



MEETING MINUTES
Regular Meeting of the Edina Planning Commission
Wednesday, March 23, 2011, 7:00 PM
Edina City Hall Council Chambers

MEMBERS PRESENT:

Chair Floyd Grabel, Jeff Carpenter, Ken Potts, Nancy Scherer, Michael Platteter, Kevin Staunton, Matt Rock and Melisa Stefani

MEMBERS AGSENT:

Mike Fischer, Michael Schroeder and Arlene Forrest

STAFF PRESENT:

Cary Teague and Jackie Hoogenakker

Vice-Chair Staunton reported that Chair Fischer was unable to attend the meeting and that he would be serving as Vice-Chair until a new Chair was elected. Vice-Chair Staunton opened the meeting.

I. APPROVAL OF THE MINUTES:

Commissioner Potts moved approval of the January 26, 2011, meeting minutes. Commissioner Grabel seconded the motion. All voted aye; motion to file minutes approved. Six ayes.

Commissioner Scherer moved approval of the February 23, 2011, meeting minutes with changes recommended from Chair Fischer. Commissioner Grabel seconded the motion. All voted aye; motion to file minutes approved. Six ayes.

II. NEW BUSINESS:

Vice-Chair Staunton asked the Commission to recall that at their last meeting they continued their annual business meeting to the next meeting of the Planning Commission (PC). Vice-Chair Staunton said two items need to be addressed.

Approve and adopt by-laws

Vice-Chair Staunton pointed out that the proposed by-laws call for the election of a secretary in addition to the Chair and Vice-Chair. Staunton noted that planning staff provides secretarial services; however the secretary for the planning commission would review staff minutes to ensure accuracy.

Commissioner Scherer moved adoption of the Planning Commission By-laws. Commissioner Grabel seconded the motion. All voted aye; motion carried.

Election of Chair, Vice-Chair and Secretary

Vice-Chair Staunton explained that the City Council adopted an ordinance that established term limits for boards/commissions along with a two-year term limit for the chair of a board/commission. Staunton said Chair Fischer's two-year term was up, adding that at this time he would take nominations for the chair.

Commissioner Carpenter moved the nomination of Floyd Grabel to serve as Chair of the Edina Planning Commission. Commissioner Scherer seconded the motion.

Vice-Chair Staunton said the nomination of Floyd Grabel to serve as Chair has been moved and seconded and asked if there were other nominations for Chair. Being none Vice-Chair Staunton called for the vote. All voted aye; motion carried.

Vice-Chair Staunton congratulated Commissioner Grabel on his election to the position of Chair and turned the position of Chair over to Floyd Grabel.

Chair Grabel thanked the Commission for their show of support. Grabel acknowledged Mike Fischer's excellent work as Chair, adding in his opinion it's a great Commission and he feels blessed to be working with such fine people. Chair Grabel said he would take nominations for vice-chair.

Commissioner Scherer moved the nomination of Kevin Staunton to remain as Vice-Chair of the Edina Planning Commission. Commissioner Platteter seconded the motion. No other nominations were placed. All voted aye; motion to reappoint Kevin Staunton as Vice-Chair approved.

Commissioner Staunton thanked Commissioners for their show of support.

Chair Grabel said he would take a nomination for secretary.

Commissioner Staunton moved the nomination of Jeff Carpenter as Secretary. Commissioner Scherer seconded the motion. No other nominations were placed. All voted aye; motion to elect Jeff Carpenter as Secretary approved.

Commissioner Carpenter thanked Commissioners for their support.

**2011.0001.11a Conditional Use Permit
4509 Garrison Lane, Edina**

Planner Presentation

Planner Teague informed the Commission that College City Design Builders Inc., on behalf of property owners Jeff Miller and Connie Carrino, are requesting a Conditional Use Permit to tear down and construct a new home at 4509 Garrison Lane. A Conditional Use Permit is requested to allow the first floor elevation of the new home to exceed the first floor elevation of the existing home by more than one foot. Specifically the applicant would like to raise the first floor elevation 2.4 feet above the existing first floor elevation. Teague explained that the existing 10,393 square foot lot contains a rambler style single-family home, a scattering of mature trees and is located within a 100-year flood plain area for Nancy Lake as determined by the City of Edina's Stormwater Management Plan.

