

**CITY OF MENDOTA HEIGHTS  
DAKOTA COUNTY, MINNESOTA**

**PLANNING COMMISSION MINUTES  
APRIL 27, 2010**

The regular meeting of the Mendota Heights Planning Commission was held on Tuesday, April 27, 2010, in the Council Chambers at City Hall, 1101 Victoria Curve at 7:00 P.M.

The following Commissioners were present: Chair Lally, Commissioners Field, Hennes, McManus, Norton, and Viksnins. Those absent: Commissioner Pavolny. Those present were Assistant to the City Administrator Jake Sedlacek, Acting Public Works Director/City Engineer Ryan Ruzek, and NAC Planner Stephen Grittman. Minutes were recorded by Carla Wirth.

**Approval of March 23, 2010, Minutes**

**COMMISSIONER NORTON MOVED, SECONDED BY COMMISSIONER MCMANUS, TO APPROVE THE MINUTES OF MARCH 23, 2010, AS PRESENTED.**

**AYES                    4**  
**NAYS                    0**  
**ABSTAIN              2 (Commissioner Hennes and Viksnins)**

**Review Planning Commission Rules of Order**

Chair Lally indicated that in light of the Public Hearings on tonight's agenda, this item will be considered after Item 6, Hearings.

**Hearings**

**PLANNING CASE #10-07**  
**Aaron and Sarah Macke**  
**744 Woodridge Drive**  
**Critical Area Permit to build a single family home**

Planner Stephen Grittman explained that Aaron and Sarah Macke are requesting approval of a Critical Area Permit in order to construct a new single family home at 744 Woodridge Drive. The parcel is zoned R-1, One Family Residential and a Critical Area Permit is required because the property is located within the Mississippi River corridor. Mr. Grittman reviewed the requirements for property within the Critical Area. He displayed a survey to identify the location of the proposed home, road alignment, topography, and bluff line which is not traversable. Mr. Grittman displayed and described exterior elevations of the proposed home, noting the driveway access will be on Woodridge Drive.

Mr. Grittman explained it is common for the City to review Critical Area Permits for minor building additions but the review in this case was more extensive as it is an odd-shaped raw parcel. It was noted consideration was first given that the 100 foot front setback would be from Sibley Highway and the easterly property line would be the rear yard. The R-1 zoning district requires the rear yard to equal at least 20% of the lot, which would eclipse this being a buildable parcel. Thus, it was felt that analysis was flawed since the City did grant this parcel buildable status. The analysis used in the staff report assumed the building area began at the top of the bluff to the rear property line. In that case, the result allowed for adequate buildable area but only a 40 foot easterly setback. The proposed home was shifted 22 feet towards the bluff to retain a 62 foot rear setback. With regard to building height, Mr. Grittman stated the Critical Area allows a building 22 feet in height. As shown in the staff report, the building height would be measured based on the rear elevation of the home, which equals 27 feet.

Mr. Grittmann stated the other features of the home construction meet the Code requirements. Due to the slopes, erosion control measures will be verified during construction drawing review. He advised the home meets the Critical Area requirements and the consideration is with the building height and setback requirements.

Mr. Grittmann advised that staff met with the applicants who expressed concern with staff's interpretation of front and rear setbacks based on their understanding at the time of the plat. It was the applicant's understanding that frontage from Woodridge Drive and the rear portion would be on Sibley Memorial Highway. If that interpretation is taken, the home would meet the City's setback and height requirements. Following that discussion, staff prepared alternative findings for the Planning Commission's consideration. Mr. Grittmann explained that the frontage on Woodridge Drive, when considered as a front setback, does not contain the width required by Code. However, it was the applicant's understanding that would be the front setback at the time of the plat. Should the Planning Commission concur with the applicant's understanding, the home would meet the City's setback and height requirements.

Commissioner McManus asked if it is known whether development will take place on grades of 12-18%. Mr. Grittmann advised construction will not take place on slopes that exceed 18% but in some areas between the range of 12-18%, which is not prohibited but requires additional control measures.

Commissioner McManus asked if consideration is of a subjective nature, allowing the Planning Commission to concur with the applicant's understanding that Woodridge Drive would be the front setback. Mr. Grittmann stated staff reviewed the definitions for front and rear setbacks and found the Zoning Ordinance does not require a full 100-foot width access to be considered the front yard. Thus, Woodridge Drive can be considered as the front.

Commissioner McManus asked if there are any negative aspects to this consideration. Mr. Grittmann stated there are positive aspects to the applicant's interpretation because it would move the structure farther from the bluff which is a goal of the Critical Area. The applicants also raised the point that keeping the structure in the area they propose would save more trees.

Commissioner McManus asked if there is any impact on the neighbors. Mr. Grittmann stated the primary impact would be in the elevation because as moved toward the bluff (westerly) the building height would be lowered by several feet. However, the applicants noted that if moved easterly, it would maintain more angular sight lines.

