

**AGENDA
PLANNING COMMISSION MEETING
CITY OF SHOREVIEW**

DATE: APRIL 23, 2013
TIME: 7:00 PM
PLACE: SHOREVIEW CITY HALL
LOCATION: 4600 NORTH VICTORIA

1. CALL TO ORDER
ROLL CALL
APPROVAL OF AGENDA

2. APPROVAL OF MINUTES

March 26, 2013

Brief Description of Meeting Process – Chair Steve Solomonson

3. REPORT ON CITY COUNCIL ACTIONS:

Meeting Date: April 1st, 2013 and April 15, 2013

4. OLD BUSINESS

**A. PRELIMINARY PLAT /
SITE & BUILDING PLAN REVIEW**

FILE NO: 2477-13-04

APPLICANT: St Odilia Church

LOCATION: 3495 Victoria Street North

**B. PUBLIC HEARING: TEXT-AMENDMENT – RESIDENTIAL SETBACK
REGULATIONS**

FILE NO: 2433-11-26

APPLICANT: City of Shoreview

LOCATION: City Wide

5. MISCELLANEOUS:

A. Sign Moratorium – Message Center Signs

*B. City Council Assignments for May 6th and May 20th Commission Members
Wenner and McCool*

C. Planning Commission Meeting – April 30th

D. Planning Commission Workshop – May 28th – before the regular meeting.

6. ADJOURNMENT

**SHOREVIEW PLANNING COMMISSION
MEETING MINUTES
March 26, 2013**

CALL TO ORDER

Chair Solomonson called the March 26, 2013 Shoreview Planning Commission meeting to order at 7:00 p.m.

ROLL CALL

The following Commissioners were present: Chair Solomonson, Commissioners Ferrington, McCool, Proud, Schumer, Wenner.

Commissioner Thompson was absent.

APPROVAL OF AGENDA

MOTION: by Commissioner Schumer, seconded by Commissioner Wenner to approve the March 26, 2013 Planning Commission meeting agenda as amended.

VOTE: Ayes - 6 Nays - 0

The dates for the listed City Council meetings under the Miscellaneous portion of the agenda were corrected to April 1st, and April 15th.

APPROVAL OF MINUTES

MOTION: by Commissioner Proud, seconded by Commissioner Ferrington to approve the January 29, 2013 Planning Commission meeting minutes as submitted.

VOTE: Ayes - 5 Nays - 1 Abstain - 1 (Schumer)

Commissioner Schumer abstained, as he did not attend the meeting.

MOTION: by Commissioner Schumer, seconded by Commissioner Ferrington to approve the February 26, 2013 Planning Commission workshop meeting minutes, as submitted.

VOTE: Ayes - 5 Nays - 1 Abstain - 1 (Proud)

REPORT ON CITY COUNCIL ACTIONS:

City Planner Kathleen Nordine reported that since the last Planning Commission meeting, the City Council acted on the following items as recommended by the Commission:

- Approved Rezoning, Preliminary Plat, Planned Unit Development, Development Stage Review for PaR Systems, County Road E
- Approved Site and Building Plan for Ramsey County Parks and Recreation, 5959 Rice Creek Parkway
- Upheld Planning Commission Denial of Variance Appeal for Michael Morse, 1648 Lois Drive
- Approved Conditional Use Permit for Dennis and Mary Jarnot at 1000 Oakridge Drive
- Approved Text Amendment to City Code regarding vehicle sales

PUBLIC HEARING - CONDITIONAL USE PERMIT

FILE NO.: 2476-13=03
APPLICANT: JEFFREY & MARGARET VEST
LOCATION: 5385 CARLSON ROAD

Presentation by City Planner Kathleen Nordine

The application is for a Conditional Use Permit for an addition to a detached accessory structure. The permit is required because the property is larger than one acre, and the structure is larger than the maximum area permitted. The property is zoned R1, Detached Residential, and is in the Shoreland Management District of Turtle Lake. The property consists of 1.18 acres with a lot width of 56 feet. It is developed with a single-family home of 2,352 square feet with an attached garage of 624 square feet. There is a detached accessory structure of 832 square feet. The accessory structures total 1,500 square feet or 66% of the dwelling unit foundation area. Code allows accessory structures to be 90% of a dwelling unit area or 1,200 square feet whichever is the most restrictive.

Accessory structures on properties greater than 1 acre may exceed the maximum area permitted with a Conditional Use Permit. The proposed project does comply with location, height, design, setback and screening requirements. This application satisfies the standards of a Conditional Use Permit, and the use is consistent with the Development Code and Comprehensive Plan policies.

Property owners within 350 feet were notified of the application and public hearing. No comments have been received. Staff is recommending that the Planning Commission hold the public hearing and recommend approval to the City Council with the Conditional Use Permit with the conditions listed in the staff report.

Commissioner McCool asked for an explanation of why the maximum height under Code is 18 feet, but the structure is 22 feet. Ms. Nordine responded that the structure was built prior to 2006, when the Code was amended to the 18-foot limit. Prior to that time accessory structures could not be taller than the principal structure on the property. A building permit was issued for the subject structure, and it was legal at that time.

City Attorney Filla stated that he has reviewed the notices for the public hearing, which is in order at this time.

Chair Solomonson opened the public hearing.

Commissioner Ferrington asked for further explanation of the screening to neighbors. **Mr. Jeff Vest**, Applicant, stated that there is a tree line that runs the entire property line. They are pine trees with lower brush.

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

VOTE: Ayes - 6 Nays - 0

Chair Solomonson asked what circumstances would terminate the Conditional Use Permit. Ms. Nordine stated that the Conditional Use Permit runs with the land.

MOTION: by Commissioner Proud, seconded by Commissioner Schumer to recommend the City Council approve the Conditional Use Permit submitted by Jeff and Margaret Vest, 5385 Carlson Road, to construct an addition onto an existing detached accessory structure on the property, subject to the following conditions:

1. The project must be completed in accordance with the plans submitted with the application. Any significant changes to these plans, as determined by the City Planner, will require review and approval by the Planning Commission.
2. The exterior design and finish of the addition shall match the existing structure.
3. The existing vegetation along that portion of the side property line adjacent to the proposed structure must remain and be maintained.
4. A minimum setback of 10 feet is required from the adjoining side property line.
5. The applicant shall obtain a building permit for the structure.
6. The structure shall be used for storage purposes of household and lawn supplies, vehicles and equipment.
7. The structure shall not be used in any way for commercial purposes.

Said approval is based on the following findings of fact:

1. The proposed accessory structure will maintain the residential use and character of the property and is, therefore, in harmony with the general purposes and intent of the Development Ordinance.
2. The primary use of the property will remain residential and is in harmony with the policies of the Comprehensive Guide Plan.
3. The conditional use permit standards as detailed in the Development Ordinance for a residential accessory are met.
4. The structure and/or land use conform to the Land Use Chapter of the Comprehensive Guide Plan and are compatible with the existing neighborhood.

VOTE: Ayes - 6 Nays - 0

PUBLIC HEARING - PRELIMINARY PLAT/SITE & BUILDING PLAN REVIEW

FILE NO.: 2477-13-04
APPLICANT: ST. ODILIA CHURCH
LOCATION: 3495 VICTORIA STREET NORTH

Presentation by Senior Planner, Rob Warwick

St. Odilia Church has applied to subdivide their property into five lots. The five lots would be used for: 1) church, school, and storage house; 2) administration building; 3) hospice building; 4) Priest's residence; and 5) prayer garden, columbarium and cemetery. The Site and Building Plan Review is for a prayer garden, cemetery and columbarium on Lot 5, which consists of 2.5 acres and is on the west side of the 19-acre campus. An access drive from Vivian Ave. splits Lot 5 into a north and south section.

The proposal will be developed in phases. The First Phase will be to develop the south section with gardens and walkways that connect to the columbarium wall and other memorial features. The plan shows 48 traditional grave sites and 1,841 columbarium niches. One columbarium wall with 96 niches would be constructed as part of this phase. The north section will be graded and landscaped during the First Phase and used as cemetery, as it expands over time. This section has a total of 258 traditional grave sites and 1,088 columbarium niches with rain gardens to manage storm water. The rate of development will depend on demand. It is anticipated that the use will meet a community need for the next 100 years.

Adjacent land uses to St. Odilia include low and high density residential; institutional, natural and park. Staff finds that the proposed prayer garden and cemetery are compatible with surrounding land uses. Traditional graves will be set back a minimum of 30 feet from the Vivian right-of-way, and the plans show the area to be heavily landscaped. The rain garden and landscaping will be a buffer to the cemetery.

State law requires cemeteries be platted. The preliminary plat shows the property subdivided into five parcels. Each has a principal structure except Lot 5, which will be used for the prayer garden and cemetery. The plat integrates the property acquired from the Crosier Fathers into the campus. Existing private easements have previously been conveyed for shared driveway access and parking between the parcels, as well as public easements for drainage and utility use for stormwater management.

All five lots have sanitary sewer and water service. Drainage and utility easements are required by Code. The proposal complies with Development Code requirements with the exception of Lot 2, which does not have frontage on a public road. This is the hospice or former Priory of the Crosier Fathers. Cottage Place was dedicated in 1946, but it was never improved due to wetlands and poor soils. The City vacated the unimproved portion of Cottage Place in 1993, and as a result access to Lot 2 is provided via private drives. Since this lot previously existed, the nonconformity may continue without a variance.

Staff finds that the proposal is consistent with the policies of the Comprehensive Plan and Development Code. The prayer garden/cemetery/columbarium will be open to people of any faith. The location along Vivian has been designed to comply with the 30-foot front and 10-foot side setbacks required from property lines. There will be no impact to nearby residential uses. Landscaping and at-grade markers will minimize the visual impact. All of the property is owned by the church. Staff suggests a condition that if any lots are sold in the future, the property would be rezoned to PUD, Planned Unit Development. This would give the City the opportunity to review uses and that they remain compatible.

The City Engineer has determined that the plan does comply with the City's Surface Water Management Plan. The rain gardens will reduce runoff to less than what exists currently.

Notices of the public hearing were mailed to property owners within 350 feet of the campus. Two written comments were received, and four were distributed at this meeting. One comment is in support; the others oppose because of concerns about proximity to residences and schools, traffic and reduced property values.

Staff finds that the proposal conforms to City development regulations and policies of the Comprehensive Plan. Staff is recommending holding the public hearing and forwarding the applications to the City Council recommending approval.

Commissioner Ferrington noted the proximity of the soccer goal and batting cage in the park with no fence proposed between the properties.

Commissioner Wenner asked if the City requires a long-term maintenance fund for cemeteries. Mr. Warwick stated that there are no City regulations, but that is a Minnesota statutory requirement.

Commissioner Proud asked if there is specific information as to the embalming fluid chemicals that will be used in the cemetery and their impact to ground water, or has the use of these chemicals been reviewed by the Ramsey-Washington Metro Watershed and Environmental Quality Committee. Mr. Warwick answered that staff has no knowledge of specific chemicals. Ramsey-Washington Metro Watershed has indicated that a permit is not necessary. He does not know if they made a determination about ground water impacts.

Chair Solomonson asked if the grave markers would be at grade. Mr. Warwick described the slope of the property and stated that there would be some visibility of headstones from the street.

Commissioner McCool asked if the Comprehensive Plan refers specifically to preferred sites for a cemetery use. Mr. Warwick stated that it is considered the same as any public or quasi public use, such as church, school.

City Attorney Filla stated that the required notices have been provided for the public hearing.

Chair Solomonson opened the public hearing.

Father Phil Rask, Pastor of St. Odilia Parish, 3470 Vivian, stated that this plan has been considered for a number of years. More funerals are now cremations (approximately 60%) rather than burials. Traditional Catholic cemeteries are then not being used for interment. The church would like to offer the columbarium as a service to parishioners. The Diocese has indicated that in order to do that, traditional in-ground burial also must be offered. Landscaping features were added for a garden to make this a pleasing place for reflection and prayer. Only flush markers will be used rather than standing monuments. No restrictions are made on use and will be available to anyone in the community.

Commissioner Proud asked if there is a policy regarding to color of markers. **Father Rask** stated that has not been decided but will be considered.

Commissioner Schumer asked if it is correct that in the applicant materials presented notice letters were sent to residents within 500 feet.

Ms. Jeannie Schaaf, Parish Administrator, stated that in 2012, letters were sent to neighbors and parishioners on the basis of a list provided by the City within 500 feet. In 2013, a notice was also sent out on the basis of a list provided by the City within 350 feet. The applicant relied on the data provided by the City. The only feedback received from the community was at a neighborhood meeting held at the church in February 2013. The information was also on the church website and in church bulletins.

Commissioner Ferrington asked the reason for not fencing this area. **Father Rask** responded that their consultant advised that cemeteries are taking down fences and not separating them from the community.

Mr. Chiou, 1037 Cottage Place, stated he heard about this project online. He agrees that 350 feet is a good radius, but because of the school there should be wider notification. It may have been legally correct, but that did not take into account the school. He asked about the impact of traffic to the cemetery from services held at a different site. He specifically looked for a home not near a cemetery but now is confronted with this possibility.

Mr. Jeff Washburn, 3479 Vivian Avenue, expressed a couple of concerns about children playing within a matter of feet from the cemetery. A lot of people use the bike path. He suggested use of the plot closest to the pond, which is well hidden by trees and landscaping. The north portion is close to where children play. He asked if any studies have been done to provide information on the impact to property values.

Mr. Ron Wendt, 3469 Vivian Avenue, also expressed concerns about using the north section rather than the south section. The north section is adjacent to the soccer field, a playground to the north and another to the east. Children will be chasing balls in the cemetery. Funerals happen at all times and in order to not have processions through the playground they will have to go down County Road E to get to Vivian and access the cemetery.

Mr. Bob Wyant, 701 Brigadoon Circle, stated that the charge of the Commission is to review the application for compliance with City Code and recommendation to the City Council. As

proposed, the proposal does meet requirements for approval. However, one issue not discussed is the impact on property value. In an article in the *Appraisal Journal* in 2010, he quoted the following: "The potential impact of cemeteries on value is addressed using a regression analysis on data from 575 transactions of single-family houses in the vicinity of four cemeteries. Consistent with previous, research on the topic, no price effect is discovered." Contrary to the usual cemeteries there will be no large headstones. It is refreshing to note there will be no fences. The plan calls for institutional use on this property. The proposal is benign compared to what some uses could be. He urged approval.

Mr. Steve Petersen, 3516 Nancy Place, stated that his main concern is property value. He believes that it will have a negative impact, as his property is only a block away and he has a direct view of the north portion. The Island Lake playground is right on the property line of St. Odilia's. Children will be playing within 10 or 15 feet of the cemetery. There are many children in the area, and it is not appropriate to expose children to funerals day after day. There is a steep hill in the north section. There is no way to screen with trees. Even flush headstones will be visible. Wreaths will be visible. Traffic to the neighborhood comes from Harriet and will directly see the cemetery. Non-members and processions using the cemetery will park on Vivian to access the cemetery.

Ms. Christine Wendt, 3469 Vivian Avenue, stated that there are already buses rerouted to Vivian Avenue for use of the new gym. She asked if there consideration of damage to the road with added traffic. She asked about 21-gun salutes adjacent to the Island Lake and St. Odilia Schools. The plans are serene, and the site is a peaceful place on the south portion, not the north section where it is planned.

Mr. Tom Timmons, 3456 Milton Street, stated that he agrees with all of the objections stated. This does not seem to be a good fit for the neighborhood. It is being squeezed in between a church, neighborhood, school and playground. His concern is setting a precedent for other cemeteries on church land in Shoreview.

