

**SHOREVIEW PLANNING COMMISSION
MEETING MINUTES**

January 25, 2011

CALL TO ORDER

Chair Feldsien called the meeting of the January 25, 2011 Shoreview Planning Commission meeting to order at 7:00 p.m.

ROLL CALL

The following members were present: Chair Feldsien; Commissioners Ferrington, Mons, Proud, Schumer, Solomonson and Wenner.

APPROVAL OF AGENDA

MOTION: by Commissioner Schumer, seconded by Commissioner Wenner to approve the agenda as submitted.

VOTE: Ayes - 7 Nays - 0

APPROVAL OF MINUTES

MOTION: by Commissioner Proud, seconded Commissioner Ferrington to approve the December 7, 2010 Planning Commission minutes as submitted.

VOTE: Ayes - 6 Nays - 0 Abstain - 1 (Schumer)

Commissioner Schumer abstained because he did not attend that meeting.

REPORT ON CITY COUNCIL ACTIONS

City Planner Nordine reported that the City Council granted a one-year extension to a Conditional Use Permit approved in 2010 for the Fishers at 5291 Hodgson Road.

NEW BUSINESS

**PUBLIC HEARING - PLANNED UNIT DEVELOPMENT (PUD) - DEVELOPMENT
STAGE/PRELIMINARY PLAT**

FILE NO.: 2408-11-01
APPLICANT: LEXINGTON ESTATES TOWNHOMES ASSOCIATION
THREE, INC.

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LOCATION: PID # 02-30-23-33-0118 (SERENE COURT)

City Attorney Filla stated that he has reviewed the appropriate affidavits of notice and the public hearing is in order.

Presentation by City Planner Kathleen Nordine

This application is for approval of a preliminary plat and amendment to the existing PUD to re-plat the common area, including private road and parking area and to dedicate these areas to the City as public right-of-way. This development consists of 21 rambler-style units located in two- and three-unit buildings. A private street was approved because of the development design, low amount of traffic and establishment of a homeowner's association to maintain the road. Public sewer and water lines are located beneath the private roadway. This has presented some conflicts when the City has had infrastructure repairs.

The City has developed a policy to convert private streets to public streets with the following conditions: 1) the private street can function as a public street; 2) the private street was built to City standards; and 3) re-platting is required to dedicate the private street as public. The common areas to be re-platted with the dedicated public right-of-way. Setbacks of the building from the pavement will not change.

The Public Works Director did review the application and determined that the proposal does comply with the criteria established by the City.

This proposal is also consistent with the City's housing and neighborhood preservation goals in that by the Association releasing responsibility for the roadway would allow it to re-focus resources on higher priority needs.

Notices were sent to property owners within 350 feet. A number of telephone calls were received with questions about street maintenance. There were also questions as to whether further development in the common area is proposed. No further development is proposed.

Staff is recommending this application be forwarded to the City Council for approval with the findings and conditions listed in the staff report.

Commissioner Solomonson asked about overnight parking on the street, if it is converted to a public street. Ms. Nordine responded that would have to be requested by the Association to the City Council. There is some off-street parking available in the public right-of-way that will be maintained by the City as parking areas. Public street regulations would apply regarding overnight parking.

Commissioner Mons stated that he would encourage the City Council to review the policy

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adopted and implications for other townhouse developments. Ms. Nordine stated that the EDA has reached out to the Associations. A workshop was held last fall on housing improvements.

Commissioner Mons stated that if the City is taking on maintenance of the streets, financial resources for some compensation from the Association should be considered.

Commissioner Ferrington asked if there would be a loss in taxes with the road conversion. Ms. Nordine answered, no.

Chair Feldsien opened the public hearing.

Mr. Tim Kulas, 1092 Serene Court, past President of Association, stated that it is estimated that it will cost approximately \$7,000 for the conversion and would not want to incur more costs. Commissioner Mons responded that the Association is, with this action, off-loading street maintenance costs to the City. **Mr. Kulas** stated that the home owners pay the same taxes for street maintenance in the City as other homeowners, although street services were not provided.

Chair Feldsien stated that cost is not a consideration of the Planning Commission but is concerned about the functionality of the road conversion.