Chair Lally noted that in the summer of 2008, the Council approved this lot split so this is a buildable lot. He noted that a requirement for a single family home is 100 feet of frontage on a public road. Mr. Grittmann stated that is correct and the question tonight is the placement of the home on this buildable lot.

Commissioner Viksnins questioned the Code requirement for determination of the front and rear yards. Mr. Grittmann stated the Code provides a definition but no technical guidance. He explained the requirements for through lots, that have frontage on two sides, and corner lots, noting this lot does not meet the pure definition of either.

Commissioner Viksnins questioned the location of the garage. Mr. Grittmann displayed a site plan and described the configuration of the house and garage. Commissioner Viksnins noted the front entry is off Ridgeway Road. Mr. Grittmann concurred that is what the applicant's consider.

Commissioner Hennes asked if the City Attorney has rendered an opinion on this matter. Mr. Grittmann stated the City Attorney had not been consulted.

Commissioner Hennes asked about the lot width on Woodridge Road. Mr. Grittmann estimated 20 feet so most would be driveway. Commissioner Hennes stated he considers the front of the house to be based on the location of the entry. He asked if the address would be on Sibley Memorial Highway if the front frontage is calculated the other way. Mr. Grittmann stated that is not necessarily the case since the Code does not consider addressing requirements. He explained that issue was addressed during the plat and at that time the prospective location of the building pad used a site closer to the bluff so setback application was not a problem.

Commissioner Hennes asked if it will be possible to view the house from the highway once the trees have foliage. Mr. Gritman stated it could probably not be viewed from the highway.

Commissioner Field asked if the minutes were reviewed from the meeting when this lot split was approved. Assistant to the City Administrator Jake Sedlecek stated he reviewed both the Council and Planning Commission meeting minutes and there was no direct guidance on lot frontage. Commissioner Field stated it is his recollection that with the address as it is, the front would be from Woodridge Drive. He stated since it is not clear, he tends to concur with that opinion and it is most often the expectation that the address indicates the direction of the front of the house.

The Commissioners reviewed and discussed the newly drafted findings of fact based on Woodridge Drive being the front elevation.

Commissioner Hennes asked if the applicant would need to make separate application for a variance. Mr. Gritman stated that is correct.

Sarah Macke, 744 Woodridge Drive, stated they are trying to place the house with minimum property impacts and their primary concern is that moving the structure 22 feet towards the bluff would result in the loss of four trees. She noted the location of a Sugar Maple that will be fenced in an effort to save it after construction.

Commissioner Norton asked if the height exceeds the Critical Area maximum if the home fronts Woodridge Drive. Mr. Gritman stated that is not the case, the height would comply.

Chair Lally opened the public hearing.

Mary Yackley, 711 Maple Park Court, read a prepared statement detailing the purchase of their home and strong opposition to the lot split that was approved in 2008. They felt the Macke letter clearly shows the impact on the bluff line of the Mississippi River. She explained their opposition is to the close proximity of the proposed house, driveway, and turnaround area to their property and that consideration was not given to limit obstruction from their property since it was vacant at the time of the lot split. Ms. Yackley suggested that consideration must now be given to address this shortsightedness. They also oppose the height of the house which will remove daylight from their yard for three to four hours in the afternoon. She explained that while they are also concerned about the removal of mature trees, they support moving the house as far to the north and west as possible since that would impact only those properties that benefited the most from the lot split.

Commissioner Hennes pointed out that if the house is moved farther to the west there would still be a driveway in that location.

Roger Yackley, 711 Maple Park Court, stated the driveway is proposed to be located adjacent to their back yard as well as a turnaround and parking area that in the future could possibly be used for storage, obstructing the view from their smaller lot. He stated if the house is moved farther north and west, the turnaround and parking area could also be shifted to the west. With regard to tree removal, Mr. Yackley noted the location of 200 year old oak trees that could be saved if the home were shifted.

Commissioner Hennes asked what is the distance from their house to the rear property line. Mr. Yackley stated they have a very small yard and estimated it may be 40 to 50 feet.

Commissioner Viksnins asked about the topography. Mr. Yackley stated their lot is slightly lower so construction will block their view of the bluff. He suggested this lot may be better suited to a lower height rambler home that would allow views from their lot and other lots. Ms. Yackley stated if moved to the west, the height would be lowered.

Chair Lally pointed out that some views would remain from the Yackley property towards the Russell property and ravine. Mr. Yackley stated that is correct.

Chair Lally noted the Yackley's did not own this property at the time of the lot split. Ms. Yackley stated that is correct; however, in planning this home their view was not considered.

Mr. Yackley stated it appears there was confusion by staff to consider setbacks so he finds it confusing why it was even approved for a lot split. Chair Lally stated that decision was made in 2008 and the question is what elevation to consider the front of the house. He agreed with the rationale that the address and orientation of house and garage are toward Woodridge Drive so that is the front. It also allows the house to be located farther from the bluff. Mr. Yackley opined the setback variance would, in his opinion, devalue his property.