Ms. Nicole Ford, 921 Harriet Avenue, stated that her biggest concern is having to walk by the cemetery every day to get to Island Lake School. She is concerned about safety with funeral processions in addition to an already busy street on Vivian. With the hill, cars travel very fast.

Ms. Beth Mushel, 3444 Vivian Avenue, stated that she does not have a problem using the south portion of the property for a cemetery but not the north. The school crossing is adjacent to the north portion. It is inappropriate and out of place. She asked what landscaping would be used to screen the 6.8 foot columbarium wall. Mr. Warwick answered that trees will be planted that will eventually reach 40 feet.

Ms. Laurie Olson, 1065 Nelson Drive, stated that as a real estate agent she can understand the concern for property value. The research that has been presented shows not impact, but she would like to see more research done. St. Odilia is concerned about being respectful to the community and add a service to the community. She would urge discussions for all to work together. She asked for a discussion on specific landscaping to enhance the area.

Mr. Bob Eibenstiener, 14 Ridge Road, stated that the community is fortunate to have a columbarium built there. There will be no long parties, dogs barking or bright lights. With trees planted, the area will be screened completely from residential homes. Funerals are a part of life. Whether there is a cemetery or not, there is a funeral at St. Odilia's every week.

Mr. John Mushel, 3444 Vivian Avenue, asked if there has been any comment from the Mounds View School District and would like to hear a response. It is difficult to have to give an explanation to children who come home from school and say that while playing, they saw someone buried.

Ms. Schaaf, stated that Mounds View School District was notified as was Island Lake School. It is her understanding that the comment received from the Principal at Island Lake School is a concern that children's voices on the playground would be too loud for a funeral service taking place.

Mr. Bill Sanders, Landscape Architect, stated that St. Odilia's has worked hard to make this an attractive area with heavy landscaping and no visible memorials. The grave sites are 4 feet by 6 feet and are sealed vaults with no leaking contamination. The site will be handicapped accessible.

MOTION: by Commissioner Schumer, seconded by Commissioner Proud to close the public hearing at 8:37 p.m.

VOTE: Ayes - 6 Nays - 0

Commissioner Schumer asked Mr. Sanders to address concerns about people being able to look into the site from Vivian and whether additional screening is possible. **Mr. Sanders** stated that the perimeter of the site is landscaped with deciduous and coniferous trees. The area along Vivian is screened with trees and rain gardens. The area between Island Lake School and the site is screened. It is expected that trees will be donated to contribute to added screening. The site can be seen from Vivian, and it is the intent to provide openness and not totally enclose it. There will be green grass and it will be park like in character.

Commissioner Proud asked Mr. Sanders to provide staff with the standards regarding vaults. He readily agreed.

Chair Solomonson asked about balls running into the area. **Mr. Sanders** stated that there is a row of evergreens that will be retained. If additional screening is needed, St. Odilia's is open to providing it. He does not anticipate more than the occasional ball that goes into the area now.

Commissioner McCool asked if the grade will be changed so grave sites will be at grade. **Mr. Sanders** stated that the walkway will be graded, but grave sites will be on the existing grade.

Commissioner Wenner asked if there will be equipment storage onsite. **Mr. Sanders** answered, no, that all burials will be done on contract.

Chair Solomonson reviewed questions from public comment: Concerns about traffic and the school, further studies regarding value of homes, proper notification of parents regarding the proximity of the school, how to hide a 27-foot grade drop, exposure of children to funerals, traffic and parking on Vivian, damage to Vivian with heavier vehicle use, 21-gun salutes, precedent for other churches, proximity of cemetery to children's crossing to the school, response from Mounds View School District.

Commissioner Wenner stated that in his own experience cemeteries have not impacted property values. He taught at schools with cemeteries next door with no trauma to children. He welcomes the plan. It is a part of life and meets all requirements.

Commissioner Proud stated that this matter should be tabled to have environmental standards information presented. How much disturbance will be allowed with 21-gun salutes or bands. He supports the use, pending answer to the environmental questions.

Commissioner Ferrington agreed with tabling the matter for more time to discuss the issues presented. Most concern is expressed about the north portion being proposed but not the south portion that would be better shielded. Traditional graves brought up the most opposition, and it may be the Diocese should be approached to say they are not supported by the community. There are many traditional cemeteries available. She expressed concern that there is no fence between the cemetery and soccer field, so children are not tripping over grave stones chasing balls. She is not opposed to the proposal, but more discussion is needed.

Commissioner Schumer stated that he supports the proposal. If the matter is tabled, more information will be available. As for impact to children, seeing a funeral may help their understanding. What is proposed is not a bar or factory. As for 21-gun salutes, most military funerals are at Fort Snelling. Perhaps information can be presented on 21-gun salutes at public cemeteries.

Commissioner McCool agreed that tabling would allow more discussion and thought to reflect the concerns of the neighborhood. He cannot make a finding that a cemetery use will conflict with the neighborhood. There other uses that would raise similar and additional concerns. He agreed with the need for a fence between the site and school playground. He would like to see additional landscaping considered in the application, not just planned for the future.

Chair Solomonson stated that he favors the flush gravestones. He agrees that a fence would help to separate the ball field from the cemetery. This is the first cemetery in Shoreview. More information is needed.

Ms. Schaaf thanked the Commission for their time and will work with staff to do whatever needed to improve the process

MOTION: by Commissioner Proud, seconded by Commissioner Ferrington to table this matter to the next regularly scheduled Planning Commission meeting to enable further study and consideration and submittals by the applicant regarding design

refinements, environmental pollution issues, technical specifications regarding the integrity of vaults and the handling of noise and disturbance at grave sites.

Discussion:

City Planner Nordine recommended that with a motion to table, the application review period be extended from 60 to 120 days.

VOTE: Ayes - 5 Nays - 1 (Wenner)

Chair Solomonson called a five-minute break and reconvened the meeting.

MINOR SUBDIVISION

FILE NO.: 2480-13-07
APPLICANT: **JOSHUA & JOANNA WING**
LOCATION: **169 BRIDGE STREET**

Presentation by City Planner Kathleen Nordine

The application is to divide the subject property into two parcels for single-family residential development. The existing foreclosed home would be demolished with the detached garage and other improvements. The property is surrounded by single-family homes on the east, west and south. To the north is a wetland ponding area owned by the City. The property does have City sewer and water service on both parcels. The property is 32,725 square feet with a lot width of 75 feet and lot depth of 187 feet. The property is zoned R1, Detached Residential.

Staff finds that the proposal for both parcels complies with Development Standards. Drainage and utility easements will be required along lot lines. Staff is recommending this matter be forwarded to the City Council for approval.

Property owners within 350 feet were notified of the proposal. One phone call was received from the neighbor to the east requesting that the tree line along the east property line be retained.

Mr. Josh Wing, Applicant, stated that he and his family currently live in Shoreview, but as his family has grown larger they have been looking for a place in Shoreview to build a new home. This property has provided that opportunity. He has no further comments.

MOTION: by Commissioner Ferrington, seconded by Commissioner Wenner to recommend the City Council approve the Minor Subdivision submitted by Josh and Joanna Wing, 169 Bridge Street, to divide the property into two parcels for single-family residential development. Approval is subject to the following conditions:

1. The minor subdivision shall be in accordance with the plans submitted.

2. For Parcel B, a Public Recreation Use Dedication fee as required by Section 204.020 of the Development Regulations before a building permit is issued for a new home on the property. The fee will be 4% of the fair market value of the property.
3. Public drainage and utility easements shall be dedicated to the City as required by the Public Works Director. The applicant shall be responsible for providing legal descriptions for all required easements. Easements shall be conveyed before the City will endorse deeds for recording.
4. The applicants shall enter into a Subdivision Agreement with the City. This agreement shall be required for the construction of new homes on each parcel.
5. Driveways and all other work within the Bridge Street right-of-way are subject to the permitting authority of the City of Shoreview.
6. A tree protection plan shall be submitted prior to issuance of a building permit (including the demolition permit). The approved plan shall be implemented prior to the commencement of work on chips and protective fencing at the drip line of the retained trees.
7. An erosion control plan shall be submitted with the building permit application for each parcel and implemented during the construction of the new residence.
8. A final site-grading plan shall be submitted and approved prior to issuance of a building permit.
9. This approval shall expire after one year if the subdivision has not been recorded with Ramsey County.

VOTE: Ayes - 6 Nays - 0

COMPREHENSIVE SIGN PLAN

FILE NO.: 2478-13-05
APPLICANT: SIGN MAINTENANCE LIGHTING
LOCATION: 5910 LEXINGTON AVENUE - WILLOW CREEK CENTER

Presentation by City Planner Kathleen Nordine

This application seeks to replace an existing reader board sign with an electronic message center sign. The property is zoned C1, Retail Service. The site is a multi-tenant retail center with a convenience store/fuel station. Currently, the fuel station has a Conditional Use Permit for 24-hour "pay at the pump" capability. The store hours are 6:00 a.m. to 11:00 p.m. Six canopy lights may be used to illuminate fuel islands between 11:00 p.m. and 6:00 a.m.; the others are required to be off.

Free-standing signs are permitted if they comply with standards of height, area and setbacks. Message center signs are permitted only for public/quasi public uses and may have a maximum area of 30 square feet. A Comprehensive Sign Plan is required for commercial message center signs because it is a deviation from the code. The current code requires one hour between messages. The City has received requests for a shorter duration consistent with other approved signs. The sign is also a full color graphic display sign. Staff recommends this sign not be a distraction. It must be readable and have no flashing, scrolling, or fading of messages.

The sign is adjacent to and visible to single-family residential use. There is concern about the visual impact, especially during the nighttime hours. Staff is recommending restricted hours at night from 11:00 p.m. to 6:00 a.m. If complaints are received, the time restriction can be revisited. The sign must be consistent in size, color and materials. This replacement is intended to improve the look of the freestanding sign ad, improve identification and advertising for tenants.

Property owners within 350 feet were notified. One comment was received expressing concern about distraction to drivers at the Lexington/Hamline intersection and will have a negative visual impact.

Staff believes the sign is justifiable. It is more effective and functional way to advertise and identify tenants. It also reduces the need for temporary signs. Staff is recommending approval subject to the following conditions: 1) no display of phone numbers, email addresses; 2) restricted hours between 11:00 p.m. and 6:00 a.m.; 3) messages must be limited to goods and services provided on the site; and 4) no temporary signage is permitted. The applicant has requested deviation from posting phone numbers, addresses and hours of operation.

Commissioner McCool asked how the messages will be controlled with use of multiple tenants.

Chair Solomonson asked the time frame for revisions regarding signage. Ms. Nordine stated that there is more work to do. Staff plans to distribute the changes to the business community in April and May, after which there will be further review by the Economic Development Commission and Planning Commission before going to the City Council sometime this summer.

Commissioner Proud asked if it would be a hardship on the applicant to only use the sign for identification purposes and not advertise until the sign regulations have been amended. Ms. Nordine stated that would be a hardship. The existing sign advertises the fuel station and convenience store. The tenants use wall signs. The overall intent is to advertise special events, sales and products. Other message centers in the community are used by sole tenants who do not use it for identification but to advertise specials. This is the first message center for a multi-tenant building. The existing reader board is used for specials and not just to identify tenants.

Commissioner Ferrington stated that it is her recollection that previously the Commission determined that this type of signage would not advertise other than the goods and services on the site. She would want to be sure that this applicant is treated the same. Ms. Nordine answered that time, temperature, weather is also allowed. She will look up what was done in the past to be sure this application is treated the same.

Chair Solomonson asked if the code were to become more lenient, would this applicant be allowed to make that change in the future. Ms. Nordine stated that there would have to be a condition to that effect to allow that flexibility.

Chair Solomonson noted that the sign is to be oriented so it is not visible from any principal structure on any residential lot. That is not true with this application. Four homes will be impacted.

Commissioner Proud suggested some type of shielding that would reduce visibility for residences.

Mr. James Hamilton, 14215 Belle Court, Rosemont, stated that they would like authorization to post phone numbers because of the different tenants using the sign. The applicant would also like to post community events and not just goods and services on site. Currently, the existing manual reader board sign is illuminated in the evening. The new sign will not have any increased impact to homeowners. Message centers are very costly to put in and the applicant would like to keep the advertising on through the evening as is being done now.

Commissioner Ferrington suggested the sign be left on but turned down between the hours of 11:00 p.m. and 6:00 a.m. Mr. Hamilton stated that would work because there are automatic dimming features, and at night there will be less than one foot candle. The applicant is also concerned not to cause an issue in the neighborhood.

Chair Solomonson suggested a five-minute time frame for changing messages rather than 8 seconds. **Mr. Hamilton** stated that the 8-second change fits the driving speed limit on the road way and patterns of drivers who watch the road and notice signs.

Commissioner McCool asked if it can be programmed to shut off between 11:00 p.m. and 6:00 a.m., and further if the system to change the message will be on site. **Mr. Hamilton** stated that it can be timed. The message will be changed on site.

Chair Solomonson opened the discussion to public comment and questions. There were none.

Commission Discussion

Commissioner Proud stated that he would like to be more restrictive with how this sign is used and allow flexibility to amend uses based on future regulation changes so this sign would be in conformance. He would limit information on the sign to identifying the businesses on site. He would increase the message change from 8 seconds to 1 minute. He would like shielding to be added to the conditions of approval.

Chair Solomonson stated the he would like the sign off from 11:00 p.m. to 6:00 a.m., increase time between messages and only allow goods and services on site.

Ms. Nordine stated that the TCF sign is allowed to post time, temperature and weather and only goods and services on site.

Commissioner McCool stated that he supports the application as proposed with staff recommendations. However, he would support turning the sign off from 11:00 p.m. to 6:00 a.m.

Commissioner Schumer stated that he supports the staff recommendation. He would also support lengthening the time between message changes, not five minutes but 1 or 2 minutes.

Chair Solomonson asked if the applicant would be willing to wait until the ordinance changes are completed. **Mr. Hamilton** stated that the applicant may be willing to wait until ordinance changes are made because this is a significant investment.

City Attorney Filla stated that if the ordinance is going to be more restrictive, then what is passed here should also be restrictive. He cautioned the Commission to give themselves time for consideration before taking action. He suggested possible adoption of a sign moratorium until the ordinance is completed.

MOTION: by Commissioner Ferrington, seconded by Commissioner Proud to table this matter and extend the review period from 60 to 120 days.

VOTE: Ayes - 5 Nays - 1 (McCool)

MOTION: by Commissioner Schumer to recommend the City Council establish a city wide moratorium on new signage until the Comprehensive Plan is amended.

Ms. Nordine suggested not putting a moratorium on all comprehensive sign plans but only on message center signs and not reference the Comprehensive Plan.

The motion died for lack of a second.

AMENDED MOTION: by Commissioner Schumer, seconded by Commissioner Wenner to recommend the City Council establish a city wide moratorium on message center signs for a period of one year.

Discussion:

Commissioner McCool stated that he will vote against the motion. A moratorium is a blunt instrument, and he believes the Commission has a good idea of what the ordinance will be. He would prefer to take action on the applications put forward.

