



MEETING MINUTES
Regular Meeting of the Edina Planning Commission
Wednesday, September 29, 2010
Edina City Hall Council Chambers

MEMBERS PRESENT:

Chair Fischer, Carpenter, Risser, Staunton, Schroeder, Brown, Grabiell, Forrest, Rock, Stefanik

STAFF PRESENT:

Teague, Aaker, Hoogenakker

I. APPROVAL OF THE MINUTES:

The minutes of the September 1, meeting were filed as submitted.

II. OLD BUSINESS:

2008.0004.10a

**Final Development Plan
Velmeir Companies/CVS Pharmacy
6905 York Avenue, Edina, MN**

Planner Presentation

Planner Teague informed the Commission this item was continued by the Planning Commission at the May 26, 2010 meeting. Primary concern of the Planning Commission was in regard to the site plan, drive through, pedestrian and automobile circulation. Teague said the applicant has revised the plans to attempt to address those concerns.

Planner Teague explained that Velmeir Companies on behalf of CVS Pharmacy is requesting to build a 14,492 square foot retail store with a drive-through facility on the vacant parcel at 6905 York Avenue.

In 2008, a Final Development Plan with building setback variances from 35 feet to 20 feet from York Avenue and 69th Street for the retail building, and from 20 feet to 5 feet for the parking lot were granted. The two retail buildings totaled 18,000 square feet in size. The previous plan approval also included a 114-unit, four story apartment building on the site, that has been constructed as phase 1 of the site project. The proposed plan

for phase 2, or the retail portion, is now proposed to be amended, is generally consistent with the previous plan with two exceptions:

1. The proposed plan calls for one 14,492 square foot building, rather than two buildings totalling 18,000 square feet.
2. The proposed plan calls for a drive-through facility. A condition of approval of the previous plan specifically prohibited drive-through facilities.

The request now before the Planning Commission is for a revised Final Development Plan. The Planning Commission previously considered the variances as part of the review in May. It was thought at that time that the variances needed to be reconsidered because the site plan had expired. However, because the apartment complex was built in 2009, the site plan and variances have not expired. The variances are still valid, and the proposed plans are consistent with the previously approved variances. As noted on the approving resolution, the variances are conditioned upon approval of the Final Development Plan. Therefore, a revised Final Development Plan is the only request.

Planner Teague concluded that staff recommends that the City Council approve the Final Development Plan at 6905 York Avenue for Velmeir Companies on behalf of CVS Pharmacy based on the following findings:

- 1) The proposal would meet the required standards and ordinances for a Final Development Plan.
- 2) Spack Consultants conducted a traffic impact study, and concluded that the existing roadway system could support the proposed project.

Approval of the Final Development Plan is also subject to the following conditions:

- 1) Subject to staff approval, the site must be developed and maintained in substantial conformance with the following plans, unless modified by the conditions below:
 - Site plan date stamped September 15, 2010.
 - Grading plan date stamped September 15, 2010.
 - Landscaping plan date stamped September 15, 2010.
 - Building elevations date stamped September 15, 2010.
- 2) Prior the issuance of a building permit, a final landscape plan must be submitted, subject to staff approval. Additionally, a performance bond, letter-of-credit, or cash deposit must be submitted for one and one-half times the cost amount for completing the required landscaping, screening, or erosion control measures.
- 3) The property owner is responsible for replacing any required landscaping that dies.
- 4) Submit a copy of the Nine Mile Creek Watershed District permit. The City may require revisions to the approved plans to meet the district's requirements.
- 5) Submit a copy of the Hennepin County Access Permit which is required for the curb cut to York Avenue.

- 6) Compliance with the conditions required by the Transportation Commission.
- 7) Compliance with the conditions required by the City Engineer in his memo dated September 24, 2010.
- 8) Execution of a proof-of-parking agreement.