Chair Lally stated if you buy a house with an adjacent open lot, it may be assumed it will remain open but unless view rights or easements are purchased, they do not exist. He recalled that during the lot split, there was much discussion from people who had used the property, but did not own the property. He clarified there is no confusion with the buildable status of this lot but understands the confusion of the Yackley's due to the timing of their purchase.

Terry Russell, 716 Maple Park Court, stated he welcomes the Macke's to the neighborhood. He stated his concern relates to the height and drainage of this property, which he believes will come towards his lot. Chair Lally explained that the application includes drainage elements including drain tile so the water would be directed toward the ravine and bluff. Acting Public Works Director/City Engineer Ryan Ruzek advised the land contours show the water flows southwest towards the ravine and will not pose a problem to the Russell property.

Tom Peine, 706 Maple Park Court, stated he is concerned with the position and design of the building. He stated the people who profited from the lot split told the Planning Commission they wanted to build a house for their parents, which he assumed would be a retired couple. However, their house is higher with buffer areas and would not be impacted by the construction of the now proposed house. He stated it is more of an issue for Maple Park Court properties than those on Woodridge Drive and the Yackley's have a good point in stating this house would encroach on their property. Mr. Peine stated he purchased his home in this existing neighborhood at the time there was no proposal for an additional house or one that would be shifted towards and encroach upon Maple Park Court. He stated if constructed he will see a house "looming" over the Yackley's home. Mr. Peine stated this is a beautiful and well designed house from the front but their view is of the long garage side.

Commissioner Hennes asked Mr. Peine if he wants nothing built on this lot. Mr. Peine indicated he did not make that statement and used a map to point out the location of his property and properties that are not represented at the meeting tonight. Commissioner Hennes noted the house would still be 108 feet from 711 Maple Court (Yackley property).

Chair Lally stated if the people who split the lot profited, it was because they owned the property. He explained their original proposal was to sell the new lot to one set of parents but at that time it was not a condition of approval.

Commissioner Field noted the lot split has been approved and is not relevant in tonight's consideration.

Mr. Peine asked the Commission to consider the input from the neighbors, noting this is a huge house.

Jeff Piper, 743 Knollwood Court, stated they live across the ravine and bought a house that is too close to the ravine. He stated they have had problems with soil stability and suggested this be considered by the Mackes prior to construction so drainage and soil erosion does not become a problem. Mr. Gritman advised that the closest portion of the proposed house to the ravine is on the southwest corner where it is almost 90 feet.

Seeing no one else coming forward wishing to speak, Chair Lally asked for a motion to close the public hearing.

**COMMISSIONER NORTON MOVED, SECONDED BY COMMISSIONER VIKSNINS, TO CLOSE THE PUBLIC HEARING.**

**AYES           6**  
**NAYS           0**

**COMMISSIONER NORTON MOVED, SECONDED BY COMMISSIONER FIELD, TO RECOMMEND APPROVAL OF THE CRITICAL AREA PERMIT AS REQUESTED, SUBJECT TO THE FOLLOWING CONDITIONS:**

- 1. AREAS OF 12% SLOPE OR GREATER SHALL BE INDICATED ON AN UPDATED SITE PLAN. IF DEVELOPMENT IS BEING PROPOSED ON SLOPES BETWEEN 12 AND 40%, THE APPLICANT SHALL BE REQUIRED TO MEET THE CONDITIONS OF SECTION 12-3-6.F.1.**
- 2. ADEQUATE DEVELOPMENT PRACTICES WILL BE MAINTAINED TO ENSURE THAT GROSS SOIL LOSSES SHALL NOT EXCEED THE GIVEN REQUIREMENTS IN 12-3-6.F.2. THIS SHALL BE REVIEWED AND APPROVED BY THE CITY ENGINEER.**
- 3. IN NO CASE SHALL DEVELOPMENT INCREASE THE RATE OF RUNOFF.**
- 4. THE DRAINAGE AND STORM WATER RETENTION PLANS SHALL BE SUBJECT TO THE APPROVAL OF THE CITY ENGINEER.**
- 5. NO FINISHED GRADES SHALL EXCEED A SLOPE OF 40%.**
- 6. ANY AND ALL EROSION CONTROL STORM WATER RUNOFF, UTILITY ACCESS, AND SIMILAR STRUCTURES SHALL BE DESIGNED TO BE MAINTAINED, CLEANED OUT, AND OTHERWISE OPERATED WITHOUT REQUIRING THE CROSSING OF UNDEVELOPED LANDS IN EXCESS OF 8% SLOPES WITH MOTORIZED HEAVY MAINTENANCE VEHICLES AND EQUIPMENT, SUCH AS BULLDOZERS, TRUCKS, AND BACKHOES.**
- 7. THE QUALITY OF WATER RUNOFF AND WATER INFILTRATED TO THE WATER TABLE OR AQUIFER SHALL BE AS HIGH AFTER DEVELOPMENT AS IT WAS BEFORE DEVELOPMENT OF THE SITE.**
- 8. ALL DEVELOPMENT, DRAINAGE, AND GRADING PLANS SHALL BE REVIEWED AND APPROVED BY THE CITY ENGINEER.**
- 9. APPLICANTS SHALL OBTAIN A BUILDING PERMIT PRIOR TO COMMENCING CONSTRUCTION.**