VOTE: Ayes - 5 Nays - 1 (McCool)

COMPREHENSIVE SIGN PLAN

FILE NO.: 2479-13-06
APPLICANT: LAWRENCE SIGN
LOCATION: 3592 LEXINGTON AVENUE

Presentation by Senior Planner Rob Warwick

A Comprehensive Sign Plan has been submitted by Lawrence Sign on behalf of Northern Tier Retail to rebrand the existing fuel station, car wash and convenience store to a SuperAmerica. The free standing sign has been refaced. Permits were administratively reviewed and approved. Two wall signs are proposed, one on the building to be visible from County Road E and Lexington; and one on the fuel island canopy that would only be visible from County Road E. Also, a variety of incidental signs are proposed. The building and canopy are oriented perpendicular to the intersection of Lexington and County Road E. The property is zoned C2, General Commercial. The building and canopy were built in 1991. There have been a number of ownership changes.

A Comprehensive Sign Plan is required when two or more of one sign type is proposed, or when there is a deviation from the code. Code requires that no more than 10% of wall elevation area may be used and 20% of the length of the wall.

The application shows that the northeast building wall elevation area is 600 square feet with a length of 50 feet. The sign copy is 59.6 square feet or 10% of the wall area and 22.7 feet long, or 45.4% of the wall length. The graphics and copy is 33% of the wall area and 100% of the length. On the canopy fascia, the elevation area is 528 square feet. The sign copy is 27.6 square feet and 15.4 feet in length. The copy and graphics area is 100% of the fascia area on all elevations except the south southeast.

The freestanding sign complies with code. There are 12 incidental signs with area of 32 square feet. Striping counts toward the permitted sign area. Illuminated canopy bands include the rooftop equipment enclosure. The wall, canopy and incidental signs total 119.2 square feet or 19.9% of the wall elevation area, which is double what is permitted.

Staff is not able to make affirmative findings for a practical difficulty that justify the deviations. The extensive use of the pin stripe graphics exceeds the permitted areas, and the graphics is the dominant feature of the site. Staff is recommending the application be forwarded to the City Council with a recommendation for denial.

Mr. Warwick stated that the graphics are the most difficult to reconcile. It comprises 33 % of wall area and 100% of the canopy. The copy, although larger than allowed, makes the business visible from County Road E and Lexington. The sign code does allow for signature architecture.

Commissioner Ferrington asked if there would be any way to salvage this application. Mr. Warwick stated that discussions have extended over several months. He believes the recommendation to deny is appropriate.

Chair Solomonson asked if siding were used as a band, there would be no deviation. Mr. Warwick stated that there is a fine line between unique architecture features and graphics. The definition is not clear in the code. He agreed there may be options to integrate the look into the building rather than using graphics.

Mr. Mike Waich, 8620 Elliott Avenue, Bloomington, from Lawrence Sign, stated that this site is not a normal SuperAmerica site. The gray striping could be taken out. Ms. Nordine suggested tabling and bring it back next month.

Commissioner Proud stated that the graphic is more appealing than the plain wall.

Commissioner McCool agreed, although there may be too much. He suggested eliminating the second tier on the building. Code allows deviation. The code is arbitrary because a molding stripe would not comply, but a vinyl one would. He would like to see some branding remain to identify the site. One alternative would be to remove the banding from the building but leave it on the canopy. Some logos can be dropped to save space.

MOTION: by Commissioner McCool, seconded by Commissioner Proud to table this application to allow the applicant to revise plans to show alternatives and to extend the review period to 120 days.

VOTE: Ayes - 6 Nays - 0

PUBLIC HEARING - TEXT AMENDMENT - RESIDENTIAL SETBACK REGULATIONS

FILE NO.: 2433-11-26
APPLICANT: CITY OF SHOREVIEW
LOCATION: CITY WIDE

City Attorney Filla stated that proper notice has been given for the public hearing.

In lieu of a presentation and the fact that there was no further taping capacity for this meeting, Chair Solomonson opened the public hearing because it was noticed.

MOTION: by Commissioner Schumer, seconded by Wenner to table the public hearing.

VOTE: Ayes - 6 Nays - 0

MISCELLANEOUS

City Council Assignments

Commissioners Ferrington and Schumer will respectively attend the April 1st and April 15th City Council meetings.

ADJOURNMENT

MOTION: by Commissioner Schumer, seconded by Commissioner Ferrington to adjourn the meeting at 11:02 p.m.

VOTE: Ayes - 6 Nays - 0

ATTEST:

Kathleen Nordine
City Planner

TO: Planning Commission
FROM: Rob Warwick, Senior Planner
DATE: April 18, 2013
SUBJECT: File No. 2477-13-04, Preliminary Plat and Site and Building Plan Review, St. Odilia Catholic Church, 3495 Victoria Street N

INTRODUCTION

The applicant, St. Odilia Catholic Community, 3495 Victoria Street N, has submitted applications for preliminary plat and site and building plan review for the development of a prayer garden, columbarium and cemetery (hereafter referred to as cemetery) located on the west side of their campus, along Vivian Avenue.

The report summarizes the Planning Commission discussion of March 26th, describes the revised plans, and discusses the requirements of the Municipal Code that regulate the proposals.

The applications were complete March 12, 2013.

MARCH 26TH PLANNING COMMISSION MEETING

At the March 26, 2013 meeting, the Planning Commission held the Public Hearing, discussed the proposal, extended the review period to 120-days, and tabled the applications to allow the applicant to revise the plans and provide additional information in response to the comments received.

While the majority of residents who attended the meeting opposed the proposed use, most of the concerns expressed relate to the northern section of the cemetery. These comments cited the proximity to Island Lake Elementary School and the St. Odilia School athletic field, increased traffic on Vivian, the view of the cemetery from eastbound traffic on Harriet, noise, and a negative effect on property values. Comments in support identified there is a community need for a cemetery in Shoreview, and cited research showing cemeteries have no affect on property values.

The Planning Commission discussed concerns regarding the proximity to Island Lake School and the St. Odilia athletic field, the grade change and site design of the northern section, potential noise, traffic, parking and environmental impacts. Some Commission members supported the proposed use and generally did not have concerns regarding the southern section of the cemetery. The Commission tabled the applications and extended the review period to 120 days. The Commission did ask St. Odilia to consider the comments received, revise the plans as needed and address the issues raised.

PROJECT DESCRIPTION

Site Characteristics

The St. Odilia campus is located south of Island Lake Elementary School, west of Victoria Street, east of Vivian Avenue and north of Cottage Place. The campus has an area of 19.6 acres and access from both Vivian Avenue and Victoria Street. The site is principally used as a church and private school, with additional facilities including two single family detached dwellings, an administration building and a hospice care facility, parking and drives, playgrounds, and athletic/soccer field.

The campus abuts detached single family residential areas on the south and west. To the north, also located with frontage on Victoria Street, there is one single-family residence that is not part of the campus, and another institutional use, Island Lake Elementary School. On the east side of Victoria St. is the Midland Terrace apartment complex and detached single family residential uses.

Project Plans

The proposed preliminary plat subdivides the property into five lots, with each lot occupied with one of the main uses of the Church: the Church and School on Lot 1; the administration building on Lot 4; the hospice care facility on Lot 2; the priests' residence on Lot 3; and the proposed cemetery on Lot 5. No modifications to the proposed lots were discussed at the Planning Commission meeting and no alterations to the plat have been made since the March meeting.

The proposed prayer garden, cemetery and columbarium will be located on the west (Vivian Ave.) side of the campus, and developed on about 2.15 acres. This area slopes from the east down to Vivian Ave., with about 20 feet of elevation change from the grade of the athletic field down to the street grade of Vivian.

The existing access driveway from the Church parking area to Vivian Avenue bisects the proposed cemetery area into north and south sections. Access from the drive to the Church parking lot is now and will continue to be gated during school hours, which will eliminate traffic access from Church property to and from Vivian Ave. during funerals and burials.

South of the drive is an existing stormwater pond that will be integrated in the cemetery and garden area. North of the access drive, the cemetery will be developed on the slope that abuts Vivian Ave.

The cemetery will be developed throughout this area with gardens and walks connecting the columbarium walls and other memorial features integrated into the site. As noted in the applicant's statement, the walkways will be developed for accessibility. The south section will be developed with 48 traditional grave sites and 1841 columbarium niches. The north section will have 258 traditional grave sites and 1088 columbarium niches. The traditional graves will be marked with stones, all flush at-grade. The columbarium will consist of pre-fabricated structures, examples of which are attached.

Phase 1 will include grading of the entire area planned for the cemetery, the landscaping, rain gardens and an initial columbarium with 96 niches that will be located in the south section. All

of the traditional graves will all be laid out during the initial phase. Future phases will include the construction of the columbarium structures located in the southern section based on demand. When capacity is reached in columbarium structure installed in Phase 1, other columbarium structures identified in the plan would be installed. The applicant expects the cemetery to meet community needs for about 100 years.

RESPONSE TO COMMENTS/PLAN REVISIONS

Island Lake School – Mounds View School District

The applicant met with staff of the Mounds View School District to discuss the project. Representatives of the District did express concerns regarding sight lines/visibility from the school property and potential noise. In response, St. Odilia revised the landscape plan to improve screening of the north section of the proposed cemetery. The applicant also agreed with District staff that the use of gun salutes, would not be appropriate during school hours. The applicant proposes to define acceptable grave site service procedures in the operating rules for the cemetery. A comment from District staff is attached.

Visual Impact-Landscaping

To mitigate the visual impact, revisions to the landscape plan include additional trees along the north and west site boundaries addressing concerns about the views from Harriet Ave. and Island Lake School. The cemetery location complies with the minimum 30-foot front and 10-foot side setbacks required from a property line.

Scattered ornamental trees within the north section are intended to break up the open expanse of traditional grave sites on the slope, while retaining an open park-like feel. The ornamental trees will be planted as burials occur in the north section. Other landscape trees that are proposed will be installed after the site grading has occurred during the initial phase of site development. This will allow time for the landscaping to mature prior to interment in the graves located in the north section of the cemetery.

The use of at-grade markers at the grave sites will aid in minimizing the visual impact. In response to comments regarding the placement of grave memorials, the applicant will limit the use of grave-site memorials to a short period after burial, Memorial Day, Easter, Christmas and the anniversary of the decedent's death. This restriction will be addressed in the cemetery's operating rules.

Traffic

The applicant identifies that about 60 funerals occurred at the Church during 2012. Mourners arrive in their individual vehicles and depart in processions that exit the Church property onto to Victoria St. The access drive off of Vivian Avenue is gated during school hours. Many future funerals held at the Church are expected to result in interment in the proposed Church cemetery, and mourners will walk in a procession from the Church to the gravesite. Staff suggests a condition requiring the operating rules to limit funeral traffic to the east property access onto Victoria Street.

St. Odilia Athletic Field

The applicant states that there is not a need for fencing to separate the athletic field from the north section of the cemetery. The Church owns, manages and maintains the athletic field, and in their experience, errant balls do not now roll down the hill due to the distance, trees and batting cage.

Operating Rules

The Church will adopt operating rules and regulations for the cemetery. The rules will address display of memorials, traffic and parking, gun salutes, use of flush grave markers/footstones, and in-ground burial containers for traditional burials.

Environmental Impacts

The applicant cites that there has been no research that identifies pollution from cemeteries in Minnesota. Although the State of Minnesota does not require the use of any type of in-ground burial container, the Church will follow best-practices defined by the Minnesota Catholic Conference of Bishops and will require the use of in-ground burial containers. -See the attached statement and plans.

COMPREHENSIVE PLAN

The 2008 *Comprehensive Plan* designates this property for Institutional use. Uses within this category include public and private schools, fire and police stations, city hall, water towers and other public or quasi-public uses. Surrounding planned land uses include Low-Density Residential (0-4 units per acre), High Density Residential (8-20 units per acre), institutional, natural, and park (see attached excerpt from the Planned Land Use Map, Map 4-2, 2008 *Comprehensive Plan*).

The church and proposed cemetery are considered quasi-public uses and are permitted with this land use designation.

DEVELOPMENT ORDINANCE REQUIREMENTS AND REVIEW

The property is located in the R-1, Detached Residential. Public and quasi-public uses are allowed in this zoning district through the Site and Building Plan Review process upon finding that the use will not conflict with or impede the planned use of adjoining property. Conditions may be attached to site and building plan approval by the City Council to ensure compatibility with adjacent land uses. In Shoreview, churches, schools and other public-quasi-public uses are generally located in the R-1 District,

Preliminary Plat

The proposed preliminary plat divides the property into five parcels, with each parcel containing a structure, except for Lot 5 which will be used for the prayer garden and cemetery. The purpose of the plat is twofold. First, the proposed plat includes property that the Church acquired when the Crosier Fathers relocated their facilities to Arizona, and so the plat integrates these parcels into the campus. Second, State law requires platting for cemeteries, and this is accomplished with the creation of Lot 5. The required drainage and utility easements will be dedicated along the property lines and over drainage areas. Existing easements have previously been conveyed for shared driveway and access areas. The following table summarizes the lot characteristics.

	LOT WIDTH	LOT DEPTH	LOT AREA
MIN. REQUIREMENT	75 FEET	125 FEET	10,000 SQ FT
LOT 1	825 FEET	902 FEET	592,825 SQ FT
LOT 2	252 FEET	263.5 FEET	66,415 SQ FT
LOT 3	263.55 FEET	168.0 FEET	44,248 SQ FT
LOT 4	170 FEET	331.6 FEET	56,331 SQ FT
LOT 5	922.48 FEET	191.1 FEET	93,767 SQ FT

The proposed parcels comply with the Development Code requirements, except that Lot 2 lacks frontage on a public street as required. This lot has access to public streets over an internal private easement that was conveyed when the City vacated Cottage Place in 1993, thereby eliminating the public street frontage for this Lot 2 as well as other lots on the unimproved portion of this street, which was dedicated on the Minnesota Realty Homesites plat in 1946. This portion of the street was never constructed due to wetlands and poor soils. Since the lot for this use previously existed, it is staff's opinion that the nonconformity may be continued without requiring a variance from the Code requirement of frontage on a public street.

Site and Building Plan Review

Staff has reviewed the plans in accordance with the *Comprehensive Plan* and the requirements of the Development Code. The proposed improvements are consistent with the policies of the *Comprehensive Plan* and the Development Regulations. The cemetery is intended to serve the larger community by providing an area for the interment of remains within the space of the prayer garden to provide a reflective environment.

In Staff's opinion, the proposed use will not impede or conflict with the planned land use of the surrounding properties. Cemeteries are commonly found in or near residential neighborhoods throughout the Twin Cities Metropolitan Area, including some of the northern suburbs. This use stems from the church use of the property and is consistent with the institutional and quasi-public use that current exists. The cemetery will be owned and operated by St. Odilia and is ancillary to their operations. While the staff understands that the cemetery use may not be viewed as desirable to nearby residential property owners, this use is generally less intense than other nearby public and quasi-public uses.

Impacts of the proposed cemetery use on the adjoining residential neighborhood can be mitigated through the site and building plan review process. In response to neighborhood concerns, St. Odilia did revise their plans to address the visual impact and also provided information regarding the cemetery operations which address issues such as traffic, noise and the environmental impact. The staff is recommending conditions be attached that address these concerns and mitigate potential impacts.

To better address the concerns raised regarding environmental impacts, staff researched this matter further. There are papers that describe research of pollutants resulting from the decomposition of caskets and human remains. This research indicates that the problem is most acute in cases where the caskets are buried below the level of groundwater. Staff, like the applicant, has been unable to identify any reports of groundwater pollution in Minnesota due to a cemetery. Staff at the Minnesota Department of Health, which regulates wells and funeral

practices, stated that such pollutants have not been known to contaminate wells, but that there is a 50-foot separation required between a cemetery and a well. That separation will be met by the proposed cemetery. Furthermore, State regulations do include any requirement for an outer burial vault. Given these factors, staff does not believe the cemetery is likely to affect groundwater.