Continuing Teague said per Section 850.11. Subd. 2 that the Ordinance reads: Additions to or replacement of single dwelling unit buildings with a first floor elevation of more than one (1) foot above the existing first floor elevation of the existing dwelling unit building. Such additions to or replacements of single dwelling unit buildings must meet one or more of the first three (3) conditions listed below, and always meet condition four (4).

1. The first floor elevation may be increased to the extent necessary to elevate the lowest level of the dwelling to an elevation of two (2) feet above the 100-year flood elevation, as established by the Federal Emergency Management Agency (FEMA), or the City's Comprehensive Water Resource Management Plan; or
2. The first floor elevation may be increased to the extent necessary to reasonably protect the dwelling from ground water intrusion. Existing and potential ground water elevations shall be determined in accordance with accepted hydrologic and hydraulic engineering practices. Determinations shall be undertaken by a professional civil engineer licensed under Minnesota Statutes Chapter 326 or a hydrologist certified by the American Institute of Hydrology. Studies, analyses and computations shall be submitted in sufficient detail to allow thorough review and approval; or
3. The first floor elevation may be increased to the extent necessary to allow the new building to meet State Building Code, City of Edina Code, or other statutory requirements; and
4. An increase in first floor elevation will only be permitted if the new structure or addition fits the character of the neighborhood in height, mass and scale.

Conditions #1 and #4 above apply to the proposed new home. The subject property is

located within the 100-year flood elevation for Nancy Lake in the City's Comprehensive Water Resource Management Plan.

Planner Teague concluded that staff recommends that the City Council approve the Conditional Use Permit for College City Design Builders Inc., on behalf of property owners Jeff Miller and Connie Carrino, to tear down and construct a new home at 4509 Garrison Lane. The Conditional Use Permit allows the new home to have a first floor elevation of 2.4 feet above the first floor elevation of the existing home.

Approval is based on the following findings:

1. The proposal meets the Conditional Use Permit conditions of the Zoning Ordinance.
2. The proposal meets all applicable Zoning Ordinance requirements.
3. The proposed new home is in character with this neighborhood.

Approval is also subject to the following conditions:

1. The site must be developed and maintained in conformance with the following plans:
 - Survey date stamped March 9, 2011.
 - Building plans and elevations date stamped March 9, 2011.
2. 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.
3. Final grading and drainage plans are subject to review and approval of the city engineer prior to issuance of a building permit. Drainage patterns may not be directed to adjacent properties.

Appearing for the Applicant

Jeff Miller, Connie Carrino

Discussion

After a brief discussion the Commission expressed the opinion that the proposal meets Conditional Use Permit (CUP) conditions 2 and 4.

Applicant Presentation

Connie Carrino, 4509 Garrison Lane addressed the Commission and acknowledged that this process was all very new and clarified that at least from their perspective when they applied for the CUP they met Conditions # 1 and #4, and the condition that the proposed new house maintains the character of the existing neighborhood. Carrino stated that in her opinion their plan responsibly fixes their long standing problems with

groundwater. Carrino noted their submitted materials also contain several letters of support from neighbors. She pointed out in some of those letters neighbors acknowledged they had experienced similar groundwater problems and now have a concern with the potential for spring flooding. Continuing, Carrino said their “problems” occur not so much from flooding but from groundwater, adding this usually occurs when the lake is at risk. Concluding, Carrino said their plan was reviewed with great detail, adding she would like the support of the Commission on this project.

Commissioner Staunton asked the applicants if the 2.4-foot “get them where they need to be” including a basement ceiling height of 8-feet. Ms. Carrino responded that it does.