Commissioner McManus stated the people who have voiced objection to this application indicated it would reduce the impact if the building were moved somewhat north. Commissioner Norton stated if the applicant chooses to discuss that issue with the neighbors, they can do so and return with a revision to the application. Chair Lally pointed out there is not a lot of room to move the house further north since the lot line is only 28 feet away.

Commissioner Field stated that while he is sympathetic with the neighbors, the lot split had been approved and the Commission does not have much latitude given the regulations. He felt this application is similar to what was presented during lot split consideration.

**AYES            6**  
**NAYS            0**

Chair Lally advised the City Council would consider this application at its May 4, 2010, meeting.

**PLANNING CASE #10-08**  
**Hayley Heidelberg and Roy Bester**  
**752 Mohican Lane**  
**Conditional Use Permit for a fence**

Planner Stephen Gritman explained that Roy Bester and Hayley Heidelberg are requesting approval of a Conditional Use Permit (CUP) to allow the placement of a six foot high cedar alternating board fence within a required yard adjacent to a public right-of-way. The property is zoned R-1, Single Family Residential. The Zoning Ordinance states that fences in such required yards (the applicable 30 foot setback area) cannot exceed 36 inches in height without the granting of a CUP. He displayed a site plan to describe the location of the fence and advised the proposed fence shows consistency with the Code requirements. The 6-foot high proposed fence would be set back two feet from the Pueblo Lane right-of-way line. Staff found the request to be generally consistent with the intent of the zoning regulations and recommends approval of the CUP as submitted.

Roy Bester, 742 Mohican Lane, identified the location of trees that will be inside the fence and landscaping rock that will be located on the outside of the fence.

Hayley Heidelberg, 742 Mohican Lane, stated their new fence would be similar to the next door neighbor's existing fence.

Commissioner Viksnins asked if the proposed fence would be located entirely within the applicant's land. Ms. Heidelberg confirmed that would be the case.

Commissioner Field referenced comments submitted by Mr. Friel expressing concern about the location of property lines and road easement. He asked if a survey had been performed to verify the location of property lines. Mr. Bester stated it had not but their fence is well within their property. Commissioner Field asked if the property line should be verified by a survey. Mr. Gritman stated Code Enforcement staff does not always require a survey and relies on the fence constructor's representation of fence and property line locations. However, it is within the City's prevue to require a survey.

Acting Public Works Director/City Engineer Ryan Ruzek stated it is the home owner's responsibility to assure the improvement is located within their property. He advised there are property irons at the corner of each lot and residents can borrow the City's metal detector to confirm lot line location.

Commissioner McManus stated the person erecting a fence should be confident it is located on their own property so they do not lose the fence.

Ms. Heidelberg stated she spoke with all of her neighbors and they signed a petition of support except for 750 Mohican Lane who was not home. Chair Lally requested a copy of the petition so it is available for the City Council's review.

Chair Lally opened the public hearing.

Seeing no one coming forward wishing to speak, Chair Lally asked for a motion to close the public hearing.

**COMMISSIONER NORTON MOVED, SECONDED BY COMMISSIONER VIKSNINS, TO CLOSE THE PUBLIC HEARING.**

**AYES            6**  
**NAYS            0**

**COMMISSIONER MCMANUS MOVED, SECONDED BY COMMISSIONER NORTON, TO RECOMMEND APPROVAL OF THE CONDITIONAL USE PERMIT AS REQUESTED TO ALLOW FENCE CONSTRUCTION GREATER THAN 36 INCHES IN HEIGHT WITHIN A REQUIRED YARD ADJACENT TO A RIGHT-OF-WAY AS PROPOSED.**

Commissioner Field stated his support to request verification of the property line given the ambiguity raised in Mr. Friel's letter. Chair Lally stated there are property irons in place and an ability to find those irons so a survey may not be necessary.

Commissioner Field noted Mr. Friel's letter indicates there is a history of the property and he has no issue with the fence except for its location. Commissioner Field suggested the applicant and Mr. Friel work together to locate the property line. Chair Lally agreed and asked the applicant to locate and stake the property iron prior to City Council consideration. Ms. Heidelberg assured the Commission they will locate and verify the property line.

**AYES            6**  
**NAYS            0**

Chair Lally advised the City Council would consider this application at its May 4, 2010, meeting.