The applicant has submitted a stormwater management plan prepared by a licensed engineer. The plan uses rain gardens to capture the small increase in runoff resulting from the improvements proposed by the Church. The plan has been reviewed by the City Engineer (see attached comment). The property is located in the Ramsey Washington Watershed District and District staff have advised that City that the project does not require a permit from the District.

The plat includes property that is solely owned by the Church. Staff finds this a suitable method to meet the requirements of Statute in order to create the cemetery and create clean legal descriptions of the Church properties. Staff has included a condition of approval that requires rezoning to a PUD in the event the Church chooses to sell some or all of these lots in the future since access, stormwater management, and uses would no longer be managed by a single entity, and provide the City the safeguard needed to insure that shared improvements are properly managed by the new owners.

REQUEST FOR COMMENT

Property owners within 350 feet were again notified of the applicant's request, including copies of the revised plans. Other property owners who have been in contact with the City were also mailed a notice. Nine comments have been received. One comment supports the requests, and eight express concerns. The comments are attached. Also attached are the comments that were submitted in response to the March notice, and previously distributed to Commissioners at the March 26th meeting.

STAFF RECOMMENDATION

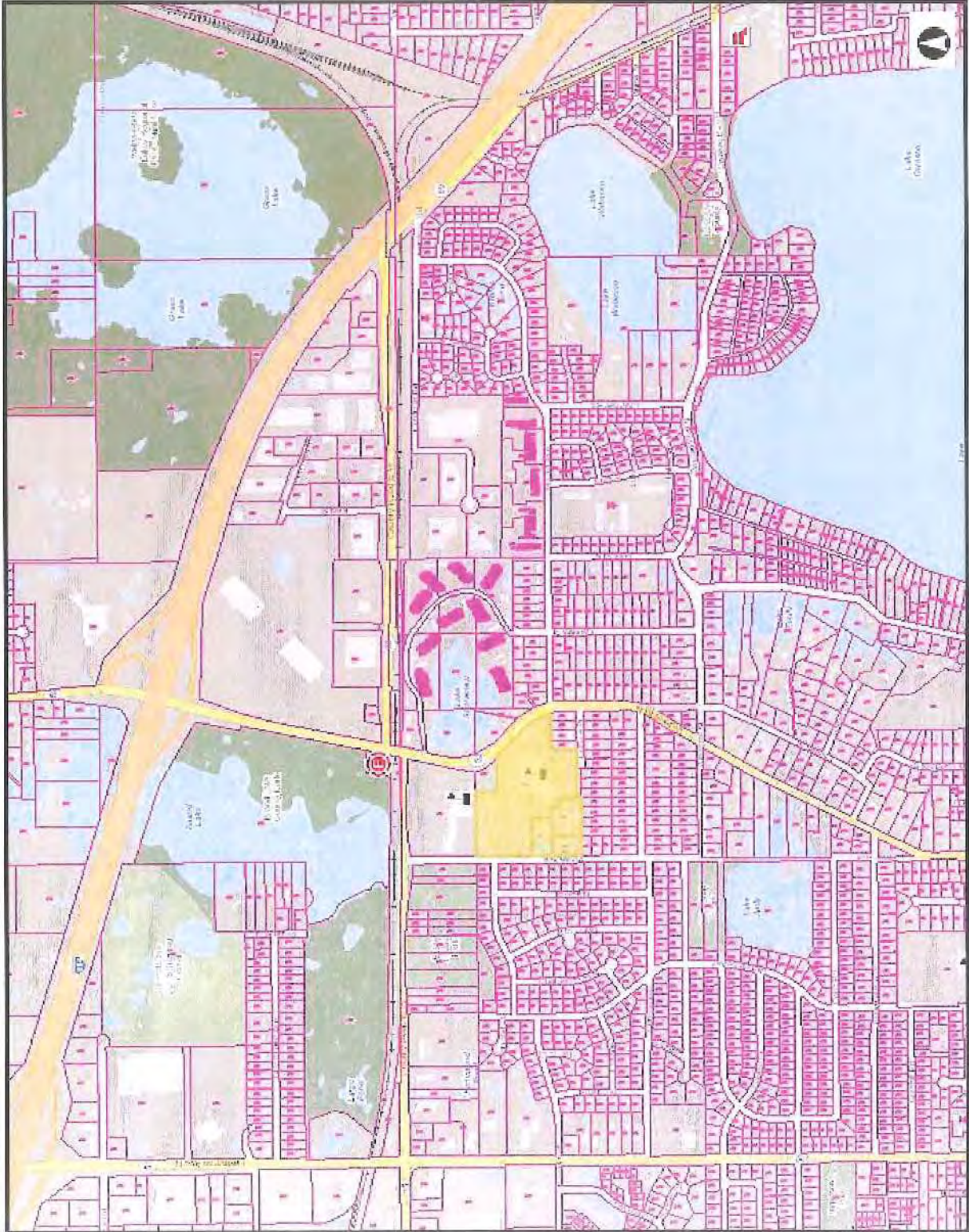
The proposed plans need to be reviewed in accordance with the criteria for the Site and Building Plan review which relate to the City's development regulations and *Comprehensive Plan* Policies. The proposed use of the property as a cemetery owned and operated by St. Odilia Catholic Church is consistent with the institutional land use designation in the Comprehensive Plan. Furthermore, the proposed use will not conflict with or impede the nearby residential and institutional land uses. Impacts are being mitigated through site design and the implementation of operational rules that will address noise, traffic and in-ground burial containers. Therefore, staff recommends that the Planning Commission take testimony from interested parties, and forward the applications to the City Council with a recommendation to approve the submitted preliminary plat, and the site and building plans, subject to the following conditions:

1. The project must be completed in accordance with the submitted site and building plans. Any significant changes to these plans, as determined by the City Planner, will require review and approval by the Planning Commission and the City Council.
2. The approval will expire after one year if the final plat has not been approved by the City Council.

3. The cemetery shall be developed in accordance with the approved Master Plan. St. Odilia shall notify the City after completion of Phase 1. Subsequent development phases shall be administratively approved provided the phase is in conformance with the Master Plan.
4. The cemetery shall be developed and operated in accordance with Minnesota Statutes.
5. No crematorium or mausoleum is proposed or permitted in this development.
6. The applicant shall develop operating rules for the cemetery that are in compliance with the Shoreview Municipal Code and other applicable laws. These rules shall include provisions that:
 - a. Require funeral attendees to use Victoria St. to access the cemetery, and to prohibit parking on Vivian for any funeral services or burials.
 - b. Allow the display of grave memorials only for limited duration after burial and specified holidays only.
 - c. Restrict ceremonial rifle salutes
 - d. Address noise generated by funeral services (music, use of speakers or microphones, etc).
 - e. Require use of flush foot stones to mark all grave sites.
 - f. Require the use of in-ground burial containers for all traditional burials.
 - g. Establish hours of operation that specify the times funerals may be held, and when site work for burials may occur.
 - h. The operating rules shall be submitted for City review and approval prior to adoption by the cemetery association.
7. The applicant shall obtain a grading permit prior to commencement of any work for the development of the prayer garden/cemetery/building area.
8. Landscaping shall be maintained in accordance with the approved plans to provide a buffer from the adjoining public school use and mitigate the visual impacts of the cemetery on adjoining land uses.
9. St. Odilia's is required to submit a Planned Unit Development application prior to a future sale of any of Lots 1 – 5, Block 1, The Catholic Community of St. Odilia.
10. The Applicant shall enter into a Development Agreement with the City.

Attachments

- 1) Location Map
- 2) Aerial photo
- 3) Excerpt from Map 4-2, Planned Land Use, 2008 Comprehensive Plan
- 4) Submitted Plans and Applicant's Statement
- 5) Comments
- 6) Proposed Motion



2,577.1 1,288.56 2,577.1 Feet

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© Ramsey County Enterprise GIS Division

Legend

- County Offices
- City Halls
- Schools
- Hospitals
- Fire Stations
- Police Stations
- Recreational Centers
- Parcel Points
- Parcels

Notes

Enter Map Description

This map is a user generated static output from an Internet mapping site and is for reference only. Data layers that appear on this map may or may not be accurate, current, or otherwise reliable.
THIS MAP IS NOT TO BE USED FOR NAVIGATION



Legend

- County Offices
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Notes

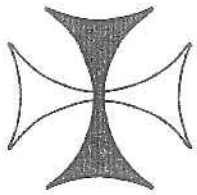
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Excerpt from Planned Land Use Map, 2008 Comprehensive Plan



Catholic Community of St. Odilia

3495 N. Victoria • Shoreview, MN 55126-3895

April 11, 2013

Mr. Rob Warwick
City of Shoreview
4600 Victoria Street North
Shoreview, MN 55126

Re: Planning Commission Action, File No. 2477-13-04, St. Odilia – Prayer Garden and Columbarium/Cemetery

Dear Mr. Warwick,

In response to your letter dated March 27, 2013, The Church of St. Odilia is pleased to present this response to concerns raised at the Public Hearing and Planning Commission meeting on March 26, 2013. Additionally, a revised Concept Plan (April 2013), Site Planting Plan (April 2013) and Landscape Plan Phase One (April 2013) are attached as part of our response.

We understand that the requirement for a Public Hearing regarding our application has been met and that the Public Hearing was closed at the March 26, 2013 Planning Commission Meeting. In response to public testimony taken, Planning Commissioner questions and subsequent conversations with City staff and the adjacent property owner, Independent School District 621 (Mounds View Public Schools), we offer the following comments and revised plans as follows:

- Concerns with the open design of the north section of the cemetery:

The site plan has been modified to include additional landscape screening along Vivian Ave. to address the concerns of property owners near the intersection of Vivian Ave and Harriet Ave. regarding the proposed design. In addition, ornamental memorial trees have been added throughout the north section of the site to improve the visual impact, while maintaining the plan's overall design as that of a garden, park-like setting as opposed to a traditional cemetery design with upright monuments, fences and gates.

As we have discussed, the full development of this site has the potential to span a 100 year period and is planned in a phased approach, focusing on development of the south section of the site first.

Catholic Community of St. Odilia

Church 651.484.6681 • School 651.484.3364 • Faith Formation 651.484.6681
www.stodilia.org

- Proximity to the Island Lake Elementary School, especially the playground area that is not screened or buffered.

Following a meeting on April 9, 2013 with representatives from Mounds View Public Schools (MVPS), we agreed that landscaping proposed in the overall Site Planting Plan on the northeast corner of Lot 5 will be implemented as part of Phase One in order to provide additional screening along the property border with Island Lake Elementary School. The Phase One Landscape Plan has been revised to include this change. We remain in conversation with MVPS regarding this site line and have offered to work cooperatively with the District on any additional landscaping that they may propose on their own property.

Although grave internment is not planned in this area during the Phase One implementation, the installation of landscaping at this time will provide the opportunity for a more mature natural landscape barrier when internment takes place in this section of the property. Additionally, this landscaping will serve to enhance the beauty of the site at the initial stage of development.

- Traffic concerns related to potential use of Vivian Ave. for funeral processions that may conflict with school bus or school children arriving or departing from the elementary school.

Funeral procession traffic will continue to exit the St. Odilia campus through the Victoria Street entrance for burials that do not take place on the St. Odilia property. The addition of the Prayer Garden/Columbarium on our campus will serve to reduce current funeral procession traffic from the Church onto Victoria Street as the funeral procession will walk from the Church to the burial site and mourners will depart from the St. Odilia parking lot independently following burial. Traffic will continue to exit onto Victoria Street as the exit from the St. Odilia parking lot to Vivian Ave. is gated during school hours.

Funeral processions arriving at our campus for burial will arrive from Victoria Street, parking will be provided in the St. Odilia parking lot, and mourners will walk to the burial site, exiting at their own pace onto Victoria Street from our parking lot for the reasons cited above. Funerals and burials do not typically take place during morning drop off or late afternoon departures from school.

Funerals and funeral processions are common occurrences on our campus currently with approximately 60 funerals held at St. Odilia during 2012.

- Grade change, play areas and fencing.

The adjacent soccer field is owned, used, managed and maintained by the Church of St. Odilia. Our current experience with this soccer field (for both physical education and athletic events) is that soccer balls rarely reach the tree line on the west edge of the soccer field. We believe that the additional landscaping proposed for the site will provide an adequate barrier for the occasional errant ball and we will address the issue on our property if we feel that conditions warrant further barriers. The batting cage currently located on the site also provides a barrier for soccer balls.

- Noise concerns.

The cemetery and columbarium will be operated in accordance with Minnesota Statutes and applicable Ordinances of the City of Shoreview. We do not anticipate that the presence of a Prayer Garden/cemetery will generate any excessive noise. Our Cemetery Operating Rules and Regulations will govern interment ceremonies, specifically as they relate to the presence of a military honor guard. Presentation of the flag by an honor guard and the playing of Taps would be allowed as mandated by law for eligible veterans, but ceremonial rifle salutes (traditional three volleys) would be restricted in sensitivity to both schools in the area.

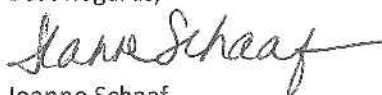
Musical instruments are often played outdoors on our campus currently and Taps have been played on occasion during the time that the United States Flag is lowered on our property.

- Environmental Concerns

We are unaware of any specific cases of groundwater pollution from cemeteries in the State of Minnesota. State law does not mandate the use of outer burial containers, however, St. Odilia will follow the recommended guidelines for best practices by the Minnesota Catholic Conference of Bishops (MCC) and will require some form of outer burial container whose acceptable standards for quality and type are established by the Director of The Catholic Cemeteries of the Archdiocese.

We appreciate the thoughtful dialogue during the March 26, 2013 Planning Commission meeting and the opportunity to review our proposed revisions with City planning staff following that meeting. I look forward to your feedback and to the opportunity to continue the dialogue at the April 23, 2013 Planning Commission meeting. Although a new concept for the City, we continue to believe that both the community of St. Odilia and the community of Shoreview will benefit from this development proposal on land that is currently under-utilized.

Best Regards,



Jeanne Schaaf
Parish Operations Administrator
Church of St. Odilia

Sent via email 4/11/13 with attachments:
Color Concept Plan (rev April 2013)
Planting Plan (rev April 2013)
Landscape Plan – Phase One (rev April 2013)

**MINNESOTA CATHOLIC CEMETERY
RULES & REGULATIONS**



**ARCHDIOCESE OF ST. PAUL & MINNEAPOLIS
DIOCESE OF CROOKSTON ☩ DIOCESE OF DULUTH
DIOCESE OF NEW ULM ☩ DIOCESE OF ST. CLOUD
DIOCESE OF WINONA**

MINNESOTA CATHOLIC DIOCESES

23. **Interment** may mean either the burial, entombment or inurnment of human remains in a grave, crypt or niche.
24. **Interment Space** means a grave, crypt, niche or plot.
25. **Inurnment** means the placement of cremated human remains in an urn and a placement of such urn in a niche, crypt, grave or other suitable location in a cemetery.
26. **Lawn Crypt** means interment space below ground in a specifically designed section including pre-constructed and pre-installed outer burial protection and drainage fields intended to be used for the ground burial of full (not cremated) and casketed human remains. Typically, lawn crypts can be either single or double-depth, accommodating one or two burials respectively.
27. **Liner** means a non-sealing container made of concrete, fiberglass, or steel to be used for burial of a casket.
-

MINNESOTA CATHOLIC DIOCESES

43. **Temporary Marker** means a manner of identifying an interment space until a permanent memorial is installed.
44. **Urn** means a container for cremated human remains.
45. **Urn Garden** means an outdoor area in a cemetery used or designated to be used for the underground burial of cremated human remains in an urn.
46. **Vault** means any container or enclosure made of concrete, fiber-glass or steel which is placed in a grave around a casket to prevent the collapse of the grave and/or to protect the casket or for burial of an urn.

