

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

**PLANNING COMMISSION MINUTES
September 26, 2006**

The regular meeting of the Mendota Heights Planning Commission was held on Tuesday, September 26, 2006 in the Council Chambers at City Hall, 1101 Victoria Curve at 7:30 pm.

The following Commissioners were present: Chair Lorberbaum, Commissioners Lally, Povolny, Dolan and Hesse. Those excused: Commissioners McManus and Harms. Also present were Mendota Heights City Engineer Sue McDermott and Planner Steve Grittman. Minutes were recorded by Becki Shaffer.

Approval of August 22, 2006 Minutes

Additional correction to the July 27, 2006 minutes. Change the following paragraph to read as follows:

Page 1; first paragraph under Case #06-21:

“Mr. Grittman reviewed a map showing the location of 741 Knollwood Court in which the application is for a Critical Area Permit. The property was subject to soil failure in the rear portion of the lot. Mr. Grittman noted that the neighbor’s property was affected by the failure as well. The application is supported by extension of the geographical report from the applicant’s consultant. This information has also been reviewed by the City Engineer. Mr. Grittman said it is in the interest of the Critical Area to repair the slope in a way to prevent any future erosion.”

Corrections to the August 22nd minutes:

Page 3, 9th paragraph should be corrected as follows:

“Commissioner Dolan asked if there are any other fences along the bluff line. Mr. Grittman said he is not aware of any. Commissioner Dolan asked if there are any other fences along the right of way. Mr. Grittman said there is one just a few houses down, but is technically located in a Lilydale.

Page 5, under the comments made by Mr. Burt Anderson, change the two following sentences:

“Mr. Anderson said he raised a daughter ~~family~~ around this bluff ...” “Mr. Anderson said this property, at one time, had hedging along the front of the property, and the monuments are nothing but elaborate structures which had ~~were~~ ~~there were~~ lights at the end of the driveway.”

Page 7, 4th paragraph, second sentence should read as follows:

“Mr. Grittman said the consultants felt it would be preferable to combine the two projects, but they will be going forward independently.”

COMMISSIONER DOLAN MOVED, SECONDED BY COMMISSIONER POVOLNY, TO APPROVE THE MINUTES OF AUGUST 22, 2006 AS CORRECTED.

4 **AYES**
0 **NAYES**
1 **Abstention (Commissioner Hesse)**
MOTION CARRIED

Chair Lorberbaum said she received a letter from Mr. Dave Olson, 1049 Douglas Road, who wants to build a storage shed in the future and has not yet applied for any permits. Mr. Olson states in his letter that he has an issue with the City's rules about size. Chair Lorberbaum said there may be other people who have issues about size of sheds and told the Commissioners that they can go forward with the first case either way, and asked if there is any interest from the Planning Commissioners to hold a workshop with the City Council to talk about sizes of sheds and look into this issue. Commissioner Lally asked Ms. McDermott if there are requests that the minimum size is too small. Ms. McDermott said on the day Mr. Harkness came in to talk to Staff, there were two more residents that had similar requests. Commissioner Dolan asked if the City's ordinances are unusually restrictive on shed size. Mr. Grittmann said it is more common to allow other accessory building space larger than just the minimum size that Mendota Heights' ordinance allows, but there are other communities with these same restrictions. Chair Lorberbaum said it appears that the Planning Commission is interested in holding a workshop with the City Council.

HEARINGS

PLANNING CASE #06-29
Tom and Nancy Harkness
1245 Dodd Road
Variance

Mr. Grittmann shared a map of 1245 Dodd Road, in which the applicant is seeking a variance from the maximum shed size requirement of 144-sq. ft. to 192 sq. ft. The applicants have a single family home on the property which has an attached single car garage with the driveway off Dodd Road, and the proposed shed would be located in the rear portion of the property. This property is an oversized parcel with would allow for some flexibility on the location of the shed.

Mr. Grittmann said that because the property is so narrow, there is no room to expand the garage toward the side yard in a way that would allow an additional car parking space. Staff recommends approval of this variance request with the hardship identified as the applicant's garage is smaller than the standard zoning requirement, and there is inadequate room to expand it in a way that would provide for additional parking area.