Jeff Miller, 4509 Garrison Lane, agreed with Ms. Carrino that the proposed plan “gets us where we need to be”. Continuing, Miller said the hydrologist determined that their property was within the flood plain, adding after that was established he helped us find the correct “number”. Miller said that the requested 2.4 feet also enables them to achieve an 8-foot ceiling height. Miller reported that their builder built roughly 1000 houses over the past decade and the majority of those homes had ceiling height in excess of 7-feet. Concluding, Miller explained that instead of going with 2X10 floor joists floor trusses will be used, which also adds height.

Public Testimony

Scott Nelson, 4505 Garrison Lane, addressed the Commission.

Yedda Marks, 4508 Garrison Lane, addressed the Commission

James Lany, 5925 Drew Avenue, representing Mrs. Lany, 4513 Garrison Lane, addressed the Commission.

Lisa Lynch, 6113 Ashcroft Avenue, addressed the Commission.

Discussion

The Commission acknowledged their support for the Conditional Use Permit and applauded the applicants for their project and their patience during this new process. The Commission explained that the 1-foot restriction came about from concern expressed by Edina residents that new houses were being constructed too tall and out of character for the neighborhood. Continuing, the Commission stated the goal of the 1-foot ordinance cap requirement was to reduce the height of new houses to ensure compatibility with surrounding properties.

Motion

Commissioner Staunton moved to recommend approval of the Conditional Use Permit noting the Permit satisfies conditions 2 and 4 of the Ordinance. Commissioner Scherer seconded the motion. All voted aye; motion carried.

Sketch Plan Review**Potential Rezoning
Ed Noonan
4528 & 4530 France Avenue**

Planner Presentation

Planner Teague informed the Commission that the Planning Commission has been asked to consider a sketch plan proposal to redevelop the properties at 4528 and 4530 France Avenue. The applicant is proposing to tear down the existing building at 4530 France, and build an addition above the existing garage at 4528 France that would match the existing building on that lot.

Planner Teague explained that the applicant would like to request a rezoning of these two sites from Planned Commercial District, (PCD-1 and PCD-4) to Planned Unit Development (PUD). The property at 4530 France, where the building that would be removed, is currently zoned PCD-4. The PCD-4 District only allows automobile service centers, car washes, and gas stations. The previous use of the property was a Rapid Oil Change station.

Planner Teague noted that this property is located within an area of the City that is designated as a "Potential Area of Change" within the 2008 Comprehensive Plan. The Comprehensive Plan states that within the Potential Areas of Change, "A development proposal that involves a Comprehensive Plan Amendment or a rezoning will require a Small Area Plan study prior to planning application. However, the authority to initiate a Small Area Plan rests with the City Council."

The proposal requires a rezoning whether it is to PUD, or to PCD-1. Therefore, the decision to require a Small Area Plan shall be made by the City Council.

Planner Teague commented that while the proposal would be an improvement over the existing building on the site, and the uses would be compatible in the area, staff has some concern over the number of standards that don't meet the minimum code requirements of the PCD-1 district, the shortage of parking, and the lack of screening from adjacent single-family residential homes.

Planner Teague concluded that at this time the Commission can provide advisory comments on the sketch plan.

Appearing for the Applicant

Ed Noonan, Noonan Construction and Scott Newland, Newland Architecture.

Applicant Presentation

Ed Noonan, 84 Woodland Circle, gave the Commission a brief history of his projects and of the subject sites. Mr. Noonan acknowledged that Planner Teague apprised him of the fact that this area of Edina was identified in the Comprehensive Plan as a candidate for a Small Area Plan. Noonan added that in all honesty he's afraid of what that could mean. Noonan introduced Scott Newland, architect for the project.

Scott Newland addressed the Commission and informed them he was the architect of the newer building at 4528 France and the goal of the proposed project is to redevelop the properties to provide a more visually consistent image within the 44th/France Avenue area. Newland stated that the old oil change building would be removed and an addition would be built above the existing garage area at 4528 France. The sites would be rezoned to a PUD district making the site(s) more in keeping with the prevailing zoning and uses.

Mr. Noonan and Newland stood for questions.

