

**CITY OF MEDINA**  
**PLANNING COMMISSION**  
Meeting Minutes  
Tuesday January 10, 2017

1. **Call to Order:** Commissioner R. Reid called the meeting to order at 7:00 p.m.

Present: Planning Commissioners Todd Albers, Chris Barry, Kim Murrin, Laurie Rengel, and Robin Reid.

Absent: Planning Commissioners Dino Deslauriers and Janet White.

Also Present: City Planner Dusty Finke and Associate Planner Deb Peterson.

2. **Election of 2017 Planning Commission Chair and Vice-Chair**

Finke opened the floor for nominations for the position of Chair.

R. Reid nominated White for the position of Chair.

Finke stated that he spoke with White prior to the meeting and she was willing to accept the position of Chair, if nominated.

Finke closed the floor for nominations as there were no additional nominations.

**Motion by Murrin, seconded by R. Reid** to appoint Commissioner Janet White as Chair of the Planning Commission for 2017. Motion carries unanimously. (Absent: Deslauriers and White)

Finke opened the floor for nominations for the position of Vice-Chair.

Murrin nominated Albers for the position of Vice-Chair.

Albers accepted the nomination.

Finke closed the floor for nominations as there were no additional nominations.

**Motion by Murrin, seconded by R. Reid,** to appoint Commissioner Todd Albers as Vice-Chair of the Planning Commission for 2017. Motion carries unanimously. (Absent: Deslauriers and White)

Albers took over as Acting Chair of the Planning Commission.

3. **Public Comments on Items not on the Agenda**

Albers referenced a written comment that was provided to the Commission from the Pederson family regarding the Comprehensive Plan. He noted that it would be submitted into the record.

4. **Update from City Council Proceedings**

Anderson reported that the Council met the previous week to consider approval of the 2040 Comprehensive Plan, noting that the item was tabled per a discussion brought forth by Councilmember Pederson with a request that the Steering Committee and Planning Commission consider rezoning of his family's property near Wealshire. He stated that the letter submitted by Councilmember Pederson and his family withdraws their request and therefore the Comprehensive Plan will most likely be approved on the Consent Agenda of the next Council meeting. He stated that there was also discussion regarding the conservation design ordinance and whether the Council should consider lowering the bonus density allowed. He stated that the Council will once again discuss the topic at their February 7<sup>th</sup> meeting.

5. **Planning Department Report**

Finke provided an update.

6. **Approval of the December 13, 2016 Draft Planning Commission Meeting Minutes.**

**Motion by Murrin, seconded by R. Reid**, to approve the December 13, 2016, Planning Commission minutes with the noted corrections. Motion carries unanimously. (Absent: Deslauriers and White)

7. **Approval of the December 19, 2016 Draft Planning Commission Meeting Minutes.**

**Motion by R. Reid, seconded by Rengel**, to approve the December 19, 2016, Planning Commission minutes as presented. Motion carries unanimously. (Absent: Deslauriers and White)

8. **Public Hearing – Wally and Bridget Marx – 2700 – 2900 Parkview Drive – Planned Unit Development (PUD) Concept Plan for a 6 Lot Conservation Design-PUD Subdivision with the Permanent Preservation of Land**

Finke explained the intent for the conservation design-PUD subdivision and the flexibility that can be gained through the preservation of land. He stated that the property does include various aspects of natural resources that have been identified in the City's natural resources and open space reports. He identified the high-quality tamarack swamp and area of maple basswood. He explained the potential access proposed and displayed the concept plan as proposed by the applicant. He identified the proposed conservation areas. He explained the intent of the ordinance, noting that the objectives provide a little more detail on those elements. He stated that there are six proposed lots which would be a 200 percent density bonus, as normal development would allow for three lots. He stated that the typical buildable lot size ranges from 1.6 acres to 6.5 acres, with the majority of the lots coming in with 2 to 3 acres of buildable land. He stated that over 75 percent of the property is proposed for conservation, noting that only 11.5 acres of that land is considered buildable. He noted that the site in total has 28 acres which still makes the conservation proposed to be 40 percent of the total buildable land and therefore exceeds the 30 percent threshold of the ordinance. He provided additional details on the section of land that staff recommended for inclusion in the conservation area. He stated that lots one and two would not meet the minimum lot width for the shoreline and provided additional details on possible conservation that could be designated to avoid the issue of non-compliance. He stated that staff spoke with the septic provider to determine that reasonable septic service and site locations could be provided on the lots. He stated that this is simply a process to allow input, and formal action is not required tonight. He stated that staff believes that this property would be a good candidate for conservation, but discussion would be needed regarding the potential density bonus. He

stated that the forester indicated that a little stewardship could push the wooded areas into a higher quality categorization.