Chair Lorberbaum asked about the woodpiles located in the back of the property. Mr. Grittmann said this is covered under the property maintenance ordinances. Chair Lorberbaum said she will ask the applicant if the wood will be stored in the shed.

Tom and Nancy Harkness, 1245 Dodd Road, said the shed would accommodate lawn equipment and house maintenance items that are currently located in the garage. Mr. Harkness said he would like to use his garage for parking at least one of his vehicles. Mr. Harkness said they heat their home with wood, and that is why there is so much wood in the back yard. He will not be storing the wood in the shed.

Chair Lorberbaum asked about the trailer in the front yard. Mr. Harkness said this trailer is parked on a parking pad adjoining the driveway, and is parked between two large trees. Mr. Harkness said he cannot place the trailer in the back yard, as he cannot drive a vehicle around the house due to space limitations.

Commissioner Povolny said there seems to be other sheds in the neighborhood and asked for clarification on the locations of those neighboring sheds. Mr. Harkness explained where the sheds were located.

Chair Lorberbaum opened the public hearing. Seeing no one come forward to speak, Chair Lorberbaum asked for a motion to close the public hearing.

COMMISSIONER LALLY MOVED, SECONDED BY COMMISSIONER DOLAN, TO CLOSE THE PUBLIC HEARING.

5 AYES
0 NAYES
MOTION CARRIED

COMMISSIONER HESSE MOVED, SECONDED BY COMMISSIONER POVOLNY, TO RECOMMEND APPROVAL OF THE VARIANCE REQUEST AS PROPOSED BASED ON THE FINDING THE APPLICANT HAS SHOWN A HARDSHIP TO COMPLY WITH THE ZONING REGULATIONS AND THAT NO OTHER ALTERNATIVE EXISTS FOR EXPANDING THE GARAGE. SUCH SHED SIDE IS REASONABLE TO PROVIDE PERSONAL STORAGE NEEDS.

Further Discussion

Commissioner Lally said it seems reasonable given the large size of this lot.

5 AYES
0 NAYS
MOTION CARRIED

Mr. Harkness said he stated in his letter of intent that they will not be available until the October 17th City Council meeting. Ms. McDermott said Case #06-29 will be placed on the agenda for the October 17th meeting.

PLANNING CASE #06-30
Pat Hoffman
2105 Lexington Avenue S.
Lemay Shores Comprehensive Plan Amendment

Mr. Grittmann reviewed the map showing the location 2105 Lexington Avenue South, which is a portion of Resurrection Cemetery property. The applicants are seeking to have a comprehensive plan amendment that would apply to this portion that would allow residential use of this property from its current designation for institutional uses. The property is not occupied by any other use other than open space at this time. The applicants, if successful with this comprehensive plan amendment, and eventual zoning and subdivision approvals, will be proposing a residential project of housing similar to the Augusta Shores project that is just north of this site.

Mr. Grittmann showed a map indicating the proposed layout of the site, which is only in concept planning now. This proposal requires the City to act on the comprehensive plan amendment and portion of the Planners Report refers to the rezoning of the property, which would be a subsequent action. The project would contain 68 acres, of which 48 acres would be open space on the property. The concept plan, known as Lemay Shores, shows approximately 62 twin home units.

Mr. Grittmann said that in reviewing this proposed amendment, the city must look at whether or not a proposed land use can be accommodated in a particular location from a public service standpoint, i.e., traffic, public utilities, sewer and water, etc. The proposed project is a very low-density project given the number of units and the size of the property (less than one unit per acre). This property is adjacent to Lemay Lake.

Mr. Grittmann said one of the most significant aspects of this site relates to the airport noise zones that are in the area. When the Augusta Shores project was being considered the Met Council and the Metropolitan Airports Commission worked on noise contouring (noise affects of airport runways) and with that information, the City determined the appropriateness of the land use. There are allowances for attached housing for certain zones versus detached housing, and a series of different tier allowances of residential uses in these areas. Mr. Grittmann said recent changes to the airport have altered the noise zones and provided a map showing those zones. Mr. Grittmann with these alterations, the proposed area is still eligible for the proposed housing plans.

Mr. Grittmann said this proposed amendment change is consistent with past actions of the City, and Staff recommends approval of the proposed changes.

