

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

**PLANNING COMMISSION MINUTES
May 27, 2008**

The regular meeting of the Mendota Heights Planning Commission was held on Tuesday, May 27, 2008, in the Council Chambers at City Hall, 1101 Victoria Curve at 7:30 P.M.

The following Commissioners were present: Commissioners McManus, Norton, Povolny, Viksnins and Field. Those excused: Chair Lally, Commissioner Hennes. Those present were Civil Engineer Ryan Ruzek, Assistant to the City Administrator Jake Sedlacek, and Planner Steve Gritman. Minutes were recorded by Rebecca Shaffer.

Approval of April 22, 2008 Minutes

Commissioner McManus moved, seconded by Commissioner Field, to approve the minutes of April 22, 2008 as corrected.

**AYES 5
NAYES 0**

Hearings

**PLANNING CASE #08-12
Alltech Engineering Corp.
2515 Pilot Knob Road
Variance**

Commissioner Field said Alltech Engineering is a client of his firm and will be abstaining from this case.

Mr. Gritman reviewed a map showing the location of 2515 Pilot Knob Road, which holds an existing building. The property is both zoned I, Industrial. The applicant is seeking a variance to the required side yard setback abutting a street for the construction of an addition to this building. The addition, which will be 1,770 sq. ft is needed to provide additional office space onto the northeast corner of the building, and would be located 21' 2" from the side property line. A variance for 18' 10" is being requested.

Mr. Gritman said the applicant has indicated that the need to move this building to the south would raise issues with future expansion and is seeking approval align with the front of the building. Staff feels that should the commission vote in favor of the project, the findings should be made in relation to the property itself. Mr. Gritman said the existing property is found to be unique in its original development. The applicant has indicated that the reason for the addition is to accommodate additional office space. Staff feels there are other alternatives to this design and does not recommend approval of the variance as the sight can be utilized without the variance.

Commissioner Viksnins asked if the existing building is already encroaching into the setback, and if there was a variance granted for this non-conformity. Mr. Grittman said he did not know. Commissioner Viksnins asked what other opportunities exist for this property. Mr. Grittman explained how the applicant could accommodate his plans alternatively. Commissioner Viksnins asked for clarification of the variance process. Mr. Grittman explained about a hardship being needed. Mr. Grittman said the applicant believes their hardship is if the addition is moved to the south that would preclude future expansion.

Acting Chair Povolny asked if this building became non-conforming by the road restructuring. Mr. Grittman said he was not sure of the building's history.

Steve Knutson, Wolfgram/Knutson Architects, Inc. 3140 Neil Armstrong Blvd, Eagan, MN, spoke on behalf of Alltech Engineering. Mr. Knutson explained the layout of the building and indicated how they want to save some of the existing trees, and why they are proposing this location.

Commissioner McManus said if this whole process was moved twenty feet to the south and attached to the building; the trees will not be affected. Mr. Knutson said that was possible, but may not be aesthetically appealing. They are trying to keep with the existing character of the building. Commissioner McManus said this is a commercially functioning building and not an architectural marvel. Mr. Knutson said he agrees, but the applicant wants to stay with the existing design.

Commissioner McManus said there are two choices; one is to move the whole thing south, and the other would be to have an L-shaped design. Commissioner McManus said there needs to be a compelling reason to construct this addition as proposed. Mr. Knutson said it will affect any future expansion, and any other layout would look odd.

Acting Chair Povolny asked Mr. Knutson if he has any historical information. Mr. Knutson said he did not.

Acting Chair Povolny opened the public hearing. Seeing no one coming forward wishing to speak, he asked for a motion to close the public hearing.

Commissioner Viksnins moved, seconded by Commissioner Norton, to approve close the public hearing.

AYES 4
NAYES 0
ABSTAIN 1 (Commissioner Field)

Commissioner McManus said he needs a compelling reason to do this as there are two obvious alternatives that will save the trees and work with future expansion.