R. Reid referenced building site three and asked if that has been eliminated.

Finke stated that area was marked as a higher priority conservation area and therefore the lots were shifted.

R. Reid noted that the change was not listed in the conditions and asked if that should be one of the conditions for approval.

Finke stated that one comment referenced a reduction to the number of septic systems and therefore shifting the lot would be one of the ways to accomplish that.

Barry referenced the five contiguous acres of suitable soils stipulation and asked if that is per lot or proposal.

Finke stated that the base zoning of the rural residential zoning district requires five acres of contiguous suitable soils per lot. He explained that simply determines the base density and then during the review of the conservation design-PUD request, there would need to be a determination as to whether there would be justification of a bonus density; and if so, the percentage of density bonus that would be allowed.

R. Reid referenced site number three and asked if that meets the shoreline overlay requirements for setback.

Finke confirmed that the lot would meet those requirements.

Rengel asked and received clarification on the flexibility that is provided under the conservation design-PUD ordinance.

Albers asked for information on what appears to be a road near the lake.

Finke replied that is a field road currently and noted that it is very steep and therefore he is not sure if that would be practical to reuse.

Kent Williams, 1632 Homestead Trail, stated that he is present to represent the applicant on this proposal. He stated that they are looking for feedback from the Planning Commission and City Council and will then consider that input in regard to their potential proposal. He stated that the Marx family has lived on the property since 1998 and have put a substantial amount of work into the property as it was formerly a pig farm. He stated that the result has been an explosion of wildlife to and from School Lake. He stated that Mr. Marx has also established the largest privately owned English garden that has received international accolades. He stated that the proposal from staff would move lot three into the garden and therefore they would not agree with that element because of the work that Mr. Marx put into the garden and the accolades it receives. He noted that he himself was part of the Planning Commission when the conservation design-PUD ordinance was enacted. He stated that he was also on the Commission when Mr. Marx brought forward two other requests for a conservation design-PUD on the property. He noted that he was disappointed by the first request, but the Marx family came back with a much improved request in 2012 that was approved by the Planning Commission and City Council. He stated that the Marx family then discovered part of the land could not be developed until 2016. He noted that he was disappointed at that time because he felt the City was losing out on the conservation of

valuable resources. He stated that he was happy when Mr. Marx contacted him to state that they would like to try it again as all the property is now available for development. He noted that this is a challenging site because of the topography and wetlands. He stated that this is the highest percentage of land proposed for a conservation design-PUD that the City has ever considered, and is also high quality elements. He noted that a total of 70 acres would be put into conservation easement as there would be unbuildable land in addition to the 11.5 acres of buildable land. He noted that part of the conservation is contained on the lots and will further restrict what can be done on that land. He stated that the conservation proposed far exceeds the development proposed. He discussed what would happen under typical development of the site. He stated that these types of resources need to be managed and this is a method to ensure that happens as the land would be put under stewardship with a management plan that ensures that not only is the land not built upon, it is also managed in a responsible and reputable manner. He stated that they proposed that lot three remain in the current location as it is the lowest quality wooded area and only contains boxelder trees which are not even protected by the tree ordinance. He stated that they would much prefer to have the garden over the boxelder trees. He stated that they did contemplate clustering the homes, but wanted to stay with the more rural character rather than have a suburban character. He referenced the existing field road and agreed that it is very steep. He noted that it is often washed out and would possibly be a hazard during the winter months.

Murrin asked who would manage the conservation easement land.

Mr. Williams replied that they are in conservation with two potential organizations and provided the examples.

Michael Pressman, applicant's conservation consultant, confirmed that the intent would be that the steward would maintain the land in a similar manner. He provided additional details stating that the subdivision would also have a list of dos and don'ts of what could be done.

Murrin stated that the property is beautiful and would encourage the stewards to follow the method that Mr. Marx has used. She asked if the apple orchard would be cut down to build a home.

Mr. Williams stated that whoever purchases the lot would have the options to either build a home and remove the orchard, could build a home and keep a portion of the orchard, or the person who purchases the neighboring lot could choose to purchase that lot as well to keep as an orchard.

Albers referenced the placement of one of the lots and the neighboring home.

Mr. Williams replied that they are willing to move the alignment of the lot slightly, but want to be cautious to ensure that the viewsheds of the other lots are not impacted to maintain the rural character.