MOTION: by Commissioner Schumer, seconded by Commissioner Mons to close the public hearing.

VOTE: Ayes - 7 Nays - 0

MOTION: by Commissioner Proud, seconded by Commissioner Wenner to recommend that the City Council approve Lexington Estates Townhomes Association Three, Inc.'s request for the preliminary plat, Serene Hills Estate Plat Four, and the amendment to the approved Planned Unit Development, subject to the following conditions:

1. Approval of the preliminary plat and amendment to the PUD shall expire within one year of the date approved by the City Council.
2. The final right-of-way design for Serene Court is subject to review and approval of the Public Works Director.

This approval is based on the following findings:

1. The use and development was approved as a PUD - Planned Unit Development District. The underlying zoning designation is R-2, Attached Residential
2. The use and proposed alterations are consistent with the planned land use, goals and policies of the Comprehensive Plan, Chapter 4, Land Use and the housing goals in Chapter 7, Housing.
3. This conversion of the street to a public roadway is consistent with the City's

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current subdivision standards that require all streets to be publically dedicated right-of-ways.

- 4. Serene Court complies with the established criteria regarding the conversion of private streets to public streets.

Discussion:

Commissioner Mons offered an amendment to correct the spelling of the word “publicly,” under No. 3 of the Findings.

Commissioner Solomonson requested that clarification be made as to whether overnight parking is allowed be addressed at a future time.

Commissioner Schumer stated that regulations prohibit overnight parking, and he would be disappointed if an exception were made.

City Attorney Filla stated that this action is a dedication to the City. There are declarations of record that were in place prior to existence of the City. These declarations would hold and may not comply with current City regulations. Overnight parking will be addressed.

VOTE: Ayes - 6 Nays - 0 Abstain - 1 (Mons)

RESIDENTIAL DESIGN REVIEW/VARIANCE

FILE NO.: **2409-11-02**
APPLICANT: **TJB HOMES, INC.**
LOCATION: **5110 LEXINGTON AVENUE**

Presentation by Senior Planner Rob Warwick

This application is a teardown/rebuild on a substandard riparian lot on the west shore of Turtle Lake. The property is located on Kimberly Lane, which is an unimproved public street. The lot has an L-shape configuration and area of 30,200 square feet. The width is under the 100-foot minimum at 95 feet at the front setback and 55 feet at the Ordinary High Water mark (OHW). The existing house, all accessory structures and drives would be removed to construct a two-story house with an attached 3-car garage.

The house would have a look-out lower level on the lake side. The variance request is to reduce the front setback from 372.7 feet to 127.5 feet and increase the OHW setback from 134 to 165 feet. The property is located in the R-1 and Shoreland Overlay District. The proposed front setback is 127.5; existing setback is 170 feet. The side setbacks exceed the 10-foot minimum. The OHW setback proposed is 165 feet; the existing setback is 163 feet. When adjacent houses have a front setback that exceeds 40 feet, the setback is calculated. In this

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instance, the calculated front setback range is 372.7 to 392.7 feet. Therefore, a variance is requested to reduce the front setback to 127.5 feet. The OHW calculated setback range is 114 to 134 feet based on the OHW setbacks of the adjoining houses. A variance to increase the OHW setback to 165 feet is requested.

The design standards for lot coverage, building height, foundation area, architectural mass and setbacks would all be in compliance with the exception of the front and OHW setbacks.

The applicant states that reasonable use does not exist because of the condition of the existing house, which has structural problems and is currently valued by Ramsey County at \$45,000. The lot configuration and variations in depth of adjoining lots increases the front setback and requires a house to be located near the OHW. Removal of the existing non-conforming deck and accessory structures will have a positive effect on the neighborhood.

Architectural Mass has been identified as one of the required shoreland mitigation practices. A second practice will be identified and a mitigation affidavit executed prior to issuance of a building permit.

The Rice Creek Watershed District will require a permit. The DNR has indicated that the project appears reasonable and has encouraged removal of the lakeside patio or other shoreline restoration.

Property owners within 350 feet were notified. No comments were received.