Appearing for the Applicant

Gordon Johnson, Thomsen Nybeck, Kevin McGee and Mike Spack

Applicant Presentation

Mr. Johnson addressed the Commission and informed them CVS representatives worked with planning staff to come up with the revised viable workable plan before the Commission this evening. Johnson said in his opinion the revised plan illustrating one building instead of two (as originally approved) is a less extensive use of the property. Concluding, Johnson asked Commissioners for their support; noting CVS has no objection to the eight conditions of approval as recommended by planning staff. Johnson noted that the following two issues are important for the project to be successful:

1. Request lifting the restriction of drive-through for this site. Noting drive-through facilities are a permitted use in the PCD-3 zoning district; and without a drive-through this project would not be able to proceed.
2. Request approval of a Proof of Parking Agreement for three (3) parking stalls. City ordinance requires 89 parking stalls and the proposed plan provides 86 stalls.

Mr. McGee presented to the Commission a “fly-by” of the proposed CVS Pharmacy. McGee concluded his presentation and stood for questions.

Discussion

Commissioner Carpenter asked if the proposed building continues to have a second entrance. Mr. McGee responded in the affirmative and with graphics pointed out the primary, secondary entrance and drive-through.

Commissioner Risser questioned if the revised plans would result in less traffic on West 69th Street. Mr. McGee responded from past comments by Commissioner Brown the internal circulation of the site was revised to eliminate drive aisles from coming together at one point. Sidewalks were also added creating connections from all four sides of the site. McGee said the revised plan was presented to the Transportation Commission where it received approval. McGee introduced Mr. Spack to further speak to traffic flow. Mr. Spack said in his opinion traffic would be the same, adding the traffic analysis previously submitted was accurate. He also noted that the York Avenue/West 69th Street intersection is under Hennepin County jurisdiction; however, at this time this intersection is not a priority. Concluding that CVS will continue to work with Hennepin County on any future changes to this intersection.

Chair Fischer asked Mr. McGee to clarify the crosswalk. Mr. McGee explained that the crosswalk was raised and stamped providing better definition and pedestrian safety.

Commissioner Brown questioned the recommendation of no truck traffic on West 70th Street and if that condition, in practicality, can be enforced. Planner Teague agreed that condition would be difficult to monitor and would be enforced on a complaint basis. Teague said a similar condition was placed on the Super Target.

Public Hearing

Chair Fischer opened the public hearing.

No one spoke to the issue.

Commissioner Grabiell moved to close the public hearing. Commissioner Brown seconded the motion. All voted aye; motion carried.

Discussion/Motion

Chair Fischer asked Roger Knutson, City Attorney if he was comfortable that the variances granted for the previous proposal in 2008 still stand. Mr. Knutson responded that the variances previously granted stand.

Commissioner Grabiell moved to recommend Final Development Approval based on staff findings and subject to staff conditions.

Commissioner Staunton complimented the applicant on their revised plans and asked if condition #2 ensures that “what we see is what we get”. Mr. McGee said the fly-by represented the landscape plan, adding condition #2 would be met.

Commissioner Carpenter seconded the motion. All voted aye; motion carried.

Chair Fischer acknowledged that he and Commissioner Schroeder met with the applicant to discuss creating a pedestrian friendly environment.

III. NEW BUSINESS:

2008.0012.10

**Preliminary Development Plan and Preliminary Rezoning
YMCA
7355 York Avenue, Edina**

Planner Presentation

Planner Teague reported that the YMCA is requesting a rezoning for the purpose of building an addition to the existing YMCA at 7355 York Avenue. The proposed facility expansion would add 15,300 square feet to the existing YMCA. A new 5,300 square foot leisure pool, and a 9,000 square foot fitness center and studio would be added. Total size of the new YMCA would be 82,100 square feet.

Planner Teague explained that the property is currently zoned R-1, low-density residential, therefore, the existing use is non-conforming; a health club is not a permitted use in the R-1 District. Therefore, the applicant is requesting a rezoning to Planned Office District (POD) to make the use conforming. A health club is a permitted use within a POD.

Planner Teague briefed the Commission that in 2009 the City Council approved a Comprehensive Plan amendment from Low-Density Residential to Mixed Use; Preliminary Development Plan, and Preliminary Rezoning to tear down and rebuild a new YMCA with a two-level parking ramp, and a four-story, 130 unit, 136,000 square foot apartment building. The YMCA has abandoned those plans, and is now proposing an addition to the existing YMCA facility.