Commissioner Lally asked what the current status / discussions have been with the City Council regarding open space and the moratorium on the lot splits, given that with the proposed concept plan, only 27 of the 68 acres on the site would be developed and the remainder would be open space. Mr. Grittmann said the discussion with the City Council in that area resulted in there will most likely be no significant changes made at the zoning level for lot size. The Lemay Shores project will be less dense and is definitely consistent with the City's opinion on open space preservation.

Commissioner Povolny said this is a very heavy airport traffic noise area and his concern that there are two lakes (Augusta Lake and Lemay Lake) which have no public access and park land. He is concerned that these lakes will not be accessible to all residents because it will be surround by private property owners.

Chair Lorberbaum reminded the Commission that the proposal before them is not the design of the concept plan, but only to support or not support the comprehensive plan language changes.

Chair Lorberbaum said with PUD's, the City can ask for higher standards of development. Mr. Grittmann said different PUD's have different levels, some may be related to higher airport noise impacts or the design of public streets.

Commissioner Dolan asked how the density of this proposed project would compare to Augusta Shores. Mr. Grittmann said the density would be lower than Augusta Shores. Commissioner Dolan asked if this was due to design or the contours of the property. Mr. Grittmann said it was due to design, but a larger part is the nature of the land itself. Commissioner Dolan asked why rezoning applications were not made part of this. Mr. Grittmann said from a procedural standpoint, the zoning would be tied to the PUD action. If the land use request for a comprehensive plan change does not go forwards, the City would not want to act on the zoning portion.

Commissioner Dolan said in the Planners Report, it says that Noise Zone 3 prohibits single multiplex units with individual entrances, but the City allows them. Mr. Grittmann said this is due to a negotiated agreement with the Met Council at the time of the Augusta Shores project, and it is anticipated that Met Council will follow the same policy in future discussions. Any comprehensive plan amendment must be approved by the Met Council.

Commissioner Hesse asked when the Airport Relations Committee review this. Mr. Grittmann said he is not sure. Commissioner Povolny said he talked to the Chair of the Airports Relations Committee, who told him that they are aware of this proposal, and have talked to Chad Levey, from the Metropolitan Airport Commission, regarding construction standards that must be met in that area.

Chair Lorberbaum said she does not have actual numbers of complaints regarding Augusta Shores, but the fact of the length of turnover times of the homes in the Augusta Shores area speaks to whether there are issues or not, and to her knowledge, those homes seems to turn promptly and it seems the residents are not too upset by any airport noise.

Mr. Peter Coyle, Larkin Hoffman Daly & Lindgren, is the attorney representing Hoffman-Mendota Shores LLC. Mr. Coyle said he was joined by Pat Hoffman, President of Hoffman Homes, and several technical support people from Heglund Engineering.

Mr. Coyle said he is in agreement with Mr. Grittmann's statements, and this is a legislative decision by the City Council. Mr. Coyle said that the applicant had presented a concept plan to the Planning Commission and City Council a few months ago. This concept plan said that the applicant is ready to start Phase II, with Phase I being Augusta Shores. Mr. Coyle said the feedback from the Planning Commission and City Council at that time was very positive and encouraging.

Mr. Coyle said it is important to remember that when this project started by Hoffman Homes about five years ago, the initial plan was to develop the Lemay Shores component first. The City Council was unsure about whether or not this was going to be the right idea, and was very careful and thorough in challenging the applicant to demonstrate that this project can be sited in any residential category with satisfactory results. Mr. Coyle said their customers have been very enthusiastic in their appreciation in a product that's been built for them, and the market has responded very favorably to the point where the housing has not only sold strongly but has already hit substantial premiums when the homes have been put on the resale market. Mr. Coyle said the complaints that have been raised with them have been essentially non-existent. Mr. Coyle said these buyers are well – educated about the area, and are fully aware that the airport is near.

Mr. Coyle said the potential affect to adjacent property owners will be a physical separation east to west between the existing very low density residential neighborhood and the project site across Lake Lemay of about 300 to 400 feet. Then adding quite a substantial grade separation and a very heavy vegetative screen (which will be maintained and preserved through a conservation easement) as was done at Augusta Shores.