Acting Chair Povolny said he can understand Mr. Knutson's reasoning for the design they are proposing, to keep with the character of the existing building.

Commissioner Viksnins said he does not see a hardship.

Acting Chair Povolny said the proposal makes sense, but there needs to be a hardship.

Commissioner McManus moved to deny the variance as presented.

Commissioner Norton asked to add a friendly amendment that the applicant has not provided any unique conditions of the property that would create a hardship. Commissioner McManus accepted his amendment.

Commissioner Norton seconded this motion with the friendly amendment.

AYES 3
NAYES 1 (Acting Chair Povolny)
ABSTAIN 1 (Commissioner Field)

PLANNING CASE #08-13

Brian E. Krisko
1205 Culligan Lane
Critical Area Permit

Mr. Gritman reviewed the application for a Critical Area Permit for the property located at 1205 Culligan Lane. The applicant is seeking to construct a privacy fence, 140 ft. in length and 6 ft. in height. The property is zoned R-1, Residential and contains a single family home which is in the critical area.

This privacy fence will be built to cover an existing chain link fence on the neighbor's yard and complies with the 30% rule, containing alternate boards. The fence is proposed to run along the east property line, in the rear of the property, beginning directly in the rear of the garage and ending in the northeast corner of the property.

Staff feels there will be no negative impact on the aesthetic integrity and natural environment of the Mississippi critical area and recommends approval of the Critical Area Permit with the following conditions:

1. A fence shall be located entirely upon the private property of the person constructing or causing the construction of such fence, unless the owner of the property adjoining agrees in writing that such fence may be erected on the division line of the respective property.
2. The fence, up to and including 6 ft. in height, may be erected on the interior lot line behind the front yard setback line and on the rear lot line.
3. The fence shall be constructed in a manner that no less than thirty percent (30%) of the plane between the ground and the top of the fence is open.
4. That side of the fence considered to be the face (the side opposite the post) shall face abutting property.

Brian Krisko, 1205 Culligan Lane, was available to answer questions.

Commissioner McManus said he has no problems with this application, and upon visiting the site, he spoke to the neighbor who indicated a different view of the property line. Mr. Krisko said he had a conversation with the neighbor today and they have an understanding of the property line. The new fence will be

constructed 1½ ft. from the neighbor’s chain link fence. The neighbor said he had no problems with this. The fence will go around the tree and only a lilac will be relocated.

Acting Chair Povolny opened the public hearing. Seeing no one else come forward wishing to speak, Acting Chair Povolny asked for a motion to close the public hearing.

Commissioner Norton moved, seconded by Commissioner McManus, to approve close the public hearing.

AYES 5
NAYES 0

Commissioner Norton moved, seconded by Commissioner Viksnins, to recommend approval of the Critical Area Permit as presented with the conditions as outlined in the Planners Report.

AYES 5
NAYES 0

PLANNING CASE #08-14
Russell Rider
790 Wentworth Avenue West
Variance

Mr. Gritman shared a map showing the location of 790 Wentworth Avenue, with is a single family home, in the R-1 zoning district. The applicant is seeking a variance to the required front yard setback for the construction of a roof over the front entrance to the existing home. The proposed roof shall be approximately 24 ft. from the front property line/right of way of Wentworth Avenue W. The variance request is for 6 ft. Mr. Gritman said a hardship has been identified as this addition will provide weather protection to the front entrance.

Staff recommends approval of the variance to the front property line setback, as the existing front wall of the home is already setback at the required 30 ft., which means that any roof constructed over the front entrance would require a variance. Staff feels the hardship is not due to circumstances created by the landowner and the proposed roof will not alter the essential character of the neighborhood. This will also improve the aesthetics of the home and provide weather protection. This application is also consistent with the Comprehensive Plan. Mr. Gritman said the city has approved other similar requests as this is a reasonable use of the property.

Commissioner McManus noted that the new steps will be coming forward from the house now and will be an improvement. Mr. Gritman said stoops such as this are also allowed to encroach.