Planner Teague stated that in order for the applicant to construct the proposed addition, the applicant must go through a two-step process; a Preliminary Development Plan and Preliminary Rezoning process and Final Development Plan and Final Rezoning approval.

Planner Teague concluded that staff recommends that the City Council approve the Preliminary Rezoning from R-1, Single-Dwelling Unit District to POD, Planned Office Development District -1 (POD-1), and Preliminary Development Plan. Approval would authorize the applicant to apply for Final Rezoning and Final Development Plan. Approval is also subject to the following findings:

1. The rezoning is consistent with the Comprehensive Plan which designates the site for Mixed Use.
2. The City would benefit from a new and improved YMCA facility, and the site would continue with a use that has been the early 1970's.
3. The existing roadways would support the proposed project.

Approval is also subject to the following Conditions:

1. The Final Development Plan must be generally consistent with approved Preliminary Development Plans dated August 27, 2010, and meet all minimum requirements per Section 850.04.
2. The Final Landscape Plan must meet all minimum landscaping requirements per Section 850.04 of the Zoning Ordinance.

3. Compliance with the conditions required by the Transportation Commission.
4. Compliance with all of the conditions outlined in the City Engineer's memo dated September 24, 2010; including the addition of a pedestrian connection from York Avenue to the front entrance within the west parking lot, a revised drive-aisle entrance, and revised circulation pattern in the east parking lot.

Appearing for the Applicant

Phil Nylund, Minneapolis YMCA, Greg Hanks, Southdale YMCA, Steve Dorgan, Cresa Partners, Greg Fenton

Discussion

Commissioner Forrest asked Planner Teague if the Comprehensive Plan was changed for this site. Planner Teague responded that the Comprehensive Plan was amended in 2008 from Low Density Residential to Mixed Use. At the time of the amendment the YMCA was proposing a new building, parking ramp and four-story residential apartment building. The plan before the Commission is a revision from the previous proposal.

Commissioner Staunton asked Planner Teague if there are other zoning designations besides office to accommodate the request. Planner Teague said there are other zoning classifications; however, office seemed to be the best "fit". Staunton noted that this designation would prohibit commercial.

Applicant Presentation

Steve Dorgan, Cresa Partners, presented the revised plan to the Commission, acknowledging that the revised plan was different from the previous plan. Dorgan explained that the Y is very excited about the project reporting it is an expansion that includes a new leisure pool, fitness center, studio and upgraded systems. Dorgan reported the YMCA held a neighborhood meeting prior to this meeting. Concluding Dorgan said after preliminary approval the YMCA would like to revisit two recommendations from the Engineering Department; the recommended sidewalk and revision of the north entrance.

Greg Fenton, with the aid of graphics explained the revised interior layout of the proposed addition and the parking lot and vehicle circulation. Fenton noted, as previously mentioned by Mr. Dorgan that the sidewalk and revision of the north entrance recommended by the Transportation Commission and City Engineer impact the project.

Discussion

A discussion ensued with Commissioners raising the following:

- If implemented as per recommendations by the City Engineer how many parking spaces would be lost.
- Ensure easy access to the bus stop on York Avenue
- Ensure safe on-site drop-off; especially for children being dropped off by a bus – there doesn't appear to be adequate room to safely accommodate drop-off – suggest a recessed area for buses.

- Will the proposed increase in square footage and the addition of new amenities increase attendance?
- Where would YMCA patrons park their bikes if they rode them to the facility?
- Why was POD picked and not MDD as guided by the Comprehensive Plan?

Mr. Fenton in response to comments raised said if the sidewalk is implemented as per the recommendation by the City Engineer 15+ parking spaces would be lost. With graphics Mr. Fenton pointed out the issues with the sidewalk.

Mr. Dorgan said the Y would be willing to look into the possibility of recessing an area to accommodate buses and drop-off. Continuing, Mr. Dorgan said the majority of patrons park in the front parking lot. With regard to the parking of bikes Dorgan said that presently bikes are parked on the sidewalk, adding he would review the site and find an area to better accommodate bikes. Mr. Hanks interjected that currently the bus drop-off area has been sufficient. Mr. Hanks added that children need to be signed in so individual vehicle drop-off of children is rare.

