

**GREENWOOD PLANNING COMMISSION
WEDNESDAY, FEBRUARY 17, 2016
7:00 P.M.**

1. CALL TO ORDER/ROLL CALL

Chairman Lucking called the meeting to order at 7:00 p.m.

Members Present: Chairman Pat Lucking, Commissioners Lake Bechtell, Kristi Conrad, David Paeper, and Douglas Reeder.

Absent: Commissioners Fiona Sayer and Rick Sundberg

Others Present: Council Liaison Bill Cook, Acting City Attorney Bob Vose, and Zoning Administrator Dale Cooney.

2. MINUTES – JANUARY 20, 2016

Commissioner Conrad moved to approve the minutes of January 20, 2015 as presented. Commissioner Paper seconded the motion. Motion carried 5-0.

3. PUBLIC HEARINGS

3a. Consider Simple Subdivision Request of Dan Heiland, doing business as Trading Post Properties, LLC, for 21200 Minnetonka Boulevard

Chairman Lucking introduced the agenda item. Lucking said that Dan Heiland is proposing to subdivide 21200 Minnetonka Boulevard into two separate parcels.

Chairman Lucking opened the public hearing.

Dan Heiland, applicant for the subdivision at 21200 Minnetonka Boulevard, said that he believes that the ordinance conforms to the requirements of the simple subdivision code at the time he submitted the application.

Gerald Brown of 4920 Lodge Lane said that he has been circulating a petition and that he has gotten 76 signatures in opposition of the subdivision. He said that the house would be placed in what is essentially people's back yards. Brown gave the petition to the zoning administrator.

Rob Bohnenkamp of 4925 Woods Court said that the application for the subdivision was invalid since it was signed by Dan Heiland, and not Trading Post Partners, LLC. He said that there were other issues with the application form and that it should be denied on that basis. Bohnenkamp also said that the applicant should have submitted a tree preservation plan along with the application.

Commissioner Reeder asked acting city attorney, Bob Vose, his opinion on the legal issues raised by Bohnenkamp. Vose said that he is the attorney for five cities, and that he did not feel that any of those cities would deny an application based on these issues, and that the application would be amended to fix any discrepancies.

Vose said that the application did not meet the current standards of city code Section 600.07. Vose said that the application was submitted on January 12, and that soon after that date, an ordinance amendment to Section 600.07 went into effect. That amendment, Vose said, no longer allows a 1-to-2 lot split within the simple subdivision code requirements. He said that it is a common misconception that an application would be reviewed based upon the laws at the time of application, but that that is not the case in reality. Vose said that applications should be reviewed under the laws in place at the time of decision with two exceptions: 1) that the applicant has invested a significant amount of resources into a project that has already begun; and that 2) staff has maliciously deceived the applicant into believing they were entitled to something that they

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were not entitled to. Vose said that, in this case, the facts do not support either one of those exceptions, and that the project should be reviewed under the law as it exists today.

John Rauth of 4910 Woods Court said that the proposed parcel B of the subdivision does not meet the standard for an "existing" easement. He said that the state does not consider easements for Torrens property valid until they are registered for a property, and that this easement has not yet been registered and is therefore not an "existing" easement.

Britta Larson of 21220 Minnetonka Boulevard said that she has had \$25,000 worth of water damage due to the house at 21240 Minnetonka Boulevard being built. She said that she did not receive the meeting notice and had to find out from her neighbors. She said that she is concerned about the runoff issues that having two houses on the 21200 Minnetonka Boulevard property would create.

Gerald Brown of 4920 Lodge Lane asked if this proposal would go to the city council, and if it did, would acting city attorney Bob Vose represent the city at that meeting as well?

Zoning administrator Cooney said that city attorney Mark Kelly recused himself from this application, and that acting city attorney Vose would represent the city at the city council meeting as well.

Chairman Lucking said that the planning commission is advisory and that regardless of tonight's decision, the application would continue on to the city council unless the applicant withdraws the application.

Chairman Lucking closed the public hearing.

Lucking said to Britta Larson that the house at 21240 Minnetonka Boulevard did not come before the planning commission for review.

Chairman Lucking asked about the revisions to section 600.07. Acting attorney Vose said that the new language no longer allows a 1-to-2 lot split, but only the accretion of portions of one property onto another property.

Commissioner Reeder asked how someone could subdivide a property in the future. Vose said that the code still allows a property to be subdivided through the city's platting process. Vose said that there are more extensive city requirements to go through that process.

Chairman Lucking asked zoning administrator Cooney if each subdivided lot would need 100 feet of road frontage under the standards required by the platting process. Cooney said that since this type of subdivision is now regulated by the standard platting procedure, it must also conform to those additional dimensional requirements. Cooney said that new lots must now have 100 feet of road frontage abutting on either a public or private street, and that there would not be enough room on the property at 21200 Minnetonka Boulevard to create a private street and still meet the dimensional requirements. Cooney said that the subdivision would only be possible under the previous simple subdivision requirements.