OUTER BURIAL CONTAINERS

1. As a general rule, the use of an outside burial container is required for all burials. A diverse selection of approved outer burial containers is available at the funeral home and certain parish cemeteries may market simple concrete non-sealing burial containers.
2. All burial containers must be constructed of concrete or steel or of other composition approved by the individual Minnesota Catholic diocese cemetery authority. Wood boxes are not permitted. The requirement of such a container is not solely for purposes of protection from the environment, but to insure against cave-in, so that the parish cemeteries' grounds shall remain safe for maintenance and accessibility.
3. In instances where an interment is conducted for an infant or child, an infant combination casket/vault container no more than four feet (4') in length is permitted.

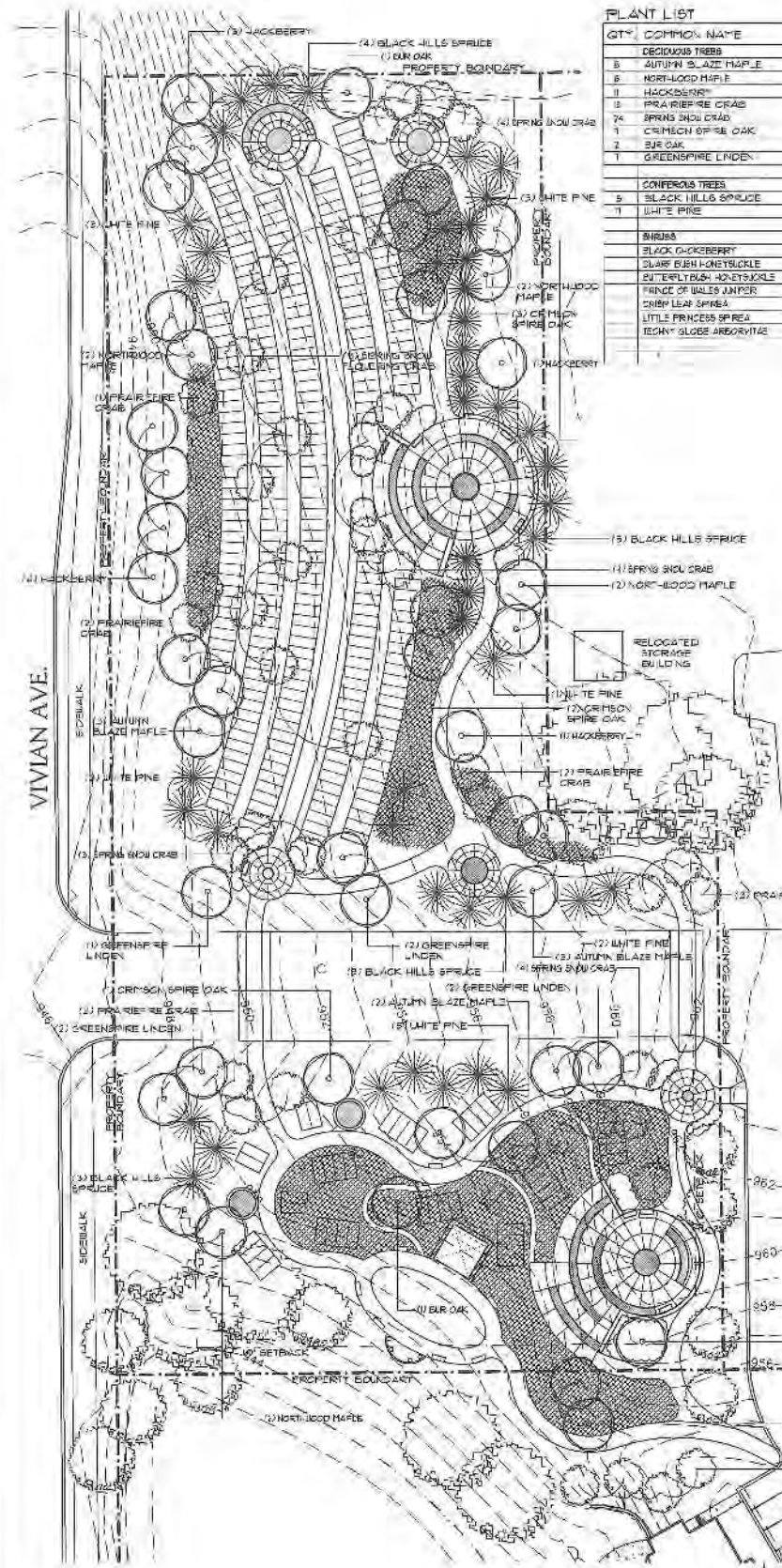
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JOSEPH B. SANKOVICH & ASSOCIATES - TUCSON, ARIZONA

CEMETERY RULES & REGULATIONS

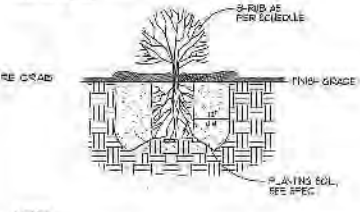
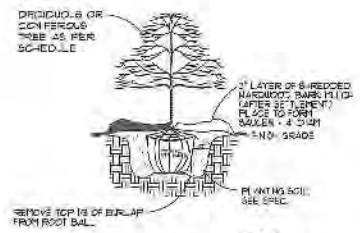
4. Burial outer protection units (vaults or liners) must be delivered to the cemetery a minimum of two hours prior to the anticipated arrival of the deceased at the cemetery. The exterior width of a burial container may not exceed thirty-six (36") inches in any one grave, and if the same is larger, additional accommodations must be arranged with the cemetery.
5. The cremation outer burial container will be placed at a location within the grave space as determined by the parish cemetery authority.

*From: Minnesota Catholic Cemetery
Rules & Regulations*



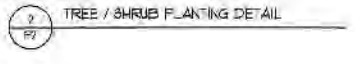
PLANT LIST

QTY	COMMON NAME	BOTANICAL NAME	SIZE	COMMENTS
DECIDUOUS TREES				
8	AUTUMN BLAZE MAPLE	Acer x freycinetii 'Autumn Blaze'	2-12' GAL BB	
8	NORTHWOOD MAPLE	Acer rubrum 'Northwood'	2-12' GAL BB	
11	HACKBERRY	Celtis occidentalis	2-12' GAL BB	
8	PRAIRIEPIRE CRAB	Hales 'Prairiefire'	8' BB	
24	SPRING SNOU CRAB	Hales 'Spring Snow'	8' BB	
1	CRIMSON SPIRE OAK	Quercus alba x Quercus robur	2-12' GAL BB	
2	BUR OAK	Quercus macrocarpa	2-12' GAL BB	
1	GREENSHIRE LINDEN	Tilia cordata 'Greenspire'	8' BB	
CONIFEROUS TREES				
5	BLACK HILLS SPRUCE	Picea glauca densata	8' BB	
1	WHITE PINE	Pinus strobus	8' BB	
SHRUBS				
	BLACK HACKBERRY	Aralia nudicaulis stricta	4' CONT	3' D.C.
	SLABBER BURN HONEYSUCKLE	Diervilla lonicera	4' CONT	3' D.C.
	DI'ERVILLE BURN HONEYSUCKLE	Diervilla heterophylla 'Ballerini'	4' CONT	3' D.C.
	PRINCE OF WALES JUNCER	Juniperus horizontalis 'Prince of Wales'	4' CONT	3' D.C.
	CROWN LEAF SPINER	Spirea x burgundy 'Crispa'	4' CONT	3' D.C.
	LITTLE PRINCESS SPINER	Spirea japonica 'Little Princess'	4' CONT	3' D.C.
	TECHY GLOBE ARBOVITAE	Thuja occidentalis 'Tetra GLOBE'	4' CONT	3' D.C.



NOTES:

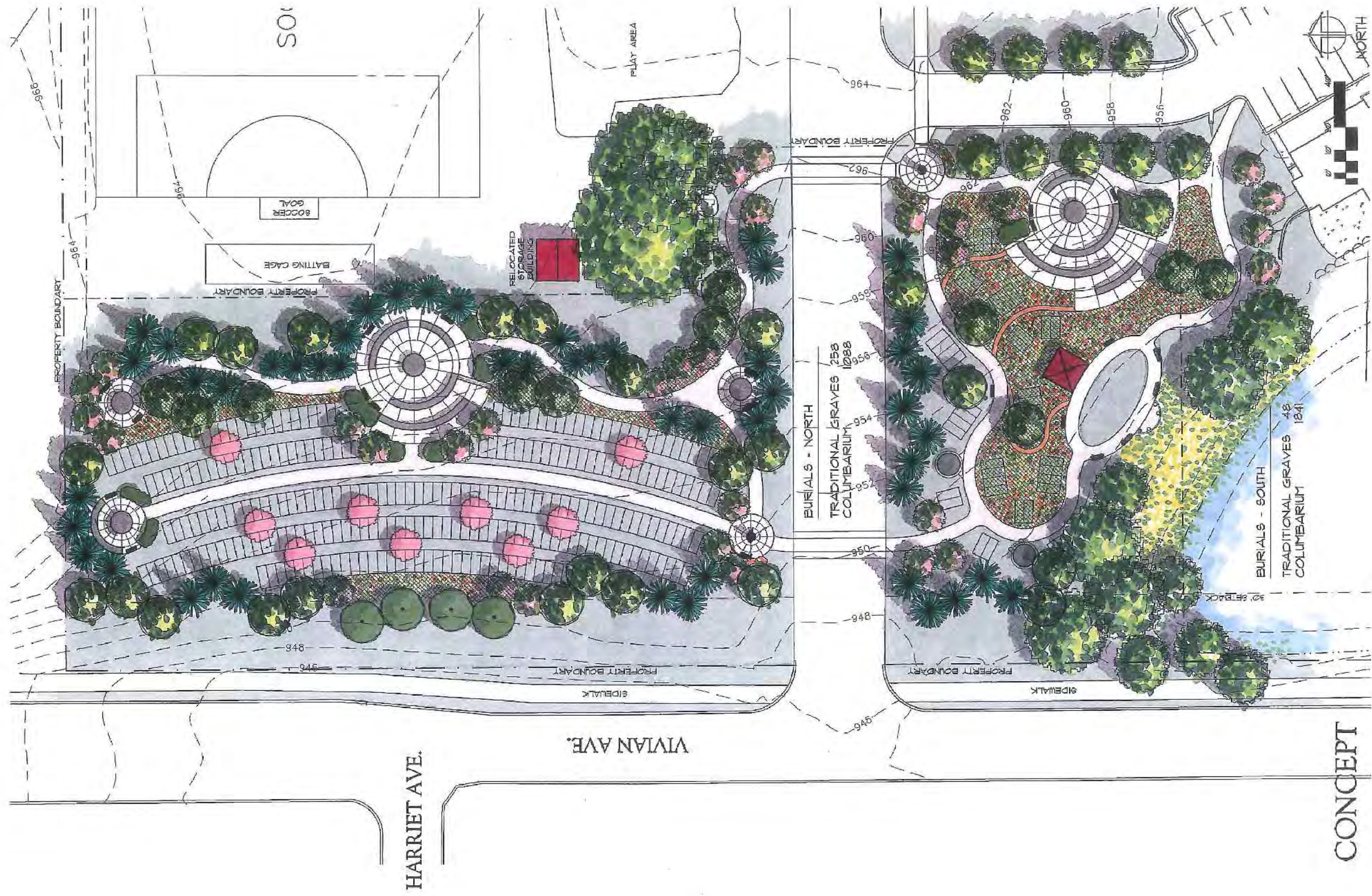
- PROVIDE AND INSTALL PLANT MATERIALS THAT MEET SPECIFICATIONS AND ARE OF THE SIZE, TYPE, AND SPECIES GIVEN IN PLANT SCHEDULE.
- REMOVE DEAD OR DAMAGED BRANCHES; RETAIN THE NATURAL FORM OF THE TREE OR SHRUB.
- DO NOT CUT THE LEADER.
- PLACE LEEDY BARRIER DIG PLANT HOLES 12" MIN. LARGER THAN BALL. ALL SIDES. BACK FILL WITH PLANTING SOIL SEE SPEC. SECURELY BOTTOM OF PLANTING HOLE. REFER TO SPECIFICATIONS FOR ADDITIONAL INFORMATION.
- IN CASE OF ANY DISCREPANCIES BETWEEN THIS DETAIL, PLANS OR SPECIFICATIONS, THE SPECIFICATION SHALL GOVERN.



PLANTING PLAN



April 2013



April 2013

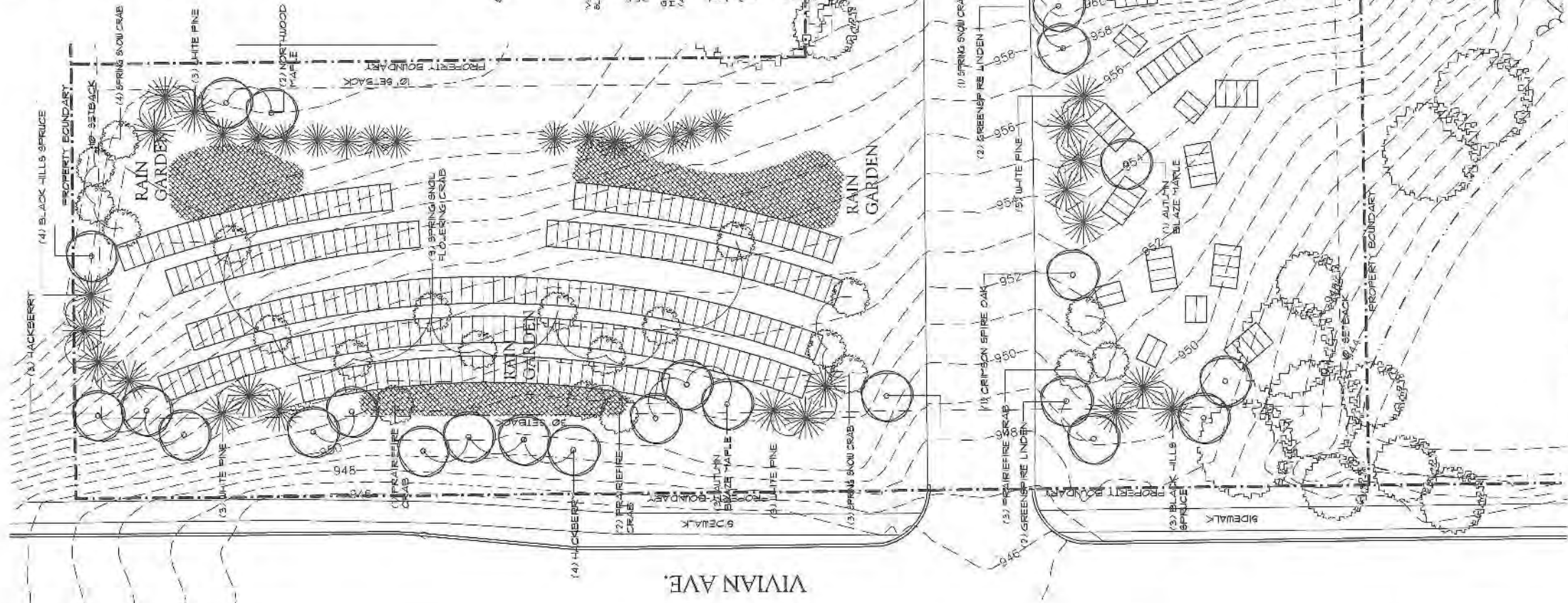


Sanders Wacker Bergly Inc.
Landscape Architects and Planners
A Loucks Company

SAINT ODILIA PRAYER GARDEN / CEMETERY
Shoreview, Minnesota

TREE LIST - PHASE ONE

QTY.	COMMON NAME	BOTANICAL NAME	SIZE	COMMENTS
4	DECIDUOUS TREES			
4	AUTUMN BLAZE MAPLE	<i>Acer x freemontii 'Jefferson'</i>	2" CAL. B.B.	
2	NOR-HOOD MAPLE	<i>Acer rubrum 'Norbudod'</i>	3-1/2" CAL. B.B.	
6	HACKBERRY	<i>Celtis occidentalis</i>	2" CAL. B.B.	
6	FLORIDIANE CRAB	<i>Malva 'Floridiana'</i>	8" BB	
7	SPRING SNOW CRAB	<i>Malva 'Spring Snow'</i>	8" BB	
1	CRIMSON SPIRE OAK	<i>Quercus alba x coccinea 'Spiral'</i>	2" CAL. B.B.	
1	BLK OAK	<i>Quercus macrocarpa</i>	2" CAL. B.B.	
4	GREENSPICE LINDEN	<i>Tilia cordata 'GreenSpice'</i>	8" BB	
1	CONIFEROUS TREES			
1	BLACK HILLS SPRUCE	<i>Picea glauca 'orealis'</i>	8" BB	
1	WHITE PINE	<i>Pinus strobus</i>	8" BB	