Commissioner Brown stated he understands there is conflict between what the applicant wants and what the Transportation Commission is recommending. He said there appears to be two conditions of conflict (sidewalk from York Avenue to building front, and revision of the north entrance from the west). Brown stated he wants those issues clarified before final approval. Continuing, Brown stated he also wants to ensure that there is adequate room in the front of the building for buses, drop-off and bikes.

In response to the question of rezoning the site to POD Mr. Dorgan said the City's Planned Office District permits athletic facilities, adding it seemed the best fit. Dorgan said the ordinance as it stands today doesn't specifically describe the YMCA, reiterating the POD zoning district allows athletic facilities.

Planner Teague added that rezoning the site to POD also provides the City more review authority if redevelopment was proposed for the site. If the site was rezoned to MDD the door is opened to commercial; adding if redevelopment were to occur on the site rezoned to MDD the City would be obligated to approve any use permitted in the MDD district. Teague stated an office designation is more restricting; reiterating a POD zoning affords the City more review authority on any future redevelopment. Concluding, Teague also noted office is a permitted use in the MDD zoning district. Commissioner Forrest said she disagrees that the POD zoning is the best choice, adding in her opinion a mixed-use zoning makes more sense and conforms to the Comprehensive Plan. Forrest said if rezoned to POD the City is getting farther away from their goal of providing mixed uses.

Commissioner Grabiell said that while this site is guided in the Comprehensive Plan as Mixed-Use, rezoning it to POD (at the request of the applicant) isn't prohibiting a future rezoning to MDD. Grabiell pointed out this is a single use site, reiterating the applicant is requesting a less dense use of the site.

Public Comment

Chair Fischer opened the public hearing.

No one spoke to this issue.

Commissioner Brown moved to close the Public Hearing. Commissioner Forrest seconded the motion. All voted aye; motion carried.

Continued Discussion

The discussion continued on the traffic/circulation issues on the site, including concerns on traffic flow/pedestrian safety/bus safety etc. It was noted that the applicant wants direction on certain recommendations by the Transportation Commission and City Engineer (sidewalk, access). Commissioners commented that the applicant has received the City Engineer and Traffic Commission's recommendations; the applicant has expressed they have some issues with those recommendation, so how does the Commission resolve these issues? Planner Teague responded that the applicant would need to work with staff to meet the conditions required by the City Engineer and Transportation Commission prior to submittal of a final development plan. Teague pointed out this is the "preliminary" level of the process, adding the Commission will review this again for final approval to ensure compliance.

Commissioners did express frustration with the process between the Transportation Commission and Planning Commission.

Motion

Commissioner Carpenter moved to recommend Preliminary Development Plan and Preliminary Rezoning approval based on staff findings; and in addition to the conditions in the staff report, requested that the applicant consider the Commission comments to improve traffic flow, parking lot design, pedestrian connectivity, bus drop off, and bike space. Commissioner Grabel seconded the motion.

Commissioner Forrest stated that while she supports the proposed addition to the YMCA she believes rezoning the site to mixed use is more appropriate.

Commissioner Staunton said while he supports Commissioner Forrest's position on rezoning the site to MDD he supports the rezoning to office because it's a less intense use of the site.

Commissioner Schroeder stated he supports the project at the preliminary level; however, for final review he would like to see more details and clarity on the plans.

Ayes; Carpenter, Risser, Staunton, Schroeder, Brown, Grabel, Fischer. Nay; Forrest. Motion carried.

2009.0004.10 Zoning Ordinance

- 1. Non-conforming Use/Alternate Setback Standard Ordinance**
 - 2. Driveway Width**
 - 3. PUD**
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Introduction

Chair Fischer briefed the Commission and audience and explained that for the past 18 months the Zoning Ordinance Update Committee/Planning Commission has been discussing and conducting work session meetings on amendments to Edina's zoning ordinance 850. Fischer said some of the goals of the amendment process have been achieved and the Committee continues to work on others. Fischer reported that a recent Minnesota Supreme Court decision on the way municipalities review variances had been changed creating the need for cities to readdress how variances are granted; adding another issue to address during the amendment process. Fischer said the City of Edina is now working on a way to address this recent change through a non-conforming use or alternate setback ordinance.