Commissioner Bechtell said that he was uncomfortable with the proposal under the old law, and asked if anyone had inquired with the owner of the adjacent property at 21170 Minnetonka Boulevard.

The other planning commissioners stated that they did not believe that the property could be subdivided based on the current ordinance.

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Motion by Bechtell to deny the simple subdivision application of request based on the findings that the proposal does not meet the requirements of Section 600.07 currently in effect. Motion was seconded by Paeper. Motion carried 5-0.

Acting city attorney Bob Vose left the meeting at this point.

Commissioner Reeder asked if the applicant had submitted a tree preservation plan for the proposal. Zoning administrator Cooney said that he did not, nor did he ask for one when a similar proposal came before the city a few months ago. Cooney said that new construction would allow for 20% tree removal. Commissioner Reeder said that he thinks future proposals should have a tree plan to determine if properties can meet that requirement. Cook said that there is a presumption that a buildable area for the house could be found based on the 20% restriction.

3b. Ordinance No. 252: An Ordinance Regarding Stormwater Management: Public Hearing for amendment to Chapter 11 to add Section 1140.17. Stormwater Management.

Chairman Lucking introduced the agenda item and opened the public hearing. Hearing no comments, Lucking closed the public hearing.

Commissioner Conrad asked how the ordinance would be monitored. Cook said that increases in hardcover would trigger the ordinance and that mitigation would be in the form of either volume or rate control. He said the idea is to keep stormwater off of a neighbor's property. Cook said that typically it would be a simple volume calculation for a 2 inch rain event, and regardless of the soil type on a property.

Conrad said that there could be a chart that would help the calculation to help make this easy for the residents.

Cook said that there were a number of ways to meet the ordinance including swales and raingardens, but that the stormwater would need to be stored or controlled on the property.

Cooney said that this will be relatively easy to regulate for those projects that come into the city for a permit. He said that it will be more difficult to ensure compliance for those projects that do not require permits.

Paeper said that he thinks that it is odd and unfair for properties that are still well under hardcover restrictions and that expand hardcover by 200 square feet or more to have to bring in a drainage plan. Cook said that Paeper's example would be rare in Greenwood.

Paeper said that if a property drains to the lake, or a wetland, then the water will not impact the neighbors and the owner should not have to mitigate. Cook said that demonstrating the water would run to the lake or a wetland would be an adequate drainage plan and would meet the requirements of the ordinance.

Conrad and Lucking asked if the city was comfortable with the water going to the lake. Cook said that there are only three places water can go, and the lake is one of those places. He said a significant number of properties in Greenwood are lakeshore properties.

Conrad asked if there are any filtering or buffer regulations. Cook said that he was not aware of buffer requirements.

Paeper asked about the requirements for plans and specifications. Paeper asked what the common definition for a 2 inch rainfall event was. Cooney said that rainfall events are typically assumed to be within a 24 hour time frame. Cooney also said that plans and specifications would need to be approved by the zoning administrator and city engineer. Cook said that he would be upset if this turned into a requirement that a professional engineer would need to be hired to meet

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these requirements, and said that we should give people enough information to figure this out on their own. Cooney said that he will work with the city engineer to have a simple volume calculation available as well as a couple of standard stormwater mitigation plans and specifications that people could follow.

Paeper felt that the term “manage the volume” needed to be clarified. He said it was unclear as to how the city wanted the water to be managed.

Reeder asked what the significance of a 2 inch rainfall even was. Cook said that a very high percentage of rain events are an inch or less. He said that 2 inches is considered to be a 5 year storm, and that stormwater issues are typically seen with some of these larger rain events.

Conrad asked if water on a property would typically runoff towards another property. Cook said that it needed to be stopped somewhere on the property. Conrad asked if there wasn't room in one area of a property, could the mitigation be in another area. Lucking said that the water would somehow need to be directed to the location of the mitigation.

Commissioner Conrad made a motion to recommend adoption of the ordinance as amended, with clarifications to Subdivision 3 regarding the term “manage” and “2-inch” rainfall. Motion was seconded by Paeper. Motion carried 5-0.

4. NEW BUSINESS

4a. Planning Commission Term Expirations

Commissioner Reeder and commissioner Bechtel expressed their desire to continue to serve on the planning commission.

5. LIAISON REPORT

Council Liaison Cook said that at the last city council meeting, Councilmember Fletcher asked the council about the idea of potentially eliminating the planning commission. Cook said that the city had expressed concerns about the added staff time, particularly the billable hours of the city attorney and the city engineer. Cook said that he does not favor eliminating the planning commission, and that he would be supportive of more training to help make the planning commission more effective.

Commissioner Conrad said that she felt the planning commission was a good entry point and training ground for potential city council members.

6. ADJOURN

Motion by Commissioner Paeper to adjourn the meeting. Commissioner Reeder seconded the motion. Motion carried 5-0. The meeting was adjourned at 8:50 p.m.

Respectively Submitted,
Dale Cooney - Zoning Administrator