Mr. Coyle said he believes the Planning Commission has an old airport noise contour document from 1996 and that has been subplanted by a 2005 map that MAC has produced on its website, which is the basis of the schematic that has been submitted by the applicant.

Chair Lorberbaum asked which of the two, Augusta Shores or the new Lemay Shores, would be closer to the airport. Mr. Coyle said it would appear to him that the closest would be the Augusta Shores development.

Chair Lorberbaum opened the public hearing.

Mark and Colleen Kahn, 2370 Lemay Lake Road, presented a letter expressing opposition and provided a petition signed by 33 neighbors to Ms. McDermott. Mr. Kahn said the petition says that the signatures confirm opposition to the development and read the petition to the Commission. The residents who have signed this petition feel that there may be some adverse affects on the environment if this development is approved, such as traffic, wildlife, and pollution of the lake. Chair Lorberbaum explained the process of the submittal of petitions and all other required letters and material to the Environmental Quality Board.

Mr. Kahn presented a computer generated map (obtained from Goggle Earth) showing Augusta Lake and Lemay Lake, and pointed out the water quality comparisons to show how Augusta Lake has been polluted, and said if this development comes in, Lemay Lake will be at risk for the same water quality degradation. Mr. Kahn said that a lot of the 68 acres includes the lake acreage. Mr. Kahn also expressed concerns about how the development will fit with the vision of Mendota Heights to maintain open space.

Mr. David Hiner, 1295 Kendon Lane, said he's been a resident since 1981, and has built three homes in this neighborhood. Mr. Hiner said he does not understand how the noise contour map is prepared, as he does not believe the planes actually fly these patterns as shown. Mr. Hiner said that if this development comes in, it will take away the view of the lake from the rest of the residents. Mr. Hiner said that at the south end of the lake, there is a swamp that feeds the lake which the concept plan shows running a road through. Mr. Hiner said this is a city dump in which a lot of terrible things are thrown into such as computers and dead deer that the DNR dumps. Mr. Hiner said this whole valley feeds the lake from rainwater in this area. The road should be run through the city owned property nearby.

Ellsworth Stein, 1296 Lakeview Avenue, said he is the original founder of the Airport Relation Commission. Mr. Stein said the City is always talking about open green space, and this development would take out a lot of green space. The noise is much worse on the southern part that's going to be developed because the runway is lined up perfectly across this area. This contour map does not effectively show the airplane patterns. There is also a spring at the south end of the property and the road looks that it may come up along this spring and fears it may shut off the water supply to the lake. Mr. Stein said as a member of ARC, he does not recall this project coming before the commission and anything that comes to the Planning Commission should also be reviewed by the ARC.

Mr. Stein asked who owns the property. Chair Lorberbaum said the property is owned by Resurrection Cemetery, and is talking about selling it to Hoffman Homes.

Scott and Janet Nordling, 1280 Lakeview Avenue, said they just moved into their home in July, and had no notification that this project was being proposed. Mr. Nordling said had he and his wife known about this project, they would not have purchased their home. The Nordlings were also concerned that they received no notification from the City, but was notified by the neighbor of the public hearing. Ms. McDermott said the notifications go by the list provided by the County and that she will make sure that the Nordlings are on the list to be notified by any further happenings.

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

COMMISSIONER POVOLNY MOVED, SECONDED BY COMMISSIONER DOLAN, TO CLOSE THE PUBLIC HEARING.

**5 AYES
0 NAYES
MOTION CARRIED**

Mr. Gritman said upon approval of this amendment, any subsequent steps would include a preliminary plat and a planned unit development with any necessary wetland permits that may be needed as part of the PUD.

Commissioner Lally said he understands that this is a 68 acre parcel, and about 20 acres of that is actually the lake, which allows 48 acres remaining to place development on 27 acres and leaving the rest of the 21 acres as open space. Chair Lorberbaum said there is no guarantee that this development as proposed will even take place and those plans would have to be reviewed by the Planning Commission should the amendment be approved.