Chair Fischer said three issues would be discussed this evening with a brief presentation by Planner Teague on each:

- PUD
- Non-conforming use or alternate setback ordinance
- Driveway width

Planner Presentation

Administration and Procedures and establishing a PUD District

Planner Teague said in his opinion there are two primary benefits of having PUD zoning. First it allows the City more control over development proposals and secondly it allows flexibility. Teague said that establishing a PUD is legislative (City Council) and if the Council were to elect the PUD process specific conditions could be required as conditions of approval.

Planner Teague highlighted the Table of Contents expanding on eight revisions to 850.04 Administration and Procedures as follows:

1. Adds language regarding the 60/120-day rule. (State Statute) –

Chair Fischer noted that State Statute language appears incorporated into the ordinance and asked if that is common practice. City Attorney Knutson explained that any references to State Statutes can be “in or out”, adding the majority of cities include State Statutes in their ordinances. Knutson said what’s important to note is that State Statutes are updated yearly and City Ordinances also need to be updated yearly.

2. Variance section is amended to take into practice the City’s current procedure (lawsuit regarding Cypress Equities).

Commissioner Staunton asked if this is a place holder until the ZOUC deals with the variance process as a whole. Teague responded that this is procedural; adding reorganization of the Zoning Board of Appeals is still something the ZOUC continues to have on the” bucket list”.

3. Eliminates the “transfer to planned district” which is where the Final Development Plan procedure is currently found. Teague said the change was to a traditional site plan review. Also, one rezoning procedure would be established rather than repeating the same procedures for different zoning districts, as per the current standards. Teague said he believes these changes made the code easier to navigate – rather than repeat procedures this provides only one.
4. Add sketch plan review.

With the aid of graphics Planner Teague highlighted the application process. Teague noted that the proposed language “strongly encourages” the applicant to participate in a sketch plan review “meeting” prior to rezoning/PUD. Teague said that in reviewing the proposed language the word strongly would be eliminated. Teague explained the language shouldn’t confuse applicants into believing that a sketch plan review meeting is a requirement. Chair Fischer agreed. Commissioner Staunton acknowledged that the Commission wrestled with this, adding there should also be a reference encouraging the applicant to hold a neighborhood meeting.

The discussion ensued on sketch plan review with the following changes to the language noted:

As previously mentioned pg. 8 1. Eliminate the word strongly...”applicants are encouraged”. It would also be beneficial in this area to have a reference that encourages the applicant to hold a neighborhood meeting.

Also on pg. 8. #1. Eliminate i. as written and replace with: “Additional information that demonstrates the nature, intent, or benefit of the proposed development”. Note that this sentence could also be added to “Site Plan Review”.

5. Amend submittal process: applicant is to provide more detailed plans, etc.
6. Establish a PUD district –

Planner Teague briefly outlined where the Committee/Commission was in this process pointing out that when discussing PUD it should be noted that a PUD is not permitted in the R-1, R-2 or PRD 1 & 2 zoning districts. Teague said the PUD process continues to be a 2-step process; preliminary and final. Teague added there are concerns with the 60/120-day rule and ensuring that the 2-step process falls within those 120-days. Attorney Knutson said there isn't a lot of case law "on the books" concerning this requirement, adding an applicant can be sent to as many committees/sub-committees as directed; however an applicant should be able to expect final action within the 120 days. Teague did acknowledge that the City can request additional time above and beyond the 120-days; however, staff needs to keep abreast of the timeline.

7. Suggests new CUP standards as recommended by the City Attorney.
8. Eliminates temporary CUP's which are not legal.

Alternative Setback/Non-conforming Use Ordinance

Planner Teague reported that a recent Minnesota Supreme Court decision rejected a 20-year old ruling regarding the meaning of "undue hardship" in regard to review of variances.