Acting Chair Povolny noted that the applicant was not in attendance at this time.

Commissioner Field said he has a concern that the applicant is not in attendance, and he feels this case should be laid over to the next meeting in the case there are any questions of the applicant.

Commissioner Viksnins asked what the procedure was in this case when the applicant is not in attendance. Assistant to the City Administrator Jake Sedlacek said there are no set procedures in place. Acting Chair Povolny asked if this will affect the 60-day rule. Mr. Sedlacek said an extension could be granted.

Commissioner Field said it has been his experience with the Zoning Department in St. Paul that when this happens, he would always lay this over to the next meeting as there may be questions that need answers.

Commissioner Field asked if the applicant was contacted. Mr. Sedlacek said he received a letter stating that the applicant is expected to attend.

Commissioner Field moved, seconded by Commissioner Viksnins, to continue this case at the June Planning Commission Meeting.

Commissioner Field said the other alternative would be to deny, and that would not be fair to the applicant.

Acting Chair Povolny said it should be sent back as the applicant should be here to at least answer questions.

Commissioner McManus said he is willing to go either way – send it back or deny. This is not a major decision.

Commissioner Field said if it is agreeable to the seconder of the motion, he will withdraw his motion.

Commissioner Viksnins said it would seem to him that the applicant should come back to the next meeting and give the Planning Commission the opportunity to answer questions. Commissioner Viksnins said he is not willing to vote in favor and if the point is that the applicant should have been here, passing it along to the Council without recommendation does not accomplish the commission's objection.

Commissioner Field said he will re-state his first motion.

Commissioner Field moved, seconded by Commissioner Viksnins, to continue this case at the June Planning Commission Meeting.

AYES 5
NAYES 0

Acting Chair Povolny opened the public hearing.

Commissioner Norton moved, seconded by Commissioner McManus, to keep the public hearing open until the June Planning Commission Meeting.

AYES 5
NAYES 0

PLANNING CASE #08-15
Telecom Transport Management (TTM)
2425 Lexington Avenue South

Conditional Use Permit

Mr. Grittmann reviewed the application for a Conditional Use Permit for the property located at 2425 Lexington Avenue South. This property is site zoned I, Industrial and is currently used for city public work purposes. On the water tower, there are a number of cellular antennas that are arranged by the wireless services for various different companies. The applicant, Telecom Transport Management (TTM) is proposing to mount one additional antenna onto the City's water tower. Accessory cabinets will also be installed inside the water tower as a part of this project. The approach that is commonly taken with these permits is to go through the conditional use permit process and conduct an analysis that looks at where coverage is and is not available in the community. That process does not apply very well to this particular technology as this is an enhancement to an existing facility rather than a separate type of service. Staff went through the requirements and believes that this conditional use request is appropriate even though a number of these are not technically following the regular code.

Staff listed the concerns that should be addressed by the applicants or at least be identified as not applicable. Most of those relate to contractual requirements for the leasing of space on the water facility.

Staff believes that the proposed antenna will not negatively affect the overall safety and welfare of the community and this should enhance some of those items and with the comments made in the staff report, Staff recommends approval. Mr. Grittmann shared a photo of the water tower to show what the antennas look like, mounted on the tower portion, not the tank portion. These antennas are also painted to match.

Debra Weiss, agent representing TTM, asked to have some of the conditions in the Planners Report corrected. Ms. Weiss explained that this type of installation is called a backhoe service, will enhance the calls and feedbacks more data to switch at a faster pace. Ms. Weiss said most of the conditions will be taken care of in the lease agreement with the City which is under review right now with the City Attorney. Some of the corrections to be made include:

- Page 5 – item e, should be changed as follows: “The proposed electrical ~~telephone~~ box shall be painted to match the immediate surroundings in an aesthetically pleasing manner.”
- Page 6 – item j. should be changed as follows: “The applicant shall provide to the City a report from a qualified professional engineer guaranteeing noninterference and a copy of the FFC license approval ~~approval of the antenna in regard to noninterference.~~”

Mr. Grittmann said these changes would be appropriate.