**PLANNING CASE #10-09**

**Karen Pimentel**

**687 2<sup>nd</sup> Avenue**

**Conditional Use Permit for a fence**

Planner Stephen Grittmann explained that Karyn Pimentel is requesting approval of a Conditional Use Permit (CUP) to allow the placement of a five foot high fence in a required yard adjacent to a public right-of-way. The property is zoned R-1, Single Family Residential. The Zoning Ordinance states that fences in such required yards (the applicable 30 foot setback area) cannot exceed 36 inches in height without the granting of a CUP. He displayed a site map to identify the subject corner lot property and location of the proposed fence to enclose the rear yard with a five-foot high chain link fence that would match existing fence on the property. He noted the existing fence is not vinyl coated and suggested the Commission consider continuing the same material with the new fence. Mr. Grittmann identified the location of landscaping that will provide screening and recommended approval.

Commissioner Viksnins asked about the height of the existing fence. Mr. Grittmann stated the current fence on the west side is five feet and did not require a CUP since it is on an interior lot line.

Karen Pimentel, 687 2<sup>nd</sup> Avenue, explained she had not correctly measured the fence height. Their neighbor has a four-foot fence that they will match exactly. She explained they want a four-foot fence to contain their dog. She noted the location they removed bushes in front of the telephone pole where they may angle the fence somewhat. She stated her brother will help install the fence, which will be green, and they want the fence also so her dog does not scratch the neighbor's fence. She reviewed the height of the fence for each property line.

Commissioner Field asked about the lilac bushes in the corner. Ms. Pimentel identified the location of the telephone pole and said she does not want her dog to dig up any wires that may be in the ground. That is why they may angle the fence, to keep the dog out of that area.

Commissioner Field asked if angling the fence would be an issue. Mr. Grittmann stated it would not be an issue since that location is outside of the CUP requirement.

Chair Lally opened the public hearing.

Seeing no one coming forward wishing to speak, Chair Lally asked for a motion to close the public hearing.

**COMMISSIONER NORTON MOVED, SECONDED BY COMMISSIONER MCMANUS, TO CLOSE THE PUBLIC HEARING.**

**AYES            6**  
**NAYS            0**

**COMMISSIONER NORTON MOVED, SECONDED BY COMMISSIONER HENNES, TO RECOMMEND APPROVAL OF THE CONDITIONAL USE PERMIT TO ALLOW FENCE CONSTRUCTION GREATER THAN 36 INCHES IN HEIGHT WITHIN A REQUIRED YARD ADJACENT TO A RIGHT-OF-WAY, SUBJECT TO THE FOLLOWING CONDITIONS:**

**1. THE FENCE SETBACK FROM THE VANDALL STREET RIGHT-OF-WAY BE VERIFIED.**

**AYES            6**  
**NAYS            0**

Chair Lally advised the City Council would consider this application at its May 4, 2010, meeting.

**PLANNING CASE #10-10**

**Maureen Haggerty**

**790 Ridge Place**

**Wetlands Permit for an Invisible Fence**

Planner Stephen Grittmann explained that Maureen Haggerty is requesting approval of a Wetlands Permit for the installation of an invisible fence wire, two plank bridges, and native plantings within 100 feet of a designated wetland. The site is located at 790 Ridge Place and zoned R-1, One Family Residential. He advised the site currently contains a single family home and attached garage. The Wetlands Ordinance requires a Wetlands Permit for any land alteration or construction within 100 feet of any designated wetland. Mr. Grittmann noted that a CUP and Wetlands Permit had been previously approved and conditions placed on previously approved CUPs will remain in place.

Mr. Grittmann used a map to identify the location of the existing and proposed fence and vegetation. He also noted the location of two plank bridges that would be placed across the stream to access both sides of the creek. He stated the City Engineer has indicated the plank bridges and electric bridges will have very little, if any, impact to the wetland area. The applicant suggested the plank bridges will allow for crossing the creek without disturbing the bank sides. The applicant has proposed to cross the stream with the electric fence and anchor it with stones in the stream without disturbing the stream bed and the City Engineer indicated that is an acceptable method. He noted a recommended condition of approval is to bury the invisible electrical fencing. Mr. Grittmann stated staff finds the proposal will not result in any negative impacts to the wetland and recommends approval subject to the seven conditions detailed in the staff report.

Commissioner Field reviewed the past CUP and Wetlands Permit considerations and stated he would like to see the location of all fencing and be able to put this site in a complete context. Mr. Grittmann stated he did not bring the past documentation to the meeting tonight. Commissioner Field noted the width of the creek and proposal to bridge it by 12 foot boards. He expressed concern that a shorter bridge would collapse the bank and fall into the creek and a 12 foot bridge would require structural integrity review. Commissioner Field stated he is not convinced this is a solution to bridge the creek.

Commissioner Hennes agreed with the need for additional information and clarity on what has happened since the previous approval.