COMMISSIONER DOLAN MOVED, SECONDED BY CHAIR LORBERBAUM, TO RECOMMEND APPROVAL OF THE COMPREHENSIVE PLAN AMENDMENT TO REDESIGNATE THE PROPERTY FROM INSTITUTIONAL TO LOW DENSITY RESIDENTIAL AS PROPOSED BASED UPON THE FINDINGS THAT THE USE IS CONSISTENT WITH THE SURROUNDING LAND USES AND CONSISTENT WITH THE DIRECTIVES OF THE PROPOSED LAND USE PLAN AND THE DEVELOPMENT OF THE SITE WOULD BE CONSISTENT WITH THE STANDARDS OF THE AIRCRAFT NOISE CONTINUATION ORDINANCE.

**4 AYES
1 NAYS (Commissioner Lally)
MOTION CARRIED**

**PLANNING CASE #06-31
Jon Bergh (O'Shaughnessy/Perlman)**

**731 Woodridge Drive
Variance and Critical Area Permit**

Mr. Grittmann shared the map showing the location of 731 Woodridge Drive, in which the applicants are seeking a variance to accommodate the construction of a porch addition on the rear portion of their property. The variance is for the bluff line setback of the Critical Area and with that variance, the applicants are also seeking a Critical Area Permit.

Staff does not recommend the variance because the applicant has not shown a hardship to justify the variance. It is recommended however, that the Critical Area Permit be issued only if the City approves the variance or the proposal is modified in a way that the 40-ft bluff line setback requirement is met.

Chair Lorberbaum said she believes the Commission has been provided with an old plan, and she will asked for clarification from the applicant.

Commissioner Lally asked if there have been prior problems with the slope at this address. Mr. Grittmann said he is not aware of any.

Commissioner Lally said the existing patio seems to have a greater impact on the drainage than the footing necessary for the porch would have. Commissioner Lally asked if this house could be built today with the ordinances that are now in place. Mr. Grittmann said most of the house meets the requirements, and believes it could.

Commissioner Lally asked Mr. Grittmann to describe where any acceptable alternatives for a porch would be placed.

Jon Bergh, the contractor for the applicant, said the homeowners would like to read their letter of intent. Ms. Eileen O'Shaughnessy and Mr. Arthur Perlman, 731 Woodridge Drive, read from their letter indicating why they want to build this porch (which has been included in the packets for Commission review). Ms. O'Shaughnessy said they recently purchased this property and are in the process of renovating it. They do not live at the property at this time.

The applicants provided pictures of the property and explained their desire to place their screen porch as presented. They do not feel that this proposal will cause any negative impact to the neighbors.

Chair Lorberbaum asked for confirmation that there will only be footings placed by the patio, and that the deck would not create any more impervious surface, and that what the applicant is proposing is actually less of an intrusion that what currently exists. Ms. O'Shaughnessy said that was correct, and that the proposed porch would not go out any farther than the existing non-conforming patio.

Commissioner Povolny said he visited the site and this home probably has one of the best views from the back of the house. This part of the house has no windows, and therefore, the view from inside the home would not be impacted. The applicant would be able to enjoy this part of the home, as without this porch, they could not do so.

Ms. O'Shaughnessy said that Plan C is actually an older plan that they used as a basis for creating an illustration for what they are planning. This plan was from the builder who did the addition to the house in 1995, and was not the

original building plan for the home. Ms. O'Shaughnessy said the area beneath the porch would be open and only have posts to support the porch.

Commissioner Lally said the views from this home are very nice and would like to see the applicants take advantage of this.

Chair Lorberbaum opened the public hearing. Seeing no one come forward to speak, Chair Lorberbaum asked for a motion to close the public hearing.

COMMISSIONER DOLAN MOVED, SECONDED BY COMMISSIONER HESSE, TO CLOSE THE PUBLIC HEARING.

**5 AYES
0 NAYES
MOTION CARRIED**

CHAIR LORBERBAUM MOVED, SECONDED BY COMMISSIONER POVOLNY, TO RECOMMEND APPROVAL OF THE CRITICAL AREA PERMIT AND VARIANCE AS SUBMITTED BASED ON THE FINDING THAT THE HARDSHIP EXISTS WHICH RESTRICTS THE USE OF THE PROPERTY WITHOUT THE VARIANCE, WITH THE UNDERSTANDING THAT THE DECK ADDITION SETBACK ENCROACHMENT IS LESS THAN THAT OF THE NEARBY GROUND LEVEL PATIO.

