



**MEETING MINUTES**  
**Regular Meeting of the Edina Planning Commission**  
**Wednesday, April 27, 2011, 7:00 PM**  
**Edina City Hall Council Chambers**

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**MEMBERS PRESENT:**

Chair Floyd Grabel, Jeff Carpenter, Ken Potts, Arlene Forrest, Michael Platteter, Kevin Staunton, Mike Fischer, Michael Schroeder, Matt Rock and Melisa Stefanik

**MEMBERS ABSENT:**

Nancy Scherer

**STAFF PRESENT:**

Cary Teague and Jackie Hoogenakker

**I. APPROVAL OF THE MINUTES:**

Commissioner Staunton moved approval of the March 23, 2011, meeting minutes. Commissioner Carpenter seconded the motion. All voted aye; motion carried

**II. NEW BUSINESS**

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2011.0002.11a	Preliminary & Final Rezoning Greenwood Design Build, LLC 5213 Malibu Drive
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**Planner Presentation**

Planner Teague informed the Commission that GreenWood Design Build, LLC is requesting a rezoning from R-2, Double-Dwelling Unit District to R-1, Single-Dwelling Unit District for the purpose of building a new single family home at 5213 Malibu Drive. The applicant is requesting a Preliminary and Final Rezoning of the request.

The subject vacant property is 15,956 square feet in size, and contains existing sanitary and storm sewer and water lines along the north and south lot line. As mentioned, there is a storm sewer, sanitary sewer and water main that run through this property. Easements over these utilities were not properly filed when the property was platted. Therefore, a condition of approval shall be that necessary easements over these utilities

be established, per the approval of the city engineer, and filed at Hennepin County. The survey submitted shows a proposed 25-foot easement along the north lot line over the water main and sewer line. A 10-foot easement is shown over the storm sewer line. These proposed easements are adequate to protect the utilities and allow future maintenance.

These utilities limit the buildable area on the site, and may have been one of the reasons that this lot has not been built upon with a duplex. As a single-family lot, there would be more width to build.

Teague pointed out that the subject lot is located in a neighborhood that consists of both single-family and two-family dwellings. Teague said that in 1991 the properties at 4950 and 4970 Malibu Drive were both rezoned from R-2 to R-1. Teague also briefed the Commission referring to a graphic he supplied in the packet materials that a majority of communities surveyed allow R-1 homes to be built in R-2 zoning districts without going through the rezoning process.

Planner Teague concluded that staff recommends that the City Council approve the Preliminary and Final Rezoning from R-2, Two-Dwelling Unit District to R-1, Single-Dwelling Unit District based on the following findings:

1. The proposal is consistent with the Comprehensive Plan.
2. The City of Edina approved a similar rezoning request at 4950 and 4970 Malibu Drive in 1991.

And subject to the following Conditions:

1. The new single-family home must meet all minimum setback and height requirements, and not encroach within the future drainage and utility easement areas.
2. Prior to issuance of a building permit, a 25-foot drainage and utility easement along the north lot line and a 10-foot drainage and utility easement along the south lot line must be must be filed with Hennepin County.

Teague also noted that if the Planning Commission believes that a single-family home should be an allowed use within an R-1 Zoning District, recommend that the City Council amend the Zoning Ordinance to allow them as a permitted use subject to the regulations in the R-1 Zoning District.

### **Appearing for the Applicant**

Lynn Deckas

## **Discussion**

The Commission asked Planner Teague if a new survey was required for the new house. Planner Teague responded in the affirmative, adding that a survey is a building department requirement.

The Commission commented that while the proposal makes sense in this neighborhood the Commission does have some concern on establishing a precedent rezoning an R-2 property to an R-1 property. The reason for the concern was the potential for loss of affordable housing. Again, the Commission acknowledged that in this neighborhood that would not be the case; but in other areas of Edina it could be.

The Commission also acknowledged that in the Comprehensive Plan R-1 is a permitted use in this area, adding that the ordinance may need to be brought in-line with the Comprehensive Plan.

Lastly, the Commission acknowledged that the easements on the subject lot are unusual and if the rezoning was approved the motion should acknowledge the obstacles the utility easements bring to this property and that constructing a single family home on this lot makes the most sense. It's a unique circumstance.

## **Public Comment**

Dawn McClelland, 5211 Malibu Drive addressed the Commission.

## **Motion**

**Commissioner Fischer moved to recommend rezoning approval based on staff findings and subject to staff conditions noting that this property is subject to unique restraints (easements) that other properties in the area are not subjected to and that the subject area is comprised of both R-1 and R-2 properties, pointing out the properties directly east of the subject site are zoned R-1. Commissioner Carpenter seconded the motion. Ayes; Carpenter, Staunton, Fischer, Platteter, Potts. Nays; Schroeder and Forrest. Motion carried.**

It was suggested that allowing a single family house to be built on an R-2 lot be added to the "bucket list" on updating the Zoning Ordinance.

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2011.0003.11a

**Lot Division  
Ehlesham Khoyratty & Donald Wothe  
6800 & 6804 Indian Hills Road**

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**Planner Presentation**

Planner Teague informed the Commission Ehtesham Khoyratty and Donald Wothe are proposing a lot combination and division to combine the existing vacant lot in between their homes at 6804 and 6800 Indian Hills Road with their lots. The specific request would take three existing lots and turn them into two lots.

Teague reported that this property was subdivided back in 2005 as a result of a law suit won by a previous property owner. Two lots were created from the previous lot at 6800 Indian Hills Road.

Teague concluded that staff recommends that the City Council approve the Lot Division of 6800 and 6804 Indian Hills Road.