Comments

The Commission asked Mr. Noonan if the existing garage would continue to function as a garage. Mr. Noonan responded in the affirmative. The Commission questioned if the parking spaces in the existing garage were included in the parking calculations provided. Mr. Newland responded that the parking calculations included the garage stalls. Continuing, The Commission asked Mr. Noonan the intent of parking garage; would the public be allowed to park there, etc. Mr. Noonan responded that the parking garage would be used for vehicle storage and staff parking, no public parking. The Commission commented that they have some concerns with parking, pointing out that the site was under parked.

Continuing the discussion on parking the Commission commented that the configuration of the surface parking appears confusing. They acknowledged that the elimination of one of the curb cut improves the flow; however, the flow isn't clear especially in the middle area. The Commission suggested that eliminating two, not one curb cut could reduce confusion and provide more parking. Mr. Newland said he would be willing to revisit the parking stalls and circulation; however, in his opinion because of the existing conditions three curb cuts would still be needed.

The Commission focused on the "primary use" of the building(s) and asked Mr. Noonan if he sees the use as office or retail. Mr. Noonan said he visualizes the space more as office. Continuing, Mr. Noonan said that presently he has two tenants in the building that would like to remain; however, the logistics haven't been worked out yet. Noonan said another option would be an office/condo design. Noonan said he doesn't envision a Starbucks or other high use retailers.

The Commission stated they appreciate the quality of the design and the desire to maintain the character of the area; however are struggling with the front parking lot. The Commission indicated that they felt the front parking lot doesn't match the character of the 44th area. They pointed out the 44th Street area is comprised of buildings close to the street, creating a more pedestrian friendly streetscape. Continuing, the Commission added they respect the work that Mr. Noonan does, it's quality work, and suggested he review the layout to see if a revision to the plan could be designed that was more pedestrian friendly. The Commission also suggested that if a redesign was accomplished that brought the building closer to the street (flip the position of the parking and building) there would be the potential to add a second level of parking over the existing garage. It was also noted if parking was constructed over the garage the site could go down to two curb cuts. Mr. Newland acknowledged that they didn't consider that option, adding they would need to study construction costs associated with such a revision. Mr. Newland and Noonan acknowledged that scenario was creative.

Mr. Noonan pointed out with regard to parking that it's always been an issue in this area. He noted Minneapolis is directly across the street and Edina businesses have no control over what happens on the east side of France. Noonan said he believes there is street parking on the Minneapolis side of the street. Continuing, Noonan acknowledged that the site presents some difficulties. He pointed out the grade change, watershed drainage area to the rear, and heavy vegetation with mature trees also to the rear. Noonan acknowledged that the vegetation is a plus as a buffer to the residential properties along West 44th Street and to the west.

The Commission acknowledged the potential for a small area plan in this area; however, if the City Council doesn't direct one for this project the "word" still needs to get out to the neighborhood. Mr. Noonan agreed. He said he knows that the Morningside neighborhood has a very active and strong association. Continuing, Noonan said a sign could be posted indicating the sketch plan and process. The Commission noted that regardless of what occurs with this project eventually the City Council will need to take the "small area plan head on". The Commission also acknowledged that initiating a small area plan from start to finish is a long process. Mr. Noonan said the cost of a small area plan would really impact the developer.

A discussion ensued with Commissioners acknowledging that this area was identified for a Small Area Plan; however, it would be unrealistic to put development "on hold". The Commission acknowledged and reiterated the City Council would make the decision if a small area plan was needed for this development plan.

Chair Grabiell said he appreciates the applicants work on the sketch plan review and the fact that this process was new for the applicant and Commission. Grabiell said one fact that can't be changed is that Minneapolis is directly across the street from this property and the City has no control over what happens on the east side of France Avenue. Continuing, Grabiell said "perfect is the enemy of the good", noting there probably isn't a perfect project that meets all issues. Grabiell said in his opinion this was a worthy plan

that would enhance the streetscape along France Avenue and the neighborhood. Concluding Grabiell said in his opinion Mr. Noonan should bring his plan to the City Council.