Albers asked if there has been consideration to making lots one and two just one lot.

Mr. Williams stated that currently there is a field directly adjacent to the neighboring home owner and was unsure what they could see from their home, but believed perhaps a portion of the orchard could be seen. He recognized that the neighboring homeowner would be able to see a home if the development is approved.

Murrin asked if the owners of lot five would be able to maintain the garden or choose to do what they like with it.

Mr. Marx replied that the owner of the lot would be able to do what they desire with it. He stated that it is costly and cumbersome to maintain. He stated that he will not be able to maintain the garden forever. He stated that hopefully lot five would be the last lot sold. He stated that if he sold the entire property as one lot, the home would be built where lot one is proposed. He noted that most likely lot one would be the only home that would be visible.

Albers noted that lot one is the location of the five contiguous acres of suitable soils and therefore if sold as one property, that would be the location that someone would build even if the property wasn't subdivided.

Mr. Marx stated that he has attempted to donate the garden to the Arboretum but they asked how many millions of dollars he would give to help maintain the land. He stated that he also attempted that with Three Rivers Park District and was declined. He explained that there is not a public entity that will accept the donation.

Albers opened the public hearing at 7:58 p.m.

No comments made.

Albers closed the public hearing at 7:58 p.m.

Rengel stated that she does not have anything she would proposed to change, but at some point in the process would like to see a land stewardship plan.

Finke noted that is part of the first formal step of the process.

R. Reid referenced the site design done by staff and asked if that was done before or after the applicants.

Finke stated that he did it six years ago, and did it again after he saw this application. He stated that to a certain extent, things that he found in the site design were similar to what he had done.

R. Reid asked if staff would still recommend using their site design over the applicant's.

Finke stated that he is not suggesting that the staff design supersede the applicant's, but is a process of the request to see what would be the same and what would be different. He stated that the staff version is done looking at the open space report and natural resources report. He stated that staff recognizes that this ordinance has to include an incentive if it is going to be a tool that the City is going to use to create open space without the City having to buy property for conservation. He provided additional input regarding the septic systems.

Mr. Marx provided additional details on horse trails.

Barry stated that his concern was that lot four might be too far to access the septic, but was satisfied with the engineering comments.

Finke stated that the Council is set to review the concept plan on February 7<sup>th</sup> and the Park Commission will discuss at their meeting next Wednesday.

~~9. **Public Hearing – Lunski, Inc. – Concept Plan Review for a 126 Unit Three Story Senior Assisted/Independent Living Facility and a One Story Commercial Building to be Located North of Hwy 55, South of Chippewa Rd, and West of Mohawk Dr**~~

10. **Public Hearing – Woodridge Church – 1542 County Road 24- Comprehensive Plan Amendment to Change Future Land Use from Rural Residential to Public/Semi-Public and Rezoning to Rural Public/Semi-Public**

Finke stated that the Commission started this process the previous month when they considered a series of requests from Woodridge Church. He noted that the Commission tabled the request for rezoning as there was not a public hearing noticed for the Comprehensive Plan Amendment. He stated that the public hearing has been noticed and the Commission can therefore continue their discussion and take action on the rezoning and Comprehensive Plan Amendment. He noted that the rezoning would rezone the western parcel which will be combined with the church property, which was a condition of the variance granted for the ultimate build out of the church property.

Albers opened the public hearing at 8:15 p.m.

No comments made.

Albers closed the public hearing at 8:15 p.m.

**Motion by R. Reid, seconded by Barry**, to recommend approval of the rezoning request and Comprehensive Plan Amendment as proposed. (Absent: Deslauriers and White)

11. **Public Hearing – Ellis and Nancy Olkon – 2362 Willow Drive – Preliminary Plat for a Two Lot Subdivision**

Finke provided background information noting that the Commission previously considered a variance to the minimum lot size for a two-lot subdivision. He advised that the City Council denied the request. He noted that at the time of original submission the preliminary plat was not yet completed and therefore was not fully reviewed at the time of the variance request and therefore the City must still take action on the preliminary plat. He reviewed the proposed details, noting that the lot split dimensions are still the same as they were in September when the Planning Commission last considered the request. He noted that both lots one and two would not meet the minimum lot standards. He stated that findings were provided in the staff report that support denial of the request. He noted that the applicant is present and this item also requires a public hearing.