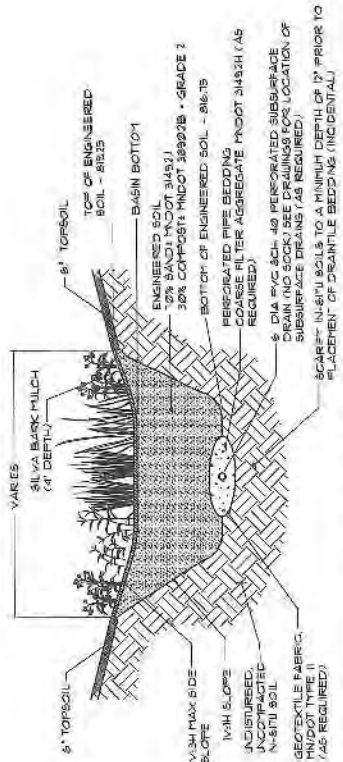
LANDSCAPE PLAN
PHASE ONE



April 2013

RAIN GARDEN PLUGS (TYPICAL)

COMMON NAME	BOTANICAL NAME	COMMENTS
GRASSES		
LITTLE BLUESTEM	<i>Schizachyrium scoparium</i>	12" D.C.
PRAIRIE DROPSEED	<i>Sporobolus heteroclades</i>	12" D.C.
FLOWERS		
PURPLE CONEFLOWER	<i>Echinacea purpurea</i>	12" D.C.
BLACK-EYED SUSAN	<i>Rudbeckia subtomentosa</i>	18" D.C.
NEW ENGLAND ASH	<i>Fraxinus novboracensis</i>	12" D.C.
FRAGRANT HYDRANGEA	<i>Hydrangea paniculata</i>	18" D.C.
PRAIRIE WILD ONION	<i>Allium stellatum</i>	12" D.C.
BUTTERFLY BLOSSOM	<i>Asclepias tuberosa</i>	18" D.C.
PRAIRIE SYRINKA	<i>Genipa triflora</i>	12" D.C.
WILD BERGAMOT	<i>Monarda filifolia</i>	18" D.C.



BIORETENTION BASIN (RAIN GARDEN)
TYPICAL CROSS-SECTION

Date: March 25, 2013

To: Rob Warwick, Senior Planner

From: Tom Wesolowski, City Engineer

Subject: Stormwater Management Report Review Comments
for the Prayer Garden, Columbarium, and Cemetery,
Church of St. Odilia, 3495 Victoria Street

The City of Shoreview Engineering Department has reviewed the Stormwater Management Report dated March 2013 and has the following comments:

1. The developer has submitted storm water management calculations for existing and proposed drainage, which meet the requirements of the City's Surface Water Management Plan (SWMP).
2. The proposed project will increase the impervious surface in both areas located north and south of the existing access road.
3. Currently the area north of the access road drains to Vivian Avenue and the south side drains to a storm pond. The drainage patterns will remain the same after the proposed improvements.
4. Three raingardens are proposed for the north area, which will collect and treat run-off from the area. The raingardens will reduce the rate of run-off from the area to a level less than what currently leaves the site.
5. The area south of the access road will drain to the existing storm pond, which will store and treat the runoff. There will be an increase in the volume of runoff from the area due to the added impervious, but it is small and the affect on the pond is negligible.
6. The proposed stormwater management meets the intent of the City's SWMP.

If you have any questions or would like to discuss the comments please contact Tom Wesolowski at 651-490-4652



Robert Warwick <rwarwick@shoreviewmn.gov>

Fwd: Cemetery Impacts on Groundwater Quality

Kathleen Nordine <knordine@shoreviewmn.gov>
To: "WARWICK, ROBERT" <rwarwick@shoreviewmn.gov>

Wed, Apr 17, 2013 at 11:49 AM

----- Forwarded message -----

From: **Convery, Michael (MDH)** <michael.convery@state.mn.us>
Date: Wed, Apr 17, 2013 at 11:48 AM
Subject: Cemetery Impacts on Groundwater Quality
To: "knordine@shoreviewmn.gov" <knordine@shoreviewmn.gov>

This email is a follow-up to our conversation where you mentioned some concerns have been raised locally regarding potential groundwater quality impacts (and private well impacts) from a proposed cemetery. I am not aware of any documented instances in Minnesota where groundwater quality may have been impacted by chemicals used in preparing bodies for burial. I personally have been involved with a couple areas where I was testing monitoring wells and private wells for another (unrelated) contamination problem, but where the wells happened to be located downgradient from cemeteries. I never detected any chemicals that one might associate with the cemetery.

Many cemeteries have their own wells and water systems for their staff or for visitors. MDH monitors the water quality of these systems if they meet the threshold of being a public water supply and, again, I do not recall ever seeing or hearing of a water quality problem associated with the cemetery itself.

I only vaguely recall one alleged contamination problem elsewhere in the country where they suggested some elevated arsenic levels in groundwater might be associated with an old cemetery. Arsenic was widely used for embalming at the time this cemetery was active. Arsenic is no longer used. But, knowing what I know now of arsenic in the environment, would wonder if it might have been naturally-occurring arsenic, associated with the local geology.

The Minnesota Well Code (Minnesota Rules Chapter 4725) does have a separation distance of 50 feet between a well and a grave, mausoleum, or animal burial. See: <https://www.revisor.mn.gov/rules/?id=4725.4450> (item E.6). This distance was established more as a precautionary and reasonable measure rather to address a known problem.

A couple other factors to keep in mind. First, it seems that most new cemeteries are now highly engineered, particularly for drainage. They are designed to prevent water (both groundwater and surface water) from entering the grave site or vaults. This would greatly reduce the deterioration of the grave and the release of material from the grave. Second, I recently read that over 50% of burials today are now cremated remains, which would not have the chemicals used for preparing the body for burial. I have to say I was a little surprised the percentage is that high, but it would reduce the concern of possible chemical release.

If you need any more information or have any questions, feel free to contact me.

Michael P. Convery, P.G., C.P.G.

Mailing Address:

Well Management Section
Environmental Health Division
Minnesota Department of Health
P.O. Box 64975
St. Paul, Minnesota 55164-0975

Building Location:

Well Management Section
Environmental Health Division
Minnesota Department of Health
625 North Robert Street
St. Paul, Minnesota 55155-2538

Phone: (651) 201-4586

—
Kathleen Nordine
City Planner
City of Shoreview
4600 N. Victoria Street
Shoreview, MN 55126

651-490-4682
knordine@shoreviewmn.gov



April 17, 2013

To Shoreview Planning Commission:

This month, officials from Mounds View Public Schools met with representatives from St. Odilia's Parish and the city of Shoreview to discuss the project on St. Odilia's property as it relates to the adjoining property of Island Lake Elementary School.

As School District officials, we passed along concerns we have heard about sight lines related to the proximity of this adjacent property. We also discussed potential noise concerns.

In response, St. Odilia's indicated they were willing to modify their plans by:

- Increasing natural barriers
- Including these additions in the earliest phases of their construction plans
- Pursuing the restriction of ceremonial rifle salutes in sensitivity to both their school and to Island Lake.

We expressed our appreciation for this flexible response and for the neighborly approach taken by St. Odilia's in communicating with us and listening to us. We anticipate their actions will address the concerns brought to us, and we expect to maintain ongoing, cooperative conversations with St. Odilia's and city of Shoreview as the project moves forward.

Sincerely,

A handwritten signature in black ink, appearing to read "Colin Sokolowski".

Colin Sokolowski
Director of Public Relations

March Comments



Robert Warwick <rwarwick@shoreviewmn.gov>

St. Odilia Cemetery proposal

Ryan and Kristen RUSSEK <krussek@msn.com>

Tue, Mar 26, 2013 at 9:27 PM

To: "rwarwick@shoreviewmn.gov" <rwarwick@shoreviewmn.gov>

Hi Rob, My name is Kristen Russek. I am a neighbor and parish member of St. Odilia's Catholic Church. We live about 5 blocks away near the corner of Harriet and Richmond ave (3486 Richmond ave).

We were unable to attend the meeting tonight so I am writing you to voice my opposition and concerns to the cemetery proposal. I have 2 children who will attend Island Lake elementary school in the the future. I have a lot of unrest with the emotions that may be raised by my children placing a cemetery next to the school playground. Also, they will have to pass by it almost daily as "walkers" to school.

I also have significant concerns of what it will do to traffic around the area. We already see increases of traffic near our home with the multiple church services let alone an increase in traffic from funerals and the cemetery.

As I said, I am a member of the church but I am also a neighbor who plans to live here for a long time. I am against putting this cemetery in the middle of our neighborhood.

Please contact me with any questions.

Thanks,
Kristen and Ryan Russek



Sent from the Russeks' iPad



Robert Warwick <rwarwick@shoreviewmn.gov>

Opposition to St. Odilia Cemetery

Julie Ogunleye <julie.ogunleye@gmail.com>

Tue, Mar 26, 2013 at 5:59 PM

To: rwarwick@shoreviewmn.gov

Rob,

Hello, I understand there is a planning meeting tonight to review the St. Odilia proposal for a cemetery and prayer garden. Unfortunately, my family is unable to attend, but I wanted to express to you our opposition of this proposal.

We live on Nancy place just west of the church. We are members of St. Odilia and liked the idea of a prayer garden when we heard about it from the pews. However, it has come to our attention that this will also be a cemetery and we do not support this aspect of the plan.

We have a young son who we hope will one day attend Island Lake Elementary. We have daydreamed about how he will walk to school... our dreams do not include him walking by a cemetery to get there. We are concerned about locating a cemetery between two elementary schools and in part of our neighborhood.

Certainly, our concerns also include the effect this proposal could and likely will have on property values on our home and those of our neighbors.

We ask that you do not allow a cemetery to be built at the proposed location, thank you. Please let me know if there is anyone else with the city you recommend we contact regarding this issue, as we want to make sure our voices are heard.

Thank you for your time and attention.
Sincerely,

Joel & Julie Ogunleye
3409 Nancy Place





Robert Warwick <rwarwick@shoreviewmn.gov>

St Odilia proposal

Dawn Frandrup <dfrandrup@gmail.com>

Tue, Mar 26, 2013 at 7:21 PM

To: "rwarwick@shoreviewmn.gov" <rwarwick@shoreviewmn.gov>

Hello Rob,

My name is Dawn Frandrup. I live in the neighborhood behind St. Odilia (on Richmond Ave), and I am concerned about the proposal to utilize the land between Island Lake School and the pond for a cemetery/prayer garden.

I wish I had learned of this proposal before today, as I would have formally opposed it. I can only hope it is not too late to seek feedback and input from the community which will be impacted by the proposed plans. I find it surprising and disturbing that the majority of the neighborhood was not informed of the proposal. As it appears the proposal was not adequately communicated, it would be a mistake to interpret lack of opposition as acceptance by the surrounding community.

My opposition to the proposal is based on several concerns (which I believe would also be echoed strongly by others in the neighborhood if they were informed of the plans):

- 1) As a mother with school age children who attend Island Lake Elementary, I am concerned about the impact it will have on the children, not only as they walk to school during the week, but during recess and on the weekends when they take walks or go to the park
- 2) Increased traffic - part if the reason we chose to move to this neighborhood was the relatively low amount of traffic. I suspect traffic will increase significantly with funerals and visits to graves. This increases my concerns around the safety of children playing outside and overall safety of the neighborhood.
- 3) Adverse impact on property values. This is a very real concern which has a large impact on residents of the neighborhood.
- 4) Were environmental impact studies completed? Could this have a negative impact on water quality, etc? Could toxins be released from coffins, etc?

Please take these concerns under consideration and advise if there is still an opportunity for the larger community to voice their opinions (opposition or support) related to the proposal.

Thank you,

Dawn





Robert Warwick <rw@shoreviewmn.gov>

St. Odelia Cemetary

Christopher Anderson <christopher.anderson88@gmail.com>

Tue, Mar 26, 2013 at 7:57 PM

To: "rwarwick@shoreviewmn.gov" <rwarwick@shoreviewmn.gov>, "sandymartin444@gmail.com" <sandymartin444@gmail.com>, "emyjohnson26.2@gmail.com" <emyjohnson26.2@gmail.com>, "tquigley@q.com" <tquigley@q.com>, "ady@adywickstrom.com" <ady@adywickstrom.com>, "benwithert@yahoo.com" <benwithert@yahoo.com>

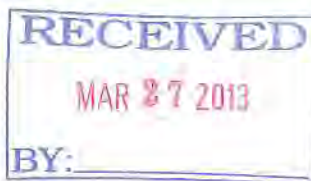
Cc: Frandrup Dawn <dfrandrup@gmail.com>

Hello Rob and Council Members,

My family lives on Richmond Ave. I just received notice today, March 26, of the city council meeting regarding the proposed cemetery to be located on the St. Odelia property. I would like to take this opportunity to voice my opposition with this plan. My wife and I chose Shoreview, and this neighborhood specifically, as a result of our desire to live in a community that values it's homeowners and their families. I strongly believe that the proposed cemetery would have a negative impact on the home values in our neighborhood and that environmental concerns exist. Not to mention the safety impact of increased traffic through the neighborhood and past Island Lake Elementary (where my children attend) which already has traffic safety concerns. My hope is that, although I was unable to attend the meeting tonight, you take into account my opposition to this project. I grew up in Shoreview and have moved back as a result of the quality of life here. Make the decision to protect what has been created.

Best Regards,
Chris

Sent from my mobile phone.





Robert Warwick <rwarwick@shoreviewmn.gov>

Cemetery plans

Pat Dick <patdickevans@yahoo.com>

Thu, Mar 28, 2013 at 8:07 AM

To: "rwarwick@shoreviewmn.gov" <rwarwick@shoreviewmn.gov>

Unfortunately I was unable to attend Tuesday's meeting. We live at 3430 Richmond avenue.