Further Discussion

Chair Lorberbaum said the encroachment piece is a big thing to her as it's really less than what exists now.

Commissioner Hesse said he is having a hard time with the hardship. Chair Lorberbaum said the applicant is not doing anything additionally invasive to the property, and is a reasonable use of the property. Commissioner Povolny said it's the same footage away from the bluff area as the deck that is existing. Commissioner Hesse said all that being true; there is still no explanation of any other reasonable alternative. Chair Lorberbaum asked if this is a reasonable use. Commissioner Dolan said in this situation, it seems that the reason it can't be done in another location is the views and that is convenience and lighting, which in his opinion, does not meet the requirements of hardship. Commissioner Hesse said he has the same concerns that Commission Dolan has expressed.

Commissioner Lally said in terms of views, this is the only site that does not restrict current interior views.

Commissioner Lally said that a porch constructed on the other side of the home may impact the neighbors more.

**3 AYES
2 NAYS (Commissioners Dolan and Hesse)
MOTION CARRIED**

**PLANNING CASE #06-32
John and Melanie Morgan
613 Pond View Drive
Variance**

Mr. Grittmann shared the map showing the location of 613 Pond View Drive, and reviewed the application in which the applicant is seeking a variance of approximately 8-ft. from the front yard setback to allow for the expansion of an existing two-car garage. The applicant is seeking approval to add a third garage to the existing home, which currently is a side-loaded garage with a circular driveway.

Staff does not recommend approval of the variance as the request is based on a desire to expand parking and storage and the property is already being put to reasonable use.

Commissioner Lally asked if there are other homes in the area that have been granted variances for garage expansions. Mr. Grittmann said he does not believe there have been in the last 4 to 5 years.

Commissioner Lally asked if there were any conversations with the applicant suggesting building a shed in the rear yard to accommodate toys and equipment that may give more room in the garage for vehicles parking. Mr. Grittmann said the applicant would be eligible for a shed. Commissioner Lally said this is a rather large lot and would accommodate a shed.

Commissioner Povolny said there is a pond in the rear of the home, and so there may be some wetland issues if a shed was constructed.

Mr. Grittmann said the plans do not show any changes that would include additional changes to the driveway to access a third garage, nor did the applicant provide a drawing of what the garage will look like, and if there would actually be an additional garage door.

Chair Lorberbaum said she visited the site and found that in working with the string rule, this addition would extend quite a lot toward the street.

Because the Planners Report indicates that the applicant has three vehicles, Commissioner Hesse asked if the Property Maintenance Ordinance requires that all vehicles be parked indoors. Mr. Grittmann said the ordinance does not require that.

Mr. John Morgan explained his storage needs and said that he does not wish to put a shed in the rear yard as it's a personal preference that he does not want to disturb any natural settings or wild life that may be in that area.

Commissioner Lally asked about the tree next to the driveway. Mr. Morgan said he would be removing this tree and would like to take away a portion of the circular driveway and replace with grass, giving only one entrance into the driveway. Mr. Morgan said he would widen the driveway to gain access into a third garage space.

Commissioner Povolny asked if there will a garage door on this addition. Mr. Morgan said that was correct.

Chair Lorberbaum said the tree removal would be a good idea as it's not a healthy tree. Chair Lorberbaum asked the applicant to identify a hardship. Mr. Morgan said he and his wife are planning on having more children, and in time, they will need additional garage space to accommodate all the toy, lawn equipment, etc. and more cars at some time. Mr. Morgan said he would also like to park his work vehicle in the garage during the winter months.

Chair Lorberbaum opened the public hearing. Seeing no one come forward to speak, Chair Lorberbaum asked for a motion to close the public hearing.

COMMISSIONER HESSE MOVED, SECONDED BY COMMISSIONER DOLAN, TO CLOSE THE PUBLIC HEARING.

**5 AYES
0 NAYES
 MOTION CARRIED**

COMMISSIONER LALLY MOVED, TO RECOMMEND APPROVAL OF THE VARIANCE REQUEST CONSISTENT WITH THE CITY COUNCIL'S VOTE IN CASE #06-22 WHERE A VARIANCE WAS APPROVED FOR A THIRD CAR GARAGE BASED ON AN 8-FT SIDE YARD SETBACK WITH THE HARDSHIP BEING IDENTIFIED AS THERE IS NO OTHER REASONABLE SPACE FOR A THIRD CAR GARAGE ON THE PROPERTY.