Ms. Weiss also referred to Page 4 of the Planners Report under “Additional Requirements” and asked that the language be removed that refers to the Bond. Ms. Weiss said this proposal is for a small one-foot antenna and a panel box that is going to be mounted inside the water tank.

Commissioner Viksnins asked for confirmation that the applicant is asking for the performance bond to be waived. Ms. Weiss said that is what she is asking for as this will be addressed in the lease anyway, and it will cost them more to create a bond than what the cost of the bond will be.

Commissioner Viksnins asked if other than these items, the applicant is comfortable with the rest of the items listed in the Staff report. Ms. Weiss said she was.

Commissioner Field asked if the only problem she has with the bond is the cost, but that the applicant agrees to have the bond. Ms. Weiss said that was correct.

Commissioner McManus asked if this condition should be taken out, or should this decision be made by the City Council. Mr. Grittmann said he recommends it staying in there and the Council can negotiate with the lease and development agreement.

Acting Chair Povolny opened the public hearing. Seeing no one else come forward wishing to speak, Acting Chair Povolny asked for a motion to close the public hearing.

Commissioner McManus moved, seconded by Commissioner Field, to approve close the public hearing.

AYES 5
NAYES 0

Commissioner Field moved, seconded by Commissioner Norton, to recommend approval of the Conditional Use Permit with the corrections made to items e and j, but leaving in the bond language for the City Council's decision.

AYES 5
NAYES 0

REVIEW OF THE 2030 COMPREHENSIVE PLAN

Mr. Grittmann said there needs to be a public hearing relating to the adoption or recommendation of the City's update to the Comprehensive Plan. This plan is a document that regulates policy for future land use and development patterns related to land use for all the infrastructure public services. The process is the same for all cities in the seven county metro area and the final plan must be adopted by the end of this year.

The public hearing is to get the draft plan together and the action will be to recommend the Council to conditionally approve the comprehensive plan with the direction to send it out for comment. At that time, Staff will also send a copy to the Met Council for their review and get preliminary comments from them. Hopefully, all the comments will come back to Staff by the fall.

Mr. Grittmann said one of the changes in the plan relate to the property located at the intersection of Dodd Road and Highway 110. The Village project is a very obvious example of the change and very recently, the City has been dealing with the redevelopment of southeast corner of that intersection to have something similar in quality and design to The Village. One of the aspects of that area is the mixed use aspect with a much more dense urban development area than the rest of Mendota Heights.

Mr. Grittmann noted that that Pilot Knob area is still shown as residential and that is a mistake that is an area that has been very active in becoming a restoration project to its predevelopment condition.

Discussions from the workshop meeting with the City Council was to re-vert the land use designation from the St. Thomas Academy and Visitation Property south of Mendota Heights Road to a private school land use designation. Council directed Staff to have conversations with the property owners.

There were some other comments related to pedestrian activity across Highway 110 in the area of the Village, and there have been discussions on the trail development in concert with the County's plan.

Commissioner McManus said the planner covered everything he heard that was discussed at the City Council meeting, and asked if there is anything else that needs to be discussed on the southeast corner with the present development. Mr. Grittman said he believes this comprehensive plan document is here to emphasize the City's mixed use development. Commissioner McManus said he heard that the Council is very strong on their desire to see that we move in the proper direction. Mr. Grittman said the Council has directed Staff to bring that back to the Planning Commission some time in July.

Commissioner McManus asked if the Council will be taking into consideration the County's very significant, but very late, involvement. Mr. Grittman said the developer has had some discussion with the County and believe they can accommodate their request, probably not in the way the City thought, but in some way that may work.