Teague said in light of this ruling many cities, including Edina, are considering an ordinance amendment to allow expansion of non-conforming structures, rather than variances. The previous ruling of "undue hardship" meant that cities could determine if the ordinance prevented a "reasonable use" of property. The new ruling holds that a variance cannot be approved unless the ordinance prevents all reasonable use of the property, reiterating this is a major change in the criteria for granting a variance. Continuing, Teague said to provide some background in drafting the proposed ordinance alternative setback/non-conforming use ordinance staff researched variances that have been granted in the past. Over the past 3 ½ years 154 residential variances were requested. Of those 154 variances nearly half were for expansion to homes that had non-conforming setbacks. The research found that the variances granted were as low as 13 square feet and as high as 1,000 square feet with an average of around 200 square feet which is the basis for the 200 square foot maximum encroachment suggested in the ordinance amendment. With graphics Teague illustrated examples of non-conforming structures and how the proposed ordinance amendment would work.

Continuing, Teague explained another aspect of the proposed ordinance amendments address the one-foot rule. Teague stated that staff wrestled with this, noting the one-foot rule is recent, adding since it was established there have been six variance requests from the rule. Concluding, Teague stated staff proposes to address this through Conditional Use.

Commissioner Carpenter asked if ground water is a recognized term, and if it is, how is it determined there is a ground water problem. Planner Teague responded that ground water is not defined; however, as part of the application process for a Conditional Use Permit the applicant needs documentation there is a ground water issue.

Driveway Width

Planner Teague said the amended language essentially eliminates minimum driveway width within the R-1/R-2 zoning districts. During the ordinance rewrite process it became evident that this was an issue in the City's small lot neighborhoods.

Public Hearing

Chair Fischer opened the public hearing.

Dorothy Krezner, 5820 Jeff Place, said she had two questions to ask; one, what is a PUD - is it a Planned Urban or Planned Unit Development, and two, when would a PUD be used.

Jeff Miller, 4509 Garrison Lane asked if the proposed language addresses new reconstruction and well as remodels.

Connie Carrino, 4509 Garrison Lane, said that the proposed Conditional Use Permit process as it relates to the first floor elevation is where her concern lies. Carrino stated she had attended a number of meetings on the issue of first floor elevation. Adding that ground water is different street to street and neighbor to neighbor. Concluding, Carrino said staff should also keep in mind when one considers building height meeting current building codes can also create issues with first floor elevation.

Commissioner Grabiell moved to close the public hearing. Commissioner Brown seconded the motion. All voted aye; motion carried.

Discussion

In response to comments from the public Chair Fischer asked Planner Teague if he ever heard PUD referred to as Planned Urban District. Planner Teague responded that he hasn't heard that terminology, adding staff considers PUD a planned unit development. Continuing, Fischer stated according to the proposed ordinance a PUD is not permitted in the R-1, R-2 and PRD-1&2 zoning districts.

Commissioner Forrest point out that the R-1 Zoning District includes permitted "Conditional Uses"; such as schools, churches, etc. Continuing, Forrest said if R-1 zoning districts are prohibited from a PUD those uses deemed "conditional" (if redeveloped) would not be able to go through the PUD process. Forrest asked if that's the intent.

A discussion ensued and it was agreed that for the present time to leave the ordinance as is; PUD is not permitted in the R-1, R-2, PRD 1 & 2 zoning district. It was also noted the Comprehensive Plan is another way to gauge redevelopment potential.

Chair Fischer directed the discussion to the question if new construction would be considered. Planner Teague responded that if a house is torn down it becomes a vacant lot. It doesn't apply; however, one can still apply for a variance.

In conclusion focus was directed by Chair Fischer to the PUD ordinance. Fischer said he would like to again stress that an applicant should be encouraged to hold a neighborhood meeting. Commissioners agreed and noted that all means available to the City to "get the word out" would be used to ensure that residents are aware of developments/redevelopments in their neighborhood. It was further noted that a Sketch Plan Review meeting occurs at both the Planning Commission and Council level and would be found on both agendas. Residents can also sign up for City Extra to keep abreast of what's going on in the City.