Commissioner McManus asked if the City had requested removal of the fences that did not meet Code. Mr. Grittmann stated it was required that all nonconforming fence built outside the property line or regulations be brought into conformance. Acting Public Works Director/City Engineer Ryan Ruzek confirmed that the applicant has removed all nonconforming fences and is in the process of building new fences.

Maureen Haggerty, 790 Ridge Place, explained that because of the 25 foot requirements, there is a 50-foot gap in fencing at the creek crossing. That is why she is requesting an invisible fence to retain her dogs on her property. In addition she would like to plant native plantings and a plank to cross the creek.

Commissioner Field asked if it will be a "plank" or a "wooden bridge" and the grade difference between the bank and the creek bed. Ms. Haggerty estimated the grade difference is 2.5 feet.

Commissioner Hennes asked if the fence in front was removed or relocated. Ms. Haggerty stated it was relocated because it did not meet the setback. Commissioner Hennes asked about the fence on the west side. Ms. Haggerty stated the angle was changed slightly because of the property line and the fence was disassembled and will be reassembled so the mesh (chain link) and screws are on the correct side of the fence.

Commissioner Viksnins asked where the fencing starts at the northwest corner. Ms. Haggerty used a site plan to point out the location where the chain link fence starts, and the area where welded wire fencing will be installed.

Ms. Haggerty stated she was not aware of the condition to bury the invisible fencing wire and had planned to attach it to the fence. Mr. Grittmann stated staff's recommendation is to bury the invisible fencing wire so it is not just

laying on the ground. Ms. Haggerty stated she understands the concern with impact to the wetland and if required would bury the fence line.

Commissioner Viksnins read the conditions recommended by the City Planner. Ms. Haggerty stated she is in agreement and will comply with all conditions as recommended. With regard to native plantings, Ms. Haggerty stated she will use plants that are recommended for bank stabilization. With regard to the creek crossing, Ms. Haggerty described the wooden 12 inch wide planks that would be used. Ms. Haggerty stated they had used a 12 foot long plank in the past but removed it when they learned it was not allowed without a permit. She explained the plank had been supported by a log placed underneath it in the creek.

Commissioner Viksnins asked if the 12 foot plank had resulted in any impacts. Ms. Haggerty stated it had not and noted that crawling down and back up the creek bank to cross the creek would cause more impacts.

Chair Lally stated this is a large piece of property that already has a physical fence so he questioned why an invisible fence is needed around the entire perimeter as opposed to just the open portion by the creek. Ms. Haggerty stated that initially she had a physical fence enclosing the entire property but while on a trip to Texas it was purported her dog had jumped that fence and got into a fight with another dog. So, immediately upon returning from Texas she decided to install invisible fence. However, that fence was disconnected because she did not have a permit for it. Now there will be a 100 foot opening so an invisible fence is needed for that location. In addition, a continuous loop is needed for invisible fence.

Commissioner Field asked if it is the intention that the electrical fence will go up to the curb. Mr. Haggerty stated it will be in front of the house and under the driveway and at least 15 feet from the curb.

Chair Lally opened the public hearing.

John Steenberg, 804 Ridge Place, stated he is representing his 92 year old father. He stated some of the plantings are already in place illegally within the wetland and two willow trees were planted only six feet apart which he believed was too close together. Mr. Steenberg felt the trees, at maturity, would extend and hang well over onto the Jenniges property. With regard to the bridge, he stated his property has a 2x12x16 foot plank over the creek, which staff indicated he did not need a permit to place. He stated he had no objection to the plank bridge proposed by Ms. Haggerty. He stated he has no concern with the invisible fence as discussed in the last permit and at that time the Commission questioned what will happen with the open segments. Ms. Haggerty had indicated she may place an invisible fence in those open segments so he does not know what has changed in the last six months yet there has been a 180 degree reversal in staff's recommendation.

Commissioner McManus asked what has changed since the last consideration. Mr. Steenberg reviewed the past fence consideration for this property, noting Commissioner McManus had asked if a Wetland Permit had ever been approved for a fence through a water course in Mendota Heights. Staff indicated there had been only one in 2005 for Ms. Haggerty. At that meeting there had been discussion about relocating the fence to be parallel with the center of the creek, observed high water, and other options.

Commissioner Norton asked Mr. Steenberg if he was implying there had been a reversal in the Commission's action. Mr. Steenberg stated there had been a reversal in staff's recommendation. Commissioner Norton noted the difference is between crossing the creek with a chain link fence versus an invisible wire fence.

Mr. Steenberg stated Ms. Haggerty did remove and relocate the fence and staff spent three days locating property corners for Ms. Haggerty. He stated he is concerned about the actual property line locations.

Commissioner Field stated the invisible fence wire will be buried underground so it is reasonable to assume it will be located on the applicant's property. In addition, Mr. Steenberg has indicated the City had helped Ms. Haggerty locate the survey stakes so they should be correct.