Commissioner Norton said after the Par 3 golf course decision with the Minnesota Supreme Court, he presumes that the zoning in the comprehensive plan was reviewed for any potential discrepancies following that decision, and has this been reviewed for those types of discrepancies. Mr. Grittman said they have because the City adopted the same approach that was used at the same time as the Par 3 decision to the other golf courses, and that is to allow for limited residential use of golf course property which is designated "golf course" in the plan with the related zoning of those areas to be R-1-A. If the golf course owners decided they did not want to operate the golf course anymore, they could develop this land for residential.

Commissioner Norton asked if Staff has identified any other potential problem areas that don't necessarily relate to golf courses. Mr. Grittman said they have not, and the golf course process brought out a lot of concerns and discrepancies that Staff had to work through.

Acting Chair Povolny said he sat through the Council meeting and thinks everything looks good.

Commissioner Viksnins said he noticed that it is designated in the comprehensive plan that the Par 3 is a "small golf course" use, which is different. Commissioner Viksnins asked what the distinction is between the two. Mr. Grittman said there really isn't much one anymore and gave the background on how this came into play. Mr. Grittman said this is a unique classification that was specially made for the Par 3 golf course.

Commissioner Viksnins asked if other communities have done a similar plan. Mr. Grittman said he was not aware of any.

Commissioner Viksnins asked if the County has expressed any other long term aspirations or goals that would in any way affect the 2030 plan. Mr. Grittman said that has not been seen to be the case.

Commissioner Viksnins asked if this will come back to the Planning Commission. Mr. Grittman said this will just come back to the Council but the Planning Commission can ask the Council to give another shot at it if so desired. It will be open to further comment anyway. Commissioner Viksnins asked if this is the only public hearing at this level. Mr. Grittman said that was correct.

Commissioner Field said Staff has done an excellent job on what is a very intricate and complicated process.

Acting Chair Povolny opened the public hearing.

Judy Rhein, 522 Dodge Lane, said she has been a realtor for several years and has some issues. Ms. Rhein asked to address some comprehensive plan language which would include work force housing initiative. Ms. Rhein represented a faith based organization that comprised of over 100 churches in the metropolitan area.

Ms. Rhein said this is important as young families are impacted with the lack of adequate housing, education, transportation, food and other necessities. The money runs out before the end of the month. Ms. Rhein said Mendota Heights has done a great job with senior housing, and more is needed. There is also a need for work force housing, and there is a great opportunity now with the Mendota Plaza renovation. Having child care and restaurants, this area will provide more jobs paying about \$15/hour at the maximum. Ms. Rhein said this is a great opportunity to provide work force housing in a development like this where there are jobs, child care, and transportation readily available.

Ms. Rhein referred to a section of the comprehensive plan and quoted “the comprehensive plan should include a housing element containing standards, plans and programs, for providing adequate housing opportunities to meet existing and projected local and regional housing needs, including but not limited to the use of official controls and land use planning to promote the availability of land for the development of low and moderate income housing”.

Ms. Rhein referred to the Mendota Heights comprehensive plan draft indicates that the Met Council presents a report that forecasts affordable housing needs of the metropolitan area from 2011 to 2020. This reports looks at projections for communities of what their existing housing stock is and what they are expected to need in for future years. The draft goes on to say that from 2011 to 2020, the Met Council predicts that Mendota Heights needs 86 new affordable housing units to meet the need.

Ms. Rhein handed out their “Model Comprehensive Plan Language” to make sure these is policy language in the plans and proposes this wording be part of the plan for all the cities in Dakota County, to ensure that all cities have a level playing field for themselves and for the developers that wish to come to their city.

Ms. Rhein said the need for workforce housing is clear with the increase is food and gas prices, and it is no longer possible to purchase cheaper homes in the suburbs and traveling to the city, where most of the higher paying jobs are. Work force housing needs to be close to jobs and transportation. Future housing needs to include a density factor. To produce single-family unattached housing will be impossible because of land costs. However, town homes and other types of attached housing will produce work force units.

