.

Commissioner Runyan moved to recommend subdivision approval subject to staff conditions and the additional condition that only one driveway/curb cut face West 64th Street. No second to the motion.

Commissioner Swenson moved to recommend subdivision approval subject to Parkland Dedication. Commissioner Lonsbury seconded the motion. All voted aye; motion carried.

Commissioner Runyan asked the proponent to use his best judgment about driveway and garage placement.

LD-03-1

**Robert Perry
David Dent
6712 and 6716 Arrowhead Pass**

Mr. Larsen informed the Commission the proposed land transfer would cure the encroachment of a pool house, fence and driveway on the lot of 6716 Arrowhead Pass.

Mr. Larsen concluded staff recommends approval of the lot line rearrangement.

Commissioner Lonsbury moved to recommend lot division approval subject to the plans presented. Commissioner McClelland seconded the motion. All voted aye; motion carried.

IV. ADJOURNMENT:

The meeting was adjourned at 9:30 p.m.

Jackie Hoogenakker