I am opposed to this proposal because of the negative impact to surrounding real estate values which impacts the coffers of the city of Shoreview. Additionally I believe it is in very poor taste to locate a cemetery between two elementary schools. It is my understanding that many parishioners of St. O's are against this proposal.

We are very interested in the outcome of this proposal.

Respectfully,
Patricia and David Evans

Sent from my iPhone

ag 3/26/13



Robert Warwick <rwarwick@shoreviewmn.gov>

St. Odilia proposed development concerns

bmwmom11@comcast.net <bmwmom11@comcast.net>
To: rwarwick@shoreviewmn.gov

Tue, Mar 26, 2013 at 7:20 AM

Tuesday, March 26, 2013



Dear Rob,

We received the letter from your office regarding the St. Odilia application to develop specific portions of their campus into a prayer garden, columbarium and cemetery.

Some of the concerns that we have are:

1. We feel that having a cemetery and columbarium so close to Island Lake Elementary and St. Odilia schools, playgrounds, soccer fields & single family homes would be highly undesirable and out of place in our neighborhood.

Hundreds of young school children and pre-school children pass by the proposed locations several times each day.

In addition, adults and children who live in the neighborhood heavily utilize the community bike path that passes, literally, within feet of the proposed cemetery.

2. We feel that having a cemetery in our neighborhood would have a negative impact on our home & property valuation.

Has the City of Shoreview and/or representatives for St. Odilia explored the adverse financial ramifications that this type of development would have in this neighborhood?

3. We feel that potential home buyers in & around our neighborhood would be much less likely to purchase a home within such close proximity to a cemetery no matter how cleverly it is disguised/camouflaged by trees, shrubbery or flower gardens.

4. If the proposed development of the prayer garden, columbarium and cemetery is eventually approved by the City of Shoreview, what would the regulations be regarding gravestones and monuments? Flat or upright? What would the size & height limitations be on a columbarium? How would the matter of parking and traffic volume, in our neighborhood, be handled during a burial and procession? Would burials be allowed during school hours?

Perhaps it is too soon to address these questions specifically but they are a sample of the many questions that need to be researched and thoroughly answered regarding St. Odilia's proposed development.

Please acknowledge your receipt of this e-mail prior to the Planning Commission meeting tonight.

Thank you,

3/26/13

Shoreviewmn.gov Mail - St. Odilia proposed development concerns

Jeff & Brenda Washburn
3479 Vivian Avenue
Shoreview, MN 55126
651.483.2474



Robert Warwick <rwarwick@shoreviewmn.gov>

In opposition against St. Odilia's for a Cemetery/"Prayer Garden" proposal

Jonathan Chen <jchen@liknon.com>
To: rwarwick@shoreviewmn.gov

Mon, Mar 25, 2013 at 6:55 PM



Dear Rob and members of the planning commission:

Per voice mail exchanges and phone conversations with Rob Warwick, for your discussion and consideration, please find below our family's written opposition to the St. Odilia Cemetery/Prayer Garden proposal and questions about the process it followed. We are not conversant in the planning commission processes and thus are writing as concerned long-time residents and citizens of the community.

Summary:

We strongly oppose this proposal to build a 3,235-body cemetery in the midst of our neighborhood/elementary school zone. Given the little time that we have to react to this proposal, we can only articulate 4 primary concerns:

1. The effectiveness of the public process that the church executed and whether it truly collected representative community sentiment about this proposal
2. The negative impact on the neighborhood kids as they go to/return from their local elementary school
3. The negative impact on property values on the houses in the neighborhood
4. The potential risk to the environment

Given additional time (we only heard about this proposal when the March 14th letter from Rob Warwick was forwarded to us in California on March 21st), we may be able to identify additional relevant points for discussion. In the meantime, below are the details to the 4 items listed above:

1. Effectiveness of process followed to collect representative community sentiment – our conclusion is that the process was severely flawed in its ability to collect opinions from the relevant community about the proposal
 - a. According to page 4 of Preliminary Plat and Site and Building Plan Review document (dated March 22), "property owners within 350' were notified of the applicant's request. Two comments have been received."
 - b. Many important questions/comments here (edited after conversation with Rob on March 25th):
 - i. How many homes were actually contacted? In a call on March 25th, Rob patiently explained to me the legally-mandated process that was used to select 30 homes (within 350' of the perimeter of St. Odilia property line) to be contacted. This list was furnished to St. Odilia.

1. Though I understand 350 feet is legally-mandated, for a project such as this that would significantly impact the look/feel/lifestyle/value of the neighborhood, it seems more reasonable to try to actively solicit input from the actual neighborhood that would be affected in addition to using a legally-mandated methodology. For example, the legal process dictated that some homes on the east side of Victoria were notified, but these homeowners would likely have little reason to oppose this proposal since their kids would not walk by the cemetery, they cannot see the cemetery, and their home values would not be affected by the building of the cemetery. On the other hand, 200+ homes on the west and south side of the proposed cemetery whose kids would walk/bike past the cemetery and whose home values would be reduced by the building of the cemetery, were not contacted.

2. Though meeting the letter of the law, the 30 homes actively contacted are hardly representative of the population that would be impacted by the construction of a 3,235-body cemetery in this neighborhood

ii. Rob explained the use of signage on the proposed site to passively help build awareness with the neighbors

iii. Rob advised that he was also surprised by the low number of comments from the community regarding this proposal (apparently some proposals about setbacks and fire station changes received much higher responses proportionally) – though Rob and I draw completely difference conclusions about why that might be.

1. Rob's conclusion is that the community has been made aware of the proposal and not enough people cared enough either way to voice their opinions; with the caveat that perhaps people are withholding their opinions for the meeting on the 26th.

2. My conclusion is that perhaps the neighborhood does not fully understand the proposal and its expected impact, or like us, were not aware that it was even in process until the March 14th letter from Rob (my parents live in California most of the time now)

iv. I don't understand why the SOLE SUPPORTING comment from "Joshua Koepp of 995 Glenhill Road" is included in the packet. Looking at a map, I see that his residence is over a mile from the proposed site of the cemetery. I'm glad he spoke up, but his opinion should not be presented as a voice from the affected neighborhood (which is the impression left when it is included in the packet).

v. Fundamentally, it seems like it'd be in the best interest of the petitioner to demonstrate its good neighborly intentions by ACTIVELY inviting the 200+ families in the affected neighborhood to join in the discussion. If the outreach effort succeeds in converting a significant number of the 200+ "no responses" into definitive support or opposition votes, then we can all be more confident that the community has spoken.

c. Please note that my family and I do not question the sincerity of the St. Odilia proposal nor the legality of the process the City of Shoreview followed; but we do strongly assert that the process was fatally flawed in securing sufficient relevant public opinion (per b(iii) above).

d. My working definition of "relevant neighborhood" or "affected neighborhood":

i. Assuming that the behavior of kids going to school haven't changed too much since when I attended Island Lake, kids from as far away as Harriet Court and Arbogast St would walk or bike to school, passing the site of the proposed cemetery.

ii. Thus, the relevant neighborhood should be the area encompassed

by Victoria (to the east), Arbogast (to the south), Lexington (to the west), and the northern side of Harriet/Richmond Ct (to the north). By my quick review of the Zillow.com map, it looks to be well over 200 homes. Probably closer to 250. I think reasonable people will agree that taking a <10% sample would not provide a result that accurately represents the neighborhood's opinion.

2. Negative impact on neighborhood kids as they go to/return from school each day

a. I think this will vary greatly depending on the beliefs of 200+ individual families in the neighborhood

i. However, most Asian cultures will find the proximity of a cemetery so close to them extremely off-putting. Their kids (and adults too) will likely feel anxious as they pass by, especially at night.

3. Negative impact on property values

a. I don't recall seeing a projection in the packet – please advise if there was a business case completed to assess the magnitude of property value reduction and impact on community and property tax receipts (and corresponding offset by gains in sales tax paid by St. Odilia – assuming there's tax assessed for selling the 3,235 plots).

b. Quick online research found a 575 single-family home transaction study performed in OH in 2010 by Larsen, James E.; Coleman, Joseph W. on the impact of a nearby cemetery on property values. I've excerpted some of the authors' findings below:

i. There are also potential disadvantages associated with close proximity to a cemetery. Cemetery workers, visitors, or trespassers may create noise disturbances. The relatively pleasing vista previously mentioned may be compromised if the cemetery falls into disrepair or if trespassers vandalize it.

Potential physical dangers to people residing in close proximity to a cemetery include poisoning and disease. Spongberg and Becks (11) reported that cemeteries may release hazardous chemicals and metals into surrounding soil and ground water. Possible contaminants include arsenic and mercury, which were used in past embalming practices, or formaldehyde used in current embalming practices; and varnishes, sealers, and preservatives used on wood coffins, or lead, zinc, and copper from metal coffins.

Vezzani (12) asserts that mosquitoes are the most medically important insect vectors of disease. He also concludes that cemeteries are highly suitable habitats for artificial container-breeding mosquitoes due to the great availability of the different resources that they need (i.e., sugar substances, shelter, and water-filled containers).

Finally, there are psychological factors associated with cemeteries that may negatively impact some people. The sight of a grave being dug or an interment service can put a damper on a party being held at a residence with a cemetery view. For some, the sight of a cemetery or of tombstones may be upsetting, and for others, knowing that the cemetery is close may be disconcerting.

Each of these factors may influence potential purchasers who may lower their bids or refuse to make offers on properties with cemetery views. Larsen and Coleman (13) report moderate, but statistically significant selling price effects for residential properties that were classified as psychologically impacted for reasons other than the property's proximity to a cemetery.

Casual examination of cemeteries in the U.S. Midwest results in several observations that are consistent with the notion that cemeteries may negatively impact the value of

nearby single-family houses. First, cemeteries tend to be initially situated remotely from residential properties. Second, in recent years when residential development has occurred in close proximity to a cemetery, developers have shown a propensity, where possible, to leave a wooded buffer zone between the cemetery and the residential development. Finally, houses constructed in close proximity to an existing cemetery are rarely, if ever, high-end properties.

ii. The advantages the authors found were about having open space nearby (which already exists) and security from future commercial/residential developments (which already exist). The complete report including lots of statistics, can be found here: <http://www.thefreelibrary.com/Cemetery+proximity+and+single-family+house+price.-a0220765045>

iii. Ultimately, it may be less about the selling price (though the study found a 10% reduction) and more about longer time on market before finding the smaller subset of suitable buyers – e.g., a buyer who doesn't care about having a cemetery nearby. I didn't review the statistical calculations or the study protocols and thus am simply assuming that it is a published, peer-reviewed study.

4. In the packet, I didn't see an environmental impact report. I did see a note on p.2 of Sanders Wacker Bergly's SITE AND BUILDING PLAN REVIEW document that "there are no environmentally sensitive areas on the site." Reading about the chemicals that can be released from cemeteries (per Larsen and Coleman's findings above) does raise a concern for me. If other citizens share this concern, perhaps an environmental impact study should be commissioned by the petitioner to assuage these concerns?

Finally, I thank Rob for taking time to explain many of the details of the process to me. I thank the commission for taking these questions and comments into consideration when evaluating this proposal. And I assert our family's strong opposition to this proposal and strongly encourage the commission and the petitioner to gather more data to make a more informed decision for the benefit of the community: actively collect more opinions from our affected neighborhood, conduct an environmental assessment, and conduct a financial impact study (business case). Unfortunately, we are not able to fly back for the meeting on the 26th, I hope you will be able to read this to the audience or to pass out copies to the audience.

With respect and best regards,

Jonathan Chen, for Chen Family

867 Harriet Ave.

City Council:
Sandy Martin, Mayor
Emy Johnson
Terry Quigley
Ady Wickstrom
Ben Withhart



City of Shoreview
4600 Victoria Street North
Shoreview, MN 55126
651-490-4600 phone
651-490-4699 fax
www.shoreviewmn.gov

March 14, 2013

REQUEST FOR COMMENT

Dear Property Owner:

The Church of St. Odilia has submitted applications for the property at 3495 Victoria St. N. The Church proposes to plat the entire Campus, creating one lot on the west side of the property that is proposed to be developed with a prayer garden, columbarium and cemetery. The area will be developed in phases starting with the pond area on the south and ending with the area west of the soccer field. There is no predetermined timeline for the phasing, which will be determined by the need for added space. Cemeteries are permitted in the R-1 Zoning District as a Public/Quasi-public use, subject to Site and Building Plan Review by the City. Please see the attached plans.

The Planning Commission will review the applications at their March 26, 2013 meeting which will be held at 7:00 pm in the City Council Chambers, City Hall, 4600 N. Victoria Street. You are welcome to attend. Also, you are encouraged to fill out the bottom portion of this form and return it to by Thursday, March 21st if you have any comments. Comments received after that date but before the meeting date will be distributed at the Planning Commission meeting.

If you would like more information or have any questions, please call me at 651-490-4681 between 8:00 a.m. and 4:30 p.m., Monday through Friday. You may leave a voice mail message at any time. I can also be reached via e-mail at rwarwick@shoreviewmn.gov.

Sincerely,

Rob Warwick
Senior Planner

Comments:

I would like to express my support for this project. After reviewing the master plan blueprint, I think this development would be a beautiful enhancement for our neighborhood. The layout and landscaping appear to be very respectful of neighboring properties. I believe that sacred spaces are very important for communities, especially when they are well designed, landscaped and cared for. Since prayer and meditation are very important to me, I would definitely use the prayer garden regularly. That the prayer garden would also be a burial place only enhances the appeal of this project for me. I find places of burial to be very meaningful spaces to remember lives well lived and contemplate on how to live well in the present.

Name: Joshua Koepp
Address: 995 Glenhill Rd., Shoreview



Robert Warwick <rwarwick@shoreviewmn.gov>

Request for Comment for: Saint Odilia Prayer Garden / Cemetery

Herbert Chiou <herbert.chiou@gmail.com>

Wed, Mar 20, 2013 at 12:01 PM

To: Rob Warwick <rwarwick@shoreviewmn.gov>

Dear Rob,

I have heard about this proposed development through a website called "Nextdoor - Southern Shoreview / Arden Hills" as I am currently out of the country on vacation for a few weeks. I would like to provide some comment on this proposed development. From what I have read online, there is something that bothered me about the way the church is going about doing this.

Here is the link to the Saint Odilia's bulletin from 10th of March: <http://content.seekandfind.com/bulletins/02/0021/20130310B.pdf>

There is a section that says:

ST. ODILIA PRAYER GARDEN UPDATE

Will the Prayer Garden be a cemetery?

Yes, the Prayer Garden will be a cemetery as it will contain columbaria with niches for cremated remains as well as graves for traditional body burial. It will however be called the St. Odilia Prayer Garden, and NOT St. Odilia Cemetery for a variety of reasons. Because of the design itself and the fact that any grave markers will be flush to the ground (flat) it will have a feel of a garden rather than a traditional cemetery. We hope this sacred space will invite people to spend time in reflection and prayer as they enjoy the presence of God in a beautiful natural surrounding.

Why are they avoiding the use of the name Cemetery? I feel there might be a good chance that if the children who attends the Island Lake Elementary knows about a cemetery is next door, they might be spooked out about it. My daughter starts kindergarten there in September this year. She probably would avoid walking past the area on the way to school if the cemetery is there. I know at least a few adults who would also avoid the area.

By definition it will be a cemetery, even if it has a feel of a garden. Would more people be opposed to this development if it is called the St. Odilia Cemetery compared with their preferred name of St. Odilia Prayer Garden?