Staff agrees hardship is present due to the location and condition of the existing house, the disparity in lot depths of the two adjacent houses results in a required front setback near the OHW setback providing no buildable area. The proposed location of the house is approximate to the existing house location, which will be less site disturbance and impact on the lake than new construction in conformance with the OHW. Construction of a new house to obtain reasonable use is recommended and that the variances be approved.

Commissioner Solomonson asked the reason for referencing the two public streets, Lexington and Kimberly Lane, which confuses the setback requirement. Mr. Warwick explained that code requires looking at the adjacent parcels. It does not matter what street they are on.

Commissioner Mons expressed some concern that other variance requests will be necessary for the houses north of the applicant. In order to rebuild on the existing footprint, the house at 5114 would also need variances. He would like staff to take a proactive approach to what improvement possibilities would be available for property owners to the north of 5110.

Chair Feldsien asked if water and sewer are available. Mr. Warwick answered, yes. There is a hydrant in the southwest corner indicating municipal water availability. This is a mathematical dilemma with frontage on Kimberly Lane and Lexington and how the lot was

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platted.

Mr. Jason Budzynski, TJB Homes, stated that there is water and sewer to the home. The big issue is the overlapping setbacks.

Commissioner Ferrington stated that she is pleased with the plan that takes out the accessory buildings. Impervious surface is being reduced. She would encourage the builder and homeowners to consider native vegetation by the lake to reduce runoff and improve water quality.

MOTION: by Commissioner Schumer, seconded by Commissioner Solomonson to adopt Resolution 11-6 approving the variance requests to reduce the front and increase the OHW setbacks for a new dwelling, and to approve the residential design review application at 5110 Lexington Avenue, subject to the following conditions:

1. The project must be completed in accordance with the plans submitted as part of the Residential Design Review/Variance applications. Any significant changes to these plans, as determined by the City Planner, will require re view and approval by the Planning Commission.
2. This approval will expire after one year if a building permit has not been issued and work has not begun on the project.
3. Impervious surface coverage shall not exceed 30% of the total lot area as a result of this project. Foundation area shall not exceed 18%. Building height shall not exceed 35 feet, measured peak to lowest grade within 5 feet of the foundation.
4. A storm water management plan shall be submitted with the building permit application for approval by the City. The approved plan shall implemented and maintained on the property.
5. An erosion control plan shall be submitted with the building permit applications, and implemented and maintained during construction.
6. No parking or storage is permitted on any public property, including Kimberly Lane and Lexington Avenue. Unobstructed access to all nearby properties shall be maintained throughout the period of construction.
7. A second mitigation practice shall be selected, as approved by the City Planner. The mitigation plan shall be completed within one year of this approval date. A Mitigation Affidavit shall be executed prior to the issuance of a building permit for the new home.
8. The project is subject to the permitting requirements of the Rice Creek Watershed District.
9. The approval is subject to a 5-day appeal period. Once the appeal period expires, a building permit may be issued for the proposed project. A building permit must be obtained before any construction activity or site work begins.

The approval is based on the following findings:

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1. The existing house is a non-conforming structure, is outdated and in need of renovation. It is not possible to expand the existing house in compliance with the regulations of the Development Code. Since the minimum required front and OHW setbacks overlap, there is no building area on the property and a reasonable use of this residential property is not possible under the terms of the Development Code.
2. Hardship exists due to the configuration of the subject property and depth of the lots adjacent to the subject property since a calculated setback is used for this riparian lot. The irregular shape of the lot creates hardship. These circumstances are unique to the property.
3. The proposed setback meets the spirit and intent of the ordinance and will not alter the character of the neighborhood.

VOTE: Ayes - 7 Nays - 0

MISCELLANEOUS

Council Assignments

Commissioners Ferrington and Proud will respectively attend the February 7th and February 22nd, 2011 City Council meetings.

Planning Commission Workshop

Ms. Nordine noted that the next regular meeting of the Planning Commission is March 1, 2011. A workshop will be held at 6:00 p.m. prior to the regular meeting for follow-up discussion on cell towers.

ADJOURNMENT

MOTION: by Commissioner Mons, seconded by Commissioner Schumer to adjourn the January 25, 2011, Planning Commission meeting at 8.11 p.m.

ROLL CALL: Ayes - 7 Nays - 0

ATTEST:

Kathleen Nordine
City Planner