Approval is subject to the following findings:

1. The resulting lots comply with all minimum lot size standards of Section 850.11 of the Zoning Ordinance.

Approval is also subject to the following Condition:

1. The existing drainage and utility easements be vacated.

**Appearing for the Applicants**

Ehtesham Khoyratty

**Motion**

**Commissioner Staunton moved to recommend approval of the lot division based on staff findings and subject to staff conditions to include the condition that the easements are vacated along the common side lot line. Commissioner Fischer seconded the motion. All voted aye; motion carried.**

- **Roof Top Dining**

**Planner Presentation**

Planner Teague addressed the Commission and stated that based on the direction of the Planning Commission at the March 23, 2011 meeting, staff has revised the draft ordinance amendment that would allow rooftop dining as a conditionally permitted use within the PCD-2 Zoning District.

The changes are underlined on the draft ordinance, and summarized as follows:

- The definition of rooftop dining is expanded to include wedding receptions, business receptions, catered events and parties.
- The parking requirement has been changed to require additional parking for outdoor rooftop dining, outdoor patios or a combination of both that are larger than 20% in area of the square footage of the principal indoor restaurant.
- A condition has been added that a liquor license is required to serve alcohol in the rooftop area.
- A fencing requirement has been added. The current State Building Code requirement for rooftop dining is to have a minimum of a 42-inch fence, or “guard” around the perimeter. The maximum opening size within the fence is 4-inches. The State Building Code requirement is referenced, and not the specific requirement, because these standards often change within the building code. If the State does change the Building Code, then City would not have to amend its ordinance.

**Discussion**

The Commission asked Planner Teague to clarify public parking. Planner Teague clarified that public parking is calculated according to the Floor Area Ratio (FAR) of each merchant space. The Commission said they want assurances that the 20% was the total outdoor dining percentage which would include sidewalk, patio, and rooftop. Anything over that 20% would require the merchant to provide additional parking.

The Commission proposed the following language changes:

Section 1 850.03 (Definitions) insert after: of a permanent beverage bar. Typo on the word dining in same paragraph

Section 2. Beginning with the sentence Outdoor rooftop dining....begin sentence with A combination of outdoor rooftop dining and outdoor patio or sidewalk dining areas...cross out after areas; or a combination of both.

Section 2. last line change or to and rooftop and patio.

Section 2. B.1. Last line change lots to lot.

### **Motion**

**Commissioner Potts moved to recommend approval of the Rooftop Dining Ordinance subject to the language changes proposed by staff and the Commission. Commissioner Staunton seconded the motion. All voted aye; motion carried.**

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- **Planning Commission Meeting Dates: Zoning Board of Appeals**

### **Planner Presentation**

Planner Teague told the Commission that on April 19, 2011, the City Council adopted the Ordinance that establishes the Planning Commission as the Zoning Board of Appeals. As a result the Planning Commission will now review all variance requests.

Teague reminded the Commission that past discussions concluded that if the City Council establishes the Commission as the Zoning Board of Appeals the Planning Commission would have to begin meeting twice per month. To streamline the development process Teague said meeting on the 1<sup>st</sup> and 3<sup>rd</sup> Wednesdays of each month would allow staff one week to prepare meeting minutes for the City Council, and also allow applicants time to revise plans if so directed by the Commission. Teague concluded that staff would further recommend that the Planning Commission meetings begin at 5:30 pm to consider residential variances. This meeting would be held off camera. Commercial, Industrial and High Density Residential development projects, including those with variance would be heard by the Planning Commission at 7:00 pm.

### **Discussion**

The Commission noted that while they support the appointment of the Planning Commission as the Zoning Board of Appeals they would like to request that the City Council consider “relaxing” attendance requirements for the remainder of 2011. The reason being was that Commissioners scheduled their calendars around the present 2011 Council Calendar and due to the recent change in status of the Zoning Board of Appeals the 2011 Calendar would need to be amended.

Commissioners suggested the following:

- Beginning in June 2011 the Planning Commission/Zoning Board of Appeals would meet twice monthly.
- Formally request that the City Council allow Commissioners to be absent 4X in a row; not 3X as present policy states.
- The Planning Commission would “stick” to the present 2011 calendar for Planning Commission meetings for the months of June, July and August.
- Relax the attendance policy for June, July, and August. Recognizing that “attendance” was not mandatory for work sessions; however, after June 1st attendance is mandatory at the twice monthly meetings.
- In September begin the new calendar of meeting twice monthly on the first and third Wednesday of each month.
- The general consensus was that the Planning Commission would continue to meet at 7:00 PM and that all meetings be televised.

### **Motion**

**Commissioner Staunton moved to change the meeting dates of the Planning Commission beginning September 2011 to the 1<sup>st</sup> and 3<sup>rd</sup> Wednesdays of each month. The Commission will keep the existing 2011 calendar for the months of June, July and August, with the addition of the following dates: June 15<sup>th</sup>, July 13<sup>th</sup> and August 17<sup>th</sup>. Commissioner Potts seconded the motion. All voted aye; motion carried.**

It was also suggested that formal attendance begin in 2012.

### **III. PUBLIC COMMENT:**

None.

### **IV. INTERGOVERNMENTAL BUSINESS:**

Commissioner Staunton gave a brief update on the progress of the Grandview Small Area Plan and reminded everyone that the next meeting of the Steering Committee is on Thursday, May 12<sup>th</sup>. Staunton invited everyone to attend.

### **V. ADJOURNMENT:**

**Commissioner Potts moved adjournment at 8:45 PM. Commissioner Platteter seconded the motion. All voted aye; motion to adjourn carried.**

*Jackie Hoogenakker*  
Respectively submitted by