The following changes to the "Ordinance Amending the Zoning Ordinance Concerning Administration and Procedures and Establishing a PUD District" were reiterated as follows:

As previously mentioned pg. 8 1. Eliminate the word strongly..."Applicants are encouraged". It would also be beneficial in this area to have a reference that encourages the applicant to hold a neighborhood meeting.

Also on pg. 8. #1. Eliminate i. as written and replace with: "Additional information that demonstrates the nature, intent, or benefit of the proposed development". Note that this sentence could also be added to "Site Plan Review".

On Pg. 10. G. - Strike the word generally.

It was proposed that any references to "scale of plan, site plan drawn to scale" on pages 10 & 16 be "cleaned-up" and made consistent.

Mr. Knutson said his staff would incorporate to the best of their ability all changes expressed this evening, adding his staff also proofs for grammar and punctuation. Planner Teague said Planning Staff also reviews and proofs the proposed ordinance changes.

Motion

Commissioner Grabiell moved to recommend that the City Council amends 850.04 "An Ordinance Amending the Zoning Ordinance Concerning Administration and Procedures and Establishing a PUD District" as presented; including comments and corrections from Commissioners. Commissioner Risser seconded the motion. All voted aye; motion carried.

Chair Fischer directed the discussion to a conclusion on Non-Conforming Use/Alternate Setback Standard Ordinance. Commissioner Schroeder submitted revisions to the proposed alternate setback language. Schroeder noted that in his opinion ground water should be separated from flood plain. Schroeder said 2-feet is an absolute.

Schroeder suggested the following – eliminate the words “**may be raised up to a maximum of four feet, only if it is necessary to “increased if necessary to elevate the lowest habitable (there was some discussion on the word habitable) level of an elevation a minimum of two feet above the Federal Emergency Management Agency (FEMA) flood plain.**

The Commission also briefly discussed if “ground water” was the right term to use.

Continuing Schroeder also suggested the following:

Remove any reference to 4-feet and create a reference that would allow an increase in the first floor elevation only if it is demonstrated that the new building/addition maintains the character of the neighborhood.

Schroeder suggested adding a number 3 that specifically addressed ground water: Number 3 could read:

The first floor elevation may be increased more than 1-foot if necessary to raise the dwelling above the ground water elevation. 3 should also include the caveat that an applicant should provide documentation of a ground water problem. This documentation should be made by a hydrologist or someone knowledgeable about ground water. This person or persons should also be able to make the determination where the first floor elevation should be if there is an issue.

Acknowledgment that building codes do impact the first floor elevation.

Commissioners agreed that the suggestions from Commissioner Schroeder on the Non-conforming/Alternate Setback Ordinance had merit and should be incorporated into the ordinance.

Chair Fischer directed the discussion to driveways for conclusion.

Commissioners raised the question if “driveways” should be demarked to ensure that property owners are not parking their vehicles all over their yard. It was also acknowledged that there have been environmental friendly changes to driveway materials that should be further discussed. It was also noted that new materials could create circumstances of over-parking on residential lots; however, at this time the Commission felt the focus should be on the minimum driveway width. The discussion of

driveway materials, “dust-free” and definition of driveway could wait for further discussion

Chair Fischer noted that a number of changes to the draft ordinances have been proposed, adding it may be a good idea to have Planning Staff and the City Attorney’s office review and make the suggested changes, check for grammar, etc. and present all three ordinance amendments to the Commission at their October meeting. Commissioners agreed this was best.

IV. **COMMUNITY COMMENT:**

None.

V. **INTRAGOVERNMENTAL BUSINESS:**

Chair Fischer acknowledged receipt of the Council Connection and asked Commission liaisons if they had anything to add.

Commissioner Risser said that the Energy and Environment Commission is encouraging everyone to winterize. Risser also reported that if anyone has a rain barrel the barrel should be drained before it freezes to prevent cracks.

VI. **ADJOURNMENT:**

Commissioner Carpenter moved meeting adjournment at 10:34 pm. Commissioner Risser seconded the motion. All voted aye; motion carried.

Respectfully submitted:

Jackie Hoogenakker