For lack of a second to this motion ... MOTION FAILED.

CHAIR LORBERBAUM MOVED, SECONDED BY COMMISSIONER HESSE, TO RECOMMEND DENIAL OF THE VARIANCE AS PROPOSED WITH THE FINDING THAT THE FRONT YARD IS VISIBLE AND VIOLATES THE STRING RULE, AND BASED ON THE LACK OF A HARDSHIP THAT IS NOT OF THE APPLICANT'S MAKING.

**4 AYES
1 NAYS (Commissioner Lally)
 MOTION CARRIED**

**PLANNING CASE #06-33
T-Mobile / Steve Carlson
1850-1860 Eagle Ridge Drive
Conditional Use Permit**

Mr. Gritman shared the map showing the location of 1850 and 1860 Eagle Ridge Road, which is a multi-family project and the applicants are seeking approval of a conditional use permit to allow for the construction of a cellular antenna structure on top of an existing building. The applicant, T-Mobile, has been before the City in the last few months looking for other locations in the city primarily for locations with a new tower. Those applications have not been

approved but the ordinance does have an allowance for antennas mounted on existing structures in residential district. The applicant has provided some photo simulations showing the design and the look that would be seen of the screen fence that would surround the equipment and would be located around the parking lot area.

Mr. Grittmann said the ordinance has a series of requirements for a conditional use permit for these types of requests with a maximum height above the roofline of 15-ft. and other requirements relating to color and a preference of flush-mounted antennas. In this case, the applicant wishes to use a paint color that will match the existing building, and Staff feels this would be more desirable than the eggshell that the ordinance standard. There is no proposed lighting on the structure and it appears that the ground equipment will not interfere with any of the operations of the site. The applicants have provided new coverage maps for the Commission's review.

Staff feels this proposal meets all the other requirements and recommends approval.

Commissioner Dolan said the applicant is requested a roof mounted antenna due to tree interference, and does not see that there are many trees in this area. Mr. Grittmann said this is consistent with other applications in the city, and believes that flush mounted in this case would not give adequate signals.

Commissioner Dolan asked for an update to the police department's search for coverage. Mr. Grittmann said he does not know what progress has been made and has read where they are pursuing other options.

Commissioner Dolan asked if this antenna would provide space for collocators. Mr. Grittmann said he understands that this probably would not be given the height. Commissioner Dolan asked if there is the possibility of other providers coming to the City seeking other locations in the city. Mr. Grittmann said that would be likely with technology changes.

Commissioner Dolan said it seems problematic that the City would approve all these smaller locations throughout the city if there was one location that could serve many providers. Mr. Grittmann said that would include the need for the freestanding towers, which the City Council has not been inclined to approve.

Commissioner Dolan asked if T-Mobile has reached any agreements with the South Ridge Condominium Association? Mr. Grittmann said he does not know.

Chair Lorberbaum expressed her concern with the lack of screening of the equipment fence. Mr. Grittmann said there should be some landscaping done. Chair Lorberbaum asked if the fencing needs to be solid or can there be a more open fencing design that provides the needed security. Mr. Grittmann said if the fencing were more open, it may not sufficiently screen the equipment which is the purpose of the fence. The current fence would work well with more landscaping added to soften the effect.

Commissioner Povolny said the flush mounted would look worse than the top mounted, and suggested that the antenna be placed back to the center of the roof to decrease the visibility. Mr. Grittmann said it would be less visible, but doesn't know how it would affect the service.

Steve Carlson, representative of T-Mobile, reviewed the new coverage maps that indicate the coverage of the area with the proposed antenna placement. Mr. Carlson said some of the residents of the condominium were in the audience.

Mr. Carlson showed pictures of the tree lines from the rooftop and indicated how the views would be affected. Mr. Carlson also explained how the antenna would be mounted on top of the elevator shafts, giving the antenna additional height.

Mr. Carlson said T-Mobile is currently in negotiations with the condominium association.