Mr. Steenberg asserted that the deeper the corner irons are buried, the greater the error can be made in the property line location. Commissioner Field asked Mr. Steenberg if his testimony is that the fence is not located on Ms.

Haggerty's property. Mr. Steenberg stated it could be since the City did not dig out any property pins, they located only two and the other pins were not actually found. He suggested that only a "john meter" can be used to find property pins. Commissioner Field asked that the discussion be confined to the application.

Chair Lally asked Mr. Steenberg what are his objections. Mr. Steenberg stated he objects to crossing the wetland and pattern of not locating fences correctly. In addition, the City has issued a citation to Ms. Haggerty for not removing fencing.

Commissioner McManus stated in the earlier discussions they talked about the affect of a structural fence on the water due to stopping of flow and catching of debris. He asked Mr. Steenberg if he remains concerned about staff's recommendation for a buried wire beneath the bottom of the creek. Mr. Steenberg asked how the wire will be buried beneath the creek, noting the creek is mud and silt and not sand. He stated if he were installing such a wire it would be 18 inches under the creek bed with 6 inches of filter blanket or geotextile fabric and 12 inches of river rock. He stated he is not as against the invisible fence through the creek and may make a similar request if he lives on his dad's property at some point. However, this would be the first time it would actually put an invisible fence across a wetland.

Gerard Jenniges, 800 Ridge Place, stated he is not opposed to an invisible fence if installed properly. With regard to trees and creek plantings, he noted there are big Cottonwood trees in place and grass to stop erosion. He expressed concern with planting more trees that may result in killing the grass and increasing erosion. He stated he does not know why the City issues permits for four-foot fences. Chair Lally stated there were problems with Ms. Haggerty's previous fence, which is why the application is before the Commission tonight.

Mr. Jenniges stated the permits are not inspected. Assistant to the City Administrator Jake Sedlecek advised that enforcement occurs on a complaint basis. Mr. Ruzek explained that fence permits are required and the \$25 fee covers time for plan review but does not cover the cost for staff inspections.

Mr. Jenniges asserted that when the Council approved the previous permit, Ms. Haggerty was asked to have her lot surveyed by a registered surveyor and to hire a qualified fence builder to reconstruct the fence, which was not done.

Seeing no one coming forward wishing to speak, Chair Lally asked for a motion to close the public hearing.

**COMMISSIONER MCMANUS MOVED, SECONDED BY COMMISSIONER NORTON, TO CLOSE THE PUBLIC HEARING.**

**AYES            6**  
**NAYS            0**

**COMMISSIONER MCMANUS MOVED, SECONDED BY COMMISSIONER FIELD, TO RECOMMEND APPROVAL OF THE WETLANDS PERMIT AS REQUESTED, SUBJECT TO THE FOLLOWING CONDITIONS:**

- 1. THE INVISIBLE FENCE WIRE SHALL BE BURIED AND NOT LAID ON TOP OF THE GROUND THROUGHOUT THE YARD;**
- 2. THE INVISIBLE FENCE WIRE SHALL BE PLACED ENTIRELY ON THE APPLICANT'S PROPERTY AND SHALL NOT BE LOCATED IN THE UNDEVELOPED RIGHT-OF-WAY;**
- 3. THE LAND DISTURBANCE GUIDANCE DOCUMENT SHALL BE ADHERED TO;**
- 4. SPECIFICS ON THE NATIVE PLANTINGS SHALL BE PROVIDED TO THE CITY BY THE APPLICANT;**
- 5. EXPOSED OR ERODED SOIL ON THE PROPERTY SHALL BE RE-VEGETATED WITH APPROPRIATE WETLAND BUFFER PLANTINGS AND GRASSES;**
- 6. ALL ISSUES RELATED TO GRADING, DRAINAGE AND EROSION CONTROL OF THE SITE SHALL BE SUBJECT TO THE REVIEW AND APPROVAL OF THE CITY ENGINEER; AND**
- 7. PREVIOUS CUP APPROVAL CONDITIONS CONTINUE TO APPLY TO EXISTING OR PROPOSED TRADITIONAL FENCING ON THE PROPERTY.**

Commissioner Field stated testimony was received about a better method to secure the invisible fence through the creek than just anchoring it with rocks. He asked staff to determine the best way to secure the fence in the creek bed. Mr. Ruzek stated he thinks a “happy medium” can be found that minimizes impacts and allows the fence to remain effective.

**COMMISSIONERS MCMANUS AND FIELD ACCEPTED A FRIENDLY AMENDMENT TO REVISE CONDITION 1 TO STATE:**

**1. THE INVISIBLE FENCING WIRE SHALL BE INSTALLED IN ACCORDANCE WITH THE RECOMMENDATION OF THE CITY ENGINEER.**

Commissioner Viksnins noted it is also a requirement that the fence be located entirely on the applicant’s property.