Commissioner McManus asked what role does the Planning Commission have with the material that was just heard. Mr. Grittmann said the role of the Planning Commission is to make a recommendation to the City Council on the draft comprehensive plan, and could take a particular position on this proposal as it relates to that draft, asking the Council to study it or have Staff prepare a recommendation to Council.

Mr. Grittmann cautioned the Planning Commission by saying if they lay this over until the June meeting, Staff will run out of time meet the deadlines.

Commissioner McManus said he would not be in favor of laying this over, but certainly would need to think this over. Ms. Rhein said the group is really hoping that language like this can be put into the document for future generations as this situation is going to exist and will have to be addressed.

Commissioner McManus asked if this would mandate that the City would have to tear down housing to replace with more affordable larger housing right away. Ms. Rhein said that is not the intent, but only to look into the future needs. Commissioner McManus said that this language could then be included to have the capacity to do this at a time when the opportunity arises.

Acting Chair Povolny asked if it is their place to put this language in here. Mr. Grittmann said the Planning Commission can make a recommendation on this document, but at this time, needs to make a decision on the draft document. The housing factor as presented can be incorporated in the near future if necessary.

Acting Chair Povolny thanked Ms. Rhein and her colleagues for bringing this to the City's attention.

Seeing no one else come forward wishing to speak, Acting Chair Povolny asked for a motion to close the public hearing.

Commissioner McManus moved, seconded by Commissioner Field, to approve close the public hearing.

AYES 5
NAYES 0

Further Discussion

Commissioner McManus said he feels this would be appropriate for further discussion and consideration for possible inclusion to the plan.

Commissioner Field moved, seconded by Commissioner McManus, to recommend approval of the Comprehensive Plan Draft Document and pass on to the City Council along with the "Model Comprehensive Plan Language" that was submitted during the public hearing for the City Council's consideration.

Further Discussion

Commissioner Norton said he would be cautionary in providing too much detail direction in the Comprehensive Plan in order to not hamstring the City in the future, and to be flexible to amend the plan should the need be.

Commissioner McManus said he simply suggests that the City Council have the opportunity to review this document and consider it. Commissioner Norton said he agrees. Commissioner Field said that is the intention of his motion.

Mr. Grittmann said if there are any further concerns to contact him.

AYES 5
NAYES 0

PLANNING CASE #08-14

Russell Rider

790 Wentworth Avenue West

Variance

Commissioner Field moved, seconded by Commissioner Norton, to reopen Planning Case No. 08-14 and reopen the public hearing.

AYES 5
NAYES 0

As the applicant is now in attendance, Acting Chair Povolny reopened this case for further discussion.

Mr. Grittmann reviewed the case again for the television audience.

Mr. Russell Rider, 790 Wentworth Avenue West, said he was instructed by the city's notice he received to be in attendance at this Planning Commission meeting at 8:30 pm.

Commissioner Field moved, seconded by Commissioner Viksnins, close the public hearing.

AYES 5
NAYES 0

Commissioner Norton moved, seconded by Commissioner McManus, to recommend approval of the variance as presented.

AYES 5
NAYES 0

Other Discussion

Commissioner Field expressed his frustrations with the hardship issue, using the example of the difference between weather protection and aesthetics.

After some additional discussion, Acting Chair Povolny asked Staff to schedule a workshop for the Planning Commission to discuss the hardship requirement. Mr. Sedlacek said Staff will also do an analysis on previous cases.

Verbal Review

Planning Case No. 08-10 Nicholas Henke/Dakota Wetlands Permit
Fence

- ♦ Approved by the City Council as recommended by the Planning Commission.

Planning Case No. 08-11 Mendota Mall Associates Preliminary Plat, Preliminary PUD,
Request for Rezoning and Wetlands
Permit

- ♦ City Council provided much feedback resulting in a 25 item check list to be addressed and brought back to the Planning Commission at their July meeting.

Commissioner Field moved, seconded by Commissioner Norton, to adjourn the meeting 9:10 pm

Respectfully submitted,

Rebecca Shaffer, Recording Secretary