Commissioner Dolan asked if there will be other providers collocating on this antenna. Mr. Carlson said this antenna will be strictly for T-Mobile's use, but T-Mobile does not have exclusive use of this roof.

Commissioner Dolan asked about moving the antenna back. Mr. Carlson said that if that were done, the roof would have to be penetrated and would be more difficult to do.

Chair Lorberbaum said she would like to see more screening. Chair Lorberbaum asked why T-Mobile did not come up with this site in the first place. Mr. Carlson said this is not a perfect place, and would prefer to be further north. Chair Lorberbaum asked if T-Mobile will be coming back to the City requesting more additional sites? Mr. Carlson said that is possible within the next year.

Mr. Bob Stassen, representing the Board of Directors of the South Ridge Condominium Association, shared pictures of how the building will look with this antenna by having a resident stand on top of the building at about the same height of the proposed antenna. Mr. Stassen talked about the Board and that the residents manage the building without a management company.

Chair Lorberbaum opened the public hearing.

Stewart Styman, 1830 Eagle Ridge Drive, said he learned more things at this meeting that he was not aware of at the last meeting he attended with T-Mobile. Mr. Styman said there have been a lot of changes since that meeting that he was not aware of. Mr. Styman said he came to the public hearing prepared to support this proposal, but now he is not comfortable with it.

Jerry Caufield, Treasurer of the South Ridge Condominium Association, said he was told that Cingular could put a tower on the building. Mr. Caufield said he would prefer to have the antenna placed back further on the roof and the pictures that were shared tonight were no where near what he was presented with at the last meeting of between T-Mobile and the Association.

Mr. Stassen said there have been no changes.

Stan Davis, 1870 Eagle Ridge, resides to the south of the proposed building. Mr. Davis asked if T-Mobile has contacted anyone at Eagle Point. Mr. Davis wants to see a larger freestanding tower, but not in this residential neighborhood.

Steve Crovitz, 1850 Eagle Ridge Drive, spoke on his concerns regarding the health and environmental safety risks and have not heard these issues addressed yet. Mr. Crovitz says this proposal deals with high frequency and would like to see more discussion regarding these topics.

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

COMMISSIONER DOLAN MOVED, SECONDED BY COMMISSIONER HESSE, TO CLOSE THE PUBLIC HEARING.

**5 AYES
0 NAYES
MOTION CARRIED**

COMMISSIONER HESSE MOVED, SECONDED BY CHAIR LORBERBAUM, TO RECOMMEND APPROVAL OF THE CONDITIONAL USE PERMIT TO MOUNT A WIRELESS ANTENNA ON THE ROOFTOP OF THE SOUTH RIDGE CONDOMINIUM PROPERTY SUBJECT TO THE FINAL AGREEMENT BETWEEN THE ASSOCIATION AND T-MOBILE.

Chair Lorberbaum said if the residents are unhappy, they have as much power to make this not happen as the City does.

Chair Lorberbaum added a Friendly Amendment to include screening and landscaping and the fencing be opaque. Commissioner Hesse accepted the Friendly Amendment to the extent that the landscaping will not restrict access to the equipment.

**5 AYES
0 NAYS
MOTION CARRIED**

VERBAL REVIEW – Sue McDermott

PLANNING CASE #06-26 Jacqueline J. Peterson Conditional Use Permit
• City Council approved as recommended by the Planning Commission.

PLANNING CASE #06-27 Marco Scibora Conditional Use Permit
• City Council approved. and Critical Area Permit
Chair Lorberbaum asked Ms. McDermott for a recap of the City Council’s decisions regarding this case.

PLANNING CASE #06-28 Gary Kravitz/Anna Schorer Critical Area Permit
• City Council approved as recommended by the Planning Commission.

Other Business

Planning Commission Meeting
September 26, 2006

Chair Lorberbaum commented on information regarding resident complaints on airport noise. Residents can call 612-726-9411 or log on the website at www.macausat.org.

COMMISSIONER HESSE MOVED, SECONDED BY COMMISSIONER LALLY, TO ADJOURN THE MEETING AT 10:45 PM.

5 AYES

0 NAYS

MOTION CARRIED

Respectfully submitted,

Becki Shaffer, Recording Secretary