Commissioner Field asked staff about the conditions placed in the previous approval. Mr. Sedlacek read the conditions placed by the Council’s approval. Mr. Ruzek clarified that staff had assisted in finding the property irons but had not placed any property irons.

Commissioner Field requested adding a stipulation that the electric fence should be placed inside the rear yard fence. Commissioner McManus noted that is adequately addressed in Condition 2.

**AYES            6**  
**NAYS            0**

Chair Lally advised the City Council would consider this application at its May 4, 2010, meeting.

**PLANNING CASE #10-11**

**Julie Rosga**  
**1745 Lansford Lane**  
**Conditional Use Permit for a fence**

Planner Stephen Grittman explained that Julie Rosga is requesting approval to amend a Conditional Use Permit (CUP) that was approved last year (09-26) to place the five-foot high wrought iron fence just inside of the property line, instead of on the right-of-way line, along Stanwich Lane. That is the only change from the previous consideration and recommended for approval by staff.

Commissioner McManus asked how this happened. Assistant to the City Administrator Jake Sedlecek stated the original letter of intent was to locate the fence 8-10 feet from the curb but the drawing showed it located 8-10 feet from the property line. During construction, the applicant realized the difference between the two and contacted staff. Staff felt it would be best to hold another public hearing.

Chair Lally asked if a new application was made and fee paid. Mr. Sedlecek explained the Code does not allow for a CUP amendment application. Since there was no need for additional staff analysis, the applicant was asked to pay for just the cost of publication in the legal newspaper and the mailing.

Julie Rosga, 1745 Lansford Lane, explained she mistook the line of the curb and property line. She advised that a survey was conducted and stakes are in place.

Chair Lally opened the public hearing.

Seeing no one coming forward wishing to speak, Chair Lally asked for a motion to close the public hearing.

**COMMISSIONER FIELD MOVED, SECONDED BY COMMISSIONER NORTON, TO CLOSE THE PUBLIC HEARING.**

**AYES**           **6**  
**NAYS**           **0**

**COMMISSIONER FIELD MOVED, SECONDED BY COMMISSIONER NORTON, TO RECOMMEND APPROVAL OF THE AMENDMENT TO CONDITIONAL USE PERMIT (09-26) AS REQUESTED, AND SUBJECT TO THE FOLLOWING CONDITIONS:**

- 1. THE APPLICANT SHALL RECEIVE A FENCE PERMIT PRIOR TO INSTALLATION OF THE FENCE; AND**
- 2. THE FENCE SHALL MEET THE REGULATIONS ESTABLISHED IN SECTION 12-1D-6.**

**AYES**           **6**  
**NAYS**           **0**

Chair Lally advised the City Council would consider this application at its May 4, 2010, meeting.

**PLANNING CASE #10-12**  
**City of Mendota Heights**  
**Zoning Ordinance Amendment to Update Title 12 of the City Zoning Code**  
**12-5 Floodplain Management**

Assistant to the City Administrator Jake Sedlacek explained that FEMA is rescinding the draft floodplain map for Dakota County so this amendment is on hold.

Chair Lally asked if anyone was present who wished to address this matter. No one responded.

**Review Planning Commission Rules of Order**

Chair Lally noted the Rules of Order were presented at last month's meeting and asked the Commission if it would like to discuss this item or hold it over to the next meeting.

**COMMISSIONER NORTON MOVED, SECONDED BY COMMISSIONER FIELD, TO TABLE CONSIDERATION OF THE PLANNING COMMISSION RULES OF ORDER TO THE NEXT MEETING.**

**AYES**           **6**  
**NAYS**           **0**

**Verbal Review**

Mr. Sedlacek gave the following verbal review:

PLANNING CASE #10-04	Verizon Wireless	Conditional Use Permit
•	Approved by the City Council as recommended by the Planning Commission.	
PLANNING CASE #10-05	William Stein	Wetlands Permit
•	This item was withdrawn by the applicant and may be resubmitted later.	
PLANNING CASE #10-06	Bert McKasy	Critical Area Permit
•	Approved by the City Council as recommended by the Planning Commission.	
PLANNING CASE #10-03	City of Mendota Heights	Update to Title 12, Chapter 1 of City Code
•	Currently under City Attorney review.	

Mr. Sedlacek reminded the Commission and audience of the Spring Clean Up on Saturday, May 1, 2010, at Mendakota Park instead of Mendota Plaza. He also advised of the shred event sponsored at American Bank.

Commissioner Hennes asked about the vacant lot on Wentworth. Mr. Sedlacek advised the City had received a single family home application with the structure centered on the lot.

**COMMISSIONER NORTON MOVED, SECONDED BY COMMISSIONER HENNES, TO ADJOURN  
THE MEETING AT 9:20 P.M.**

**AYES            7**  
**NAYS            0**

Respectfully submitted,  
Carla Wirth, Recording Secretary