The Commission highlighted the following points:

- The Commission acknowledged that the Comprehensive Plan identifies this area as an area where a Small Area Plan may occur.
- The City Council needs to determine if a Small Area Plan was needed before this project can proceed.
- Keep in mind that the direction of the Comprehensive Plan was walkability and creating and maintaining streetscapes.
- Minneapolis is directly east of the subject site and the City has no control over what happens on that side of the street.
- The Commission suggested revisions to the plan; Pull the building closer to the street; construct parking on top of existing garage; work on the interior configuration of the parking lot. A redesign of the parking lot could achieve more parking.
- The sketch plan presented tonight needs to be presented to the neighborhood.

Mr. Noonan thanked the Commission for their input, adding he would consider their comments and would proceed to the City Council.

Motion

Commissioner Staunton moved to recommend that the Commission formally pass their comments on the Sketch Plan presented by Mr. Noonan to the City Council. Commissioner Potts seconded the motion. All voted aye; motion carried.

2009.0004.10.11 Zoning Ordinance Amendments

Rooftop Dining

Planner Presentation

Planner Teague reminded the Commission this topic was addressed at past meetings. Planner Teague said at their last Planning Commission meeting the Commission directed him to revise the ordinance with the following changes:

- Requiring a 50-foot setback from R-1 or R-1 Zoning District, rather than from any residential use. The Commission believed that because an exception was made to allow residential uses within commercial zoning districts, the City should not

now place additional restrictions or not allow a commercial use where it was previously allowed.

- Screening requirements were added.
- Outdoor speakers are allowed as long as they are not audible from adjacent property.

Teague also noted that attached was an email from a resident that found regulations on rooftop dining from other communities.

Planner Teague told the Commission if they were comfortable with the changes he made to the ordinance he would forward the ordinance on to the City Council.

The Commission said they would like to discuss this issue further in light of the materials received from Councilmember Bennett. The Commission also suggested that it would be beneficial to add a definition of “rooftop dining” to the ordinance. It was acknowledged that if the term “rooftop dining” was taken in context it means just that; dining on a roof; however it could include catered events, parties etc. on a roof. To avoid confusion the definition should be tightened up as to what the term “rooftop dining” actually includes. The Commission also noted that restaurants are required to be licensed (food and liquor) and must meet health, building and zoning code standards in order to receive a license. Part of these requirements (as they pertain to zoning) must reflect seating in relation to parking. It was also suggested that Planner Teague look at safety for the rooftop diners to ensure that someone wouldn't be able to tumble off the roof (safety rail). Lastly the Commission asked Planner Teague to clarify the difference between sidewalk and rooftop dining and establish a percentage for both, pointing out that it is entirely possible that a restaurant may want both, sidewalk and rooftop dining and both impact parking.

Chair Grabiell asked Planner Teague to study this issue further and bring it back to the Commission at a later date.

Side Yard Setback (Heritage Landmark District)

Planner Presentation

Planner Teague reminded the Commission that at their February 9th Zoning Ordinance Update Committee (ZOUC) meeting Committee Members requested that the Heritage Preservation Board review and comment on a draft ordinance regarding side yard setback exemptions for properties with a Heritage Landmark District overlay zoning. Also at that meeting the Committee raised a concern that there would be no review of the Heritage Preservation Board (HPB) if an addition were built at the back of a home and used the side yard setback exception in the newly drafted Ordinance.

Teague told the Commission the HPB discussed the Committees issue at their March 8th meeting, and agreed there should be some review of a house that uses the exception. Continuing, Teague said the HPB agreed to require a Certificate of

Appropriateness (COA) for any addition that uses the setback exemption to ensure that the new addition was compatibility with adjacent homes.

Teague concluded that the draft Ordinance was revised to specifically state the requirement for review by the HPB.

Motion

Commissioner Carpenter moved to recommend adoption of An Ordinance Amending the Zoning Ordinance Concerning Side Yard Setbacks in Edina Heritage Landmark Districts. Commissioner Potts seconded the motion. All voted aye. Motion carried.