Tom Wexler, Edina resident, stated that he is a retired judge and probably the least knowledge person that will speak on these matters tonight. He referenced a letter from Jennifer Hamstead that was provided to the City today, in addition to a letter he also submitted. He stated that the objections raised by staff may be technically correct but subjected that they are de minimis under the circumstances and he hoped the Commission has the ability to use their judgement as to what is reasonable and necessary to preserve the health and welfare of Medina. He agreed that lot two does not meet the minimum lot width if you measure the frontage along County Road 24, but noted that it is an irregular shaped lot. He stated that an opinion in the letter provided by Ms. Hamstead is that lot width should be measured on the roadway of the access, which is along Willow Drive. He stated that the floodplain elevation was mentioned and Minnehaha Creek visited the property and determined that none of the floodplains would extend into the buildable area or the area proposed for septic systems. He stated that both lots are over five acres in size and therefore believed that perhaps it was the suitable soils stipulation that is a problem. He referenced a letter from Loren Kohen, the City's building official, who states that there are suitable soils on both proposed lots for septic systems. He stated that all the agencies and attorneys that he has contacted have stated that there is no authority for the proposition that five acres of

suitable soils are required for a safe and effective septic system. He noted that one acre is the standard for a safe and effective septic system.

Barry stated that the role of the Planning Commission is to follow the ordinances and regulations of the City and therefore the ordinance states that five acres of suitable soils are required as a minimum lot size within the rural residential zoning district and therefore the Commission must follow that.

Rengel stated that because there is such a disparity from what is proposed to the regulation, the Commission could not support that level of disparity under the variance request.

Mr. Wexler stated that if the Commission has discretion he would ask that they use that. He stated that in his time as a judge he did use discretion at times when he was asked to enforce a matter that was not appropriate. He noted that these are two ten-acre lots.

R. Reid stated that the Commission does not have the amount of discretion available to make such an extensive exception to the five acre suitable soils requirement and therefore felt that the Commission must recommend denial. She noted that the applicant can bring their request forward to the City Council.

Ellis Olkon stated that this is a preliminary plat division, noting that he is not requesting to build on the property but simply to split the lot. He stated that you would not need five contiguous acres if someone is not building on it right now. He stated that they would simply like to split the lot in half at this point. He stated that since 1999 the City of Medina has never prevailed on the issue of five acres of contiguous suitable soils. He asked that the Commission give no recommendation if they cannot support the request. He noted that he would like to save the City legal fees if this does need to go forward to court.

Albers opened the public hearing at 8:42 p.m.

Margaret Invie stated that she lives across from the Olkons and she does not understand why the City would not allow the property to be split into two parcels. She noted that, if divided, each lot would be ten acres in size.

Mr. Olkon noted that the neighbor to the north also wrote a letter in support which was provided in August. He stated that he also spoke with several residents in Hollybush that do not object to his proposal. He stated that he has not found one person that objects to the request and asked that the City save itself legal fees.

Albers closed the public hearing at 8:44 p.m.

Rengel asked if the original request is being reconsidered.

Finke explained that requests often require more than one element and explained that the City has only acted on the variance and therefore action will still be needed on the plat.

Murrin asked if there is a requirement that each plat have five acres of contiguous suitable soils.

Finke confirmed that is the minimum lot size as defined in the rural residential zoning district.

Murrin stated that the only option would then be to deny the request because the lot size does not meet the requirements of the zoning district.

Albers noted that another option would be to not take action.

Murrin stated that the job of the Commission is to provide a recommendation, and therefore a recommendation should be made one way or the other and confirmed by a consensus of the Commission.

Finke provided additional details on lot width and how that is calculated under City Code.

Wexler asked if the lot line could be changed a bit to comply with the lot width requirement.

Finke stated that lot lines could be modified, but that is not what is being proposed.

**Motion by Murrin, seconded by Rengel**, to recommend denial of the proposed preliminary plat by Ellis and Nancy Olkon at 2362 Willow Drive based upon the findings described in the staff report. (Absent: Deslauriers and White)

## 12. Council Meeting Schedule

Finke advised that the Council will be meeting the following Tuesday, noting that the Council will also consider the Olkon request at that meeting.

Murrin volunteered to attend the meeting in representation of the Commission. She noted that the next Planning Commission meeting is scheduled for Valentine's Day and asked if the Commission would be open to changing the date.

**Motion by Murrin, seconded by Rengel**, to change the date of the February 14, 2017, Planning Commission meeting to Monday, February 13<sup>th</sup>. (Absent: Deslauriers and White)

## 13. Adjourn

**Motion by R. Reid, seconded by Rengel**, to adjourn the meeting at 8:55 p.m. Motion carried unanimously.