Zoning Board of Appeals

Staff Presentation

Planner Teague reported that the Planning Commission (PC) and respective Zoning Ordinance Update Committee had been discussing the makeup of the Zoning Board of Appeals (ZBA) for some time. Teague noted that the Krummenacher Supreme Court decision afforded the Commission/ Committee time to decide how the City would best be served. The consensus was that the City was best served if the PC became the ZBA. Staff was directed to draft an Ordinance amendment that establishes the PC as the ZBA.

Continuing, Planner Teague said that assuming the legislature address the Krummenacher case, and cities go back to business as usual with variances, the Commission/Committee discussed two options:

1. Have the ZBA meet at 5:30 the evening of a regular Planning Commission meeting. These meetings would not have to be televised. The regular PC meeting would begin at the usual time 7:00 p.m.
2. Have the ZBA and Planning Commission meet at the same time, or potentially earlier such as 6:30, and have variances on the regular Planning Commission/ZBA agenda.

Teague concluded that staff recommends that the Planning Commission recommend approval of the proposed Ordinance amendment that establishes the Planning Commission as the Zoning Board of Appeal and discuss tonight the timing for when the Zoning Board should meet.

Discussion

The Commission asked Planner Teague if the automatic appeal to the City Council was still intact for commercial developments with variances. Teague responded in the affirmative.

The Commission asked Planner Teague for clarification on the reason(s) for not televising variances. Planner Teague responded that historically the Zoning Board of Appeals dealt mostly with residential variances. The current makeup of only five members; not eleven; and the fact that the meetings aren't televised created a more comfortable less formal and less intimidating atmosphere. Continuing, Teague stressed that residential variances deal with people's homes; something very personal, and if televised anyone watching would gain access to certain characteristics of a private home. Concluding, Teague noted that residential variances can also be very emotional, not only for the applicant, but at times for the applicant's neighbors.

The Commission indicated that they believe the draft ordinance makes sense and should be passed on to the City Council. Commissioner Staunton asked Chair Grabiell if he would like the discussion continued on the internal workings of the ZBA. Chair Grabiell responded that given the time he would prefer that the proposed amendment be forwarded to the City Council as is, and to hold off comments on the internal organization of the ZBA until a later date. Chair Grabiell asked for a motion.

Motion

Commissioner Staunton moved to recommend adoption of an Ordinance Amending the Edina City Code Concerning the City's Zoning Board of Appeals. Commissioner Scherer seconded the motion. All voted aye; motion carried.

Small Wind & Solar Renewable Energy Systems – Recommendations from the Energy & Environment Commission (EEC)

Planner Teague informed the Commission that Surya Iyer would be presenting a power point presentation on small wind and solar energy systems.

Mr. Iyer delivered a presentation to the Commission. Mr. Iyer requested that members of the Planning Commission serve on a small wind and solar energy systems task force along with members of the EEC to ensure that these energy systems meet Code. Planner Teague informed Mr. Iyer and the Commission that the Zoning Ordinance presently addresses renewable energy systems.

Commissioners Potts and Plattetter said they would be willing to serve on the EEC task force on wind and solar renewable energy systems.

Also speaking for the EEC:

Richard Griffith and Greg Nelson

III. COMMUNITY COMMENT:

None.

IV. INTERGOVERNMENTAL BUSINESS:

Chair Grabel acknowledged receipt of the Council Connection.

Chair Grabel open the floor for comments on the Policy regarding the filming of Planning Commission meetings:

The Commission acknowledged their meetings have been televised for a number of years and the Commission hadn't experienced any negative feedback from being televised. The Commission did acknowledge that at the meeting residents can become nervous; but after a time most appear to relax and feel more comfortable with the televised process. Concluding the Commission stated that being televised has been a positive experience and makes the public process available to all; especially those who can't attend the meetings.

Chair Grabel reported that Marty Doll, Communications Coordinator, has accepted a position with another City. Chair Grabel and Commissioners wished Mr. Doll well and thanked him for his time with the City.

V. ADJOURNMENT:

Commissioner Potts moved adjournment at 9:40 pm. Commissioner Scherer seconded the motion. All voted aye; motion to adjourn carried.

Jackie Hoogenakker
Respectfully submitted