I don't know how wide spread the notice was given, but it was given to the property owners - was it sent out to parents/teachers of students of the school for their comments?

Thank you for your attention.

Regards,
Herbert Chiou, Ph.D. MRACI C Chem.
1037 Cottage Place,
Shoreview, MN 55126

City Council:
Sandy Martin, Mayor
Amy Johnson
Terry Quigley
Ady Wickstrom
Ben Withhart



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March 14, 2013

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If you would like more information or have any questions, please call me at 651-490-4681 between 8:00 a.m. and 4:30 p.m., Monday through Friday. You may leave a voice mail message at any time. I can also be reached via e-mail at rwarwick@shoreviewmn.gov.

Sincerely,

Rob Warwick
Senior Planner

Comments:

This cemetery is just beside Island elementary school and kids are in the ages of being frightened by death, at least my son is. The kids may feel not comfortable if they see those graves and funeral from classrooms and playground.

The school playground is right on the north of the planned cemetery and a soccer field is right on the east of it. The Vivian Ave is on its west side where school buses park everyday morning and afternoon. Considering the noise around this planned cemetery, I don't think it is a good place for the dead to rest in peace.

The cemetery is so small, about half of a soccer field. And with kids around it all the time, please consider if it has to there.

Name: Jiaying Li
Address: 3504 Richmond Ave, Shoreview

April Comments



Robert Warwick <rwarwick@shoreviewmn.gov>

St Odillia's Cemetery Proposal

Robin Timmons <leslieloo.55@gmail.com>

Tue, Apr 16, 2013 at 3:28 PM

To: knordine@shoreviewmn.gov, rwarwick@shoreviewmn.gov

April 16, 2013

To whom it may concern,

I am opposed to St Odillia's proposed cemetery on the Vivian side of their property. The following are my concerns.

- Inappropriate plan for the available acreage in a fully developed neighborhood
- Lack of buffers, screening and boundaries between the school and neighborhood property
- Despite the flush markers memorials to loved ones are not (see attached photos)
- Use of heavy machinery to dig graves on Vivian (weight, accessing hill, noise)
- Water run off and possible compromise to the existing hill as more in ground burials take place
- Acsthetics to the neighborhood. St Odillia's church and school do not have this as part of their visual landscape. The church and school are on the Victoria side of their property.
- Funeral processions parking on Vivian and Harriet (St Odillia and non-church burials)
- I question the reality of the funeral procession actually walking from the church to the cemetery in inclement (rain, snow, ice) weather. Accessing the hill is also questionable for people with mobility issues.
- Impact on property values
- The impact of selling a house that was purchased prior to a cemetery built in the neighborhood (time on market, property value, marketing the neighborhood etc.)
- Already high use area with schools, school functions, sports events, community events, park and recreation programs, etc.

I am attaching photos from two cemeteries that use flush markers. As you can see the flush markers really don't matter once the memorials are added. The cemeteries are Epiphany Cemetery (the green grass one) which is part of the church property at Epiphany Catholic Church in Coon Rapids. The other photos are from Newport Cemetery in Newport MN. This cemetery is on a hill. The proposed cemetery does adversely impact the existing neighborhood. The concerns from the people who live in the neighborhood should be seriously considered by the planning commission and the city council.

Thank you.

Robin Timmons

3456 Milton St No

Shoreview MN 55126

3 attachments



Cemetery pics1.jpg
1684K



Cemetery pics.jpg
1837K



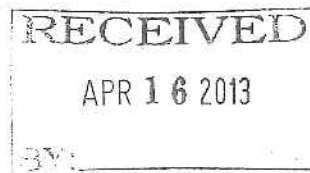
Cemetery.jpg
204K

Other

Other concerns expressed at the March meeting included noise, traffic and environmental impact. The Church has indicated that they will implement operating rules for the prayer garden and cemetery that will address these items.

The Planning Commission will review these applications at their **April 23, 2013** meeting which is held at **7:00 pm in the City Council Chambers, City Hall, 4600 N. Victoria Street**. You are welcome to attend. Also, you are encouraged to fill out the bottom portion of this form and return it to me by **Thursday, April 18th** if you have any comments. Comments received after that date but before the meeting date will be distributed at the Planning Commission meeting.

If you would like more information or have any questions, please call me at 651-490-4681 between 8:00 a.m. and 4:30 p.m., Monday through Friday. You may leave a voice mail message at any time. I can also be reached via e-mail at rwarwick@shoreviewmn.gov. Please note that the Planning Commission agenda and packet should be posted on the City website, www.shoreviewmn.gov, on or around April 19th.



Sincerely,

Rob Warwick
Senior Planner

Comments:

Planning Commission,
I believe the Shoreview community should have a place where our loved ones can be buried. Whether that is in ground grave or in columbarium it sure would be nice not having to go to an out of the community site to visit your loved ones grave site. I have all the confidence that this cemetery would be an asset for the Shoreview community. St. Odilia Church will want to maintain it as a beautiful and respectful place for all. I understand it would be available for all to use.

Name: Bob Eubank
Address: 14 Ridge Rd.
North Oaks, MN. 55127

A member of St. Odilia Church.



Mr. Warwick <nwarwick@shoreviewmn.gov>

Comments on St. Odellia plan for cemetery and prayer garden

Kent Olson <kdolson.home@gmail.com>

Wed, Apr 17, 2013 at 9:34 PM

To: nwarwick@shoreviewmn.gov

Dear Mr. Warwick and the Planning Commission,

Thank you for the opportunity to comment on the plans for cemetery and prayer garden by St. Odellia.

We are opposed to locating the cemetery in an established residential area especially in a site so viewable from the established residential area.

The residents will have the view of the cemetery, not the church. Screening by trees and other landscaping will not remove all view of the cemetery. The cemetery will be visible from several directions in the residential area. The cemetery is on a slope so trees along the street will not obstruct the view of the top even when fully grown. Deciduous trees will not screen the view for several months of the year.

Traffic will increase through the residential and past the school regardless of the planned operational plans put in place by the church. Noise will increase.

Saying the south side will be developed first and that full development of the cemetery will span 100 years should not allow it to be developed now. Future residents will also have to view the cemetery if developed. We speak for these future residents now and urge you to not allow the cemetery to be developed.

This plan is for a large, dense cemetery. It needs to be viewed as a large, dense cemetery plan, not a prayer garden plan. We did not see the word cemetery nor its size mentioned in early communications. Since it so large and dense, the cemetery plan should not be minimized by giving it second billing in the church's description.

Thank you again for the opportunity to comment. Luckily our neighbors told of this opportunity. For some reason, we did not receive your letter dated April 12, 2013, even though we live close to the church and property. We drive on Harriet and Vivian several times a day.

Thank you for your time.

Sincerely,

Kent and Linda Olson
3468 Nancy Place
Shoreview, MN



Request for Comment for: Saint Odilia Prayer Garden / Cemetery (for 23 Apr 2013)

Request for Comment for: Saint Odilia Prayer Garden / Cemetery (for 23 Apr 2013)

Herbert Chiou <herbert.chiou@gmail.com>
To: Rob Warwick <rwarwick@shoreviewmn.gov>

Thu, Apr 18, 2013 at 12:48 AM

Dear Rob,

Thank you for preparing the information and collecting comments for the proposed Saint Odilia Prayer Garden and Cemetery. After attending last month's commission and reading the additional information provided by the applicant, I would like to submit my comments for the Planning Commission to consider. I understand the commissioners are busy so I tried to make it as short as I can but there are a lot of points to address.

My family (along with a number of residents in the close vicinity of the proposed site) are opposed to the proposal and here are my own reasons that I would like the commissioners to consider:

* **Concerns for children's (or even adults) safety**

- Saint Odilia does not wish to establish fences but to provide more screening between Island Lake Elementary and the site, they are proposing to use more trees and vegetation. Would this provide hiding spots for potential predators? Could a potential predator pretend to be a visitor and then turn to follow their potential victim? A fence could potentially be a deterrent or at least slow them down.

* **Potential damage to the playground retaining wall of Island Lake Elementary**

- It is noted that along the boundary of the site is the retaining wall of one of the playground for Island Lake Elementary. In the proposal, there is a Black Hills Spruce right next to the boundary on the north end. Could the root system cause damage to the wall, and causing structural damage? It has been observed that with some properties, driveways gets damaged by the roots of nearby trees that was planted close to it.

* **Potential impact to the environment**

- One of the items brought up in the March discussion is the concern in leeching of chemicals, but this information hasn't been shared in this request for comments. Following the line of thought of the tree roots causing damage, it is noted that in the mailed proposal, there are trees on-top of burial sites. Would the trees be planted after the burial or before - or would it be moved for the burial then replaced? Is there a potential that the roots of those plants could reach the caskets and cause damage? As the site is on an incline, some of the burial sites might be at the same level as the where tree roots could migrate.

- Not all caskets are designed to be water-tight and prevent chemicals from leeching. Here is link to the reference for the **Code of Federal Regulations (16 CFR part 453 - Funeral Industry Practices)**: <http://www.ftc.gov/bcp/rulemaking/funeral/16cfr453.pdf> for easier access should you need to verify the points shown below.

From **Minnesota Funeral Directors Association's** FAQ: <http://www.mnfuneral.org/i4a/pages/index.cfm?pageid=3295>

"Is there a law that requires caskets to be placed in vaults prior to burial?"

"No, there is no such law."

Earlier (on the same webpage), they defined "vault" as: Outer Burial Container ("Vault"). This means one could request a burial without an outer burial container.

From **FTC's Consumer Information for types of Funerals**: <http://www.consumer.ftc.gov/articles/0302-types-funerals>

Direct Burial

The body is buried shortly after death, usually in a simple container.

From **Avon Coffin Works** (a Minnesotan hand crafted coffin company)'s **Fact & Laws**: <http://avoncoffinworks.com/pages/Facts%20%26%20Laws.html>

* You have the right to furnish your own casket or urn and ALL funeral homes MUST use it.

* Funeral homes cannot charge you extra because you did not purchase (sic) a casket or urn from them. This right is guaranteed by the US Government under the Federal Trade Commission Rule 16 C.F.R. Part 453, also known as the Funeral Rule.

From **FTC's Consumer Information for The FTC Funeral Rule**: <http://www.consumer.ftc.gov/articles/0300-ftc-funeral-rule>

The Funeral Rule, enforced by the Federal Trade Commission (FTC), makes it possible for you to choose only those goods and services you want or need and to pay only for those you select, whether you are making arrangements when a death occurs or in advance.

Although it is possible to purchase vaults that are well sealed from water, those typically are significantly more expensive but a cemetery can not force the use of those vaults - they could require the use of a vault to prevent caving in of a plot and even then one could choose to use a sectional liner where (quoted from Paul G. Huffman, a grave digger, <http://www.funerals.org/frequently-asked-questions/burial/75-word-about-burial-liners>):

A "sectional" burial liner is assembled in the grave by hand. It consists of six sections. Each section is only about 1¼ inch thick and constructed of concrete reinforced with thin, chicken wire. These panels are grooved to help hold the liner together when assembled. It's about as water proof as a colander and as secure as stacking playing cards in the wind. What really hold these liners together is the dirt the grave diggers pack in around them. If you were to assemble one of these above ground, the slightest touch would topple it.

* Effectiveness of planned rain garden

- A good rain garden (this design shown in the cross-section looks to be good) would need to be about 20-30 % of the catchment area to be effective (reference: <http://www.rainscaping.org/index.cfm/fuseaction/home.sizecalculator/index.htm>). From this plan, it looks like the rain garden might be around 15-20 % of the proposed site, but they are forgetting about the catchment area from the soccer field that will flow down into the proposed site and overwhelm the rain garden. Currently there are neighbours who has excess water in their streets after a heavy rain event because the soccer field and car-park are not able to quickly mitigate the rain. In addition, it appears parts of the proposed rain garden will be covered with a footpath (East side footpath), further reducing the effectiveness of the rain garden.

* Potential impact on traffic from processions and visitors

- It is noted that Saint Odilia will be implementing operating rules but how would it be enforced? Will they be hiring security to ensure visitors don't come during certain hours? If the rules are broken, are the visitors banned from visiting their loved ones? There is limited parking on the street they could easily be taken up by visitors, considering that even just the South site will have 1889 (1841 columbarium + 48 burial) spots (or a total of 3235 including the North site). More traffic makes the crossing less safe for all walkers (including adults).

* Potential impact of noise

- Earth moving equipment will generate noise when they are preparing a site for burial. How would the periodic noise disturb the students in class or the residents? Would these types of equipment be used?

* Potential impact on diversity of the City of Shoreview

- Based on people's culture, religion and beliefs, it could impact the diversity make-up of the City of Shoreview. People choose cities based on what is there - such as school district, services and perhaps the presence of cemeteries. At the March discussion, I brought up the point on how my family searched for a property that is NOT near a cemetery (which seemed to be ignored by not being discussed or even acknowledged). This impact a lot of Asians, and especially those who either believe in Feng-Shui or those who follow the Hindu religion. One must also point out that not all believers in Feng-Shui or Hindus are Asians, nor are all Asians believers of Feng-

4/18/13

Shoreviewmn.gov Mail - Request for Comment for: Saint Odilia Prayer Garden / Cemetery (for 23 Apr 2013)

Shui. Should this application proceed to actual development, families such as mine would be moving when we can find another appropriate home - impacting the diversity of the city.

Thank you for your attention.

Regards,
Herbert Chiou, Ph.D. MRACI C Chem.
1037 Cottage Place,
Shoreview, MN 55126

In my opinion, I think it is a very bad idea to put a new cemetery into an existing residential neighborhood next to school playgrounds.

My major concern is aesthetics. The proposed cemetery will be on the side of a hill facing a street that sees a lot of school and neighborhood traffic. Even though some screening is proposed, the flat grave markers and memorials (flowers, wreaths, etc.) will be visible and visually unappealing. Some of the proposed screening is deciduous trees that provide screening less than half the time because they drop their leaves. imagine what the hillside will look like in the spring...mounds of dirt covering winter dug graves, dead wreaths and plastic flowers in tipped over pots. Next imagine the hillside in August...a checkerboard of either dead or bright green sod covered graves, dead bouquets of flowers and wind chime memorials on a west facing hillside of burnt out grass. Lovely, isn't it?

I think that the aesthetics of the proposed cemetery should be debated with the same (or more) vigor the board uses to debate an electronic sign or the lettering on an existing gas station awning.

What ordinances would be enforced to keep the cemetery it tip top shape? The current ones for residential property are not adequate – if this cemetery is forced into a 40 year old neighborhood, it should be held to a higher standard.

I think the topography north of the driveway is not meant for a cemetery because of the steepness of the hill. The north section is also too close to the Island Lake Elementary School playground and the St. Odilia playground. Imagine a graveside service on the north end of the cemetery...a tilted tent, leaning chairs, a crying widow, screaming kids, an errant kickball and an elderly man falling down while navigating the slope.

Kids exposure to death should be handled within a family. I don't think kids from ages 5 to 13 should be exposed to funerals without their families available to answer questions and explain what is going on.

I also have concerns about St. Odilia's motivation for this project. My concern is they are just in it for some quick cash. They will sell a large number of plots (a St. Odilia friend of mine thinks that with the size of the church, they could sell all the spaces in a year or two), pocket the cash and then sell the cemetery to a cemetery management company. Without a vested interest in the land on the back side of their property, they will not care when the area falls into disrepair because of the new owners lack of upkeep.

Since this is the first cemetery in Shoreview, maybe the city needs to take a step back and study the situation. Is the cemetery necessary? How many new cemeteries have been put into existing residential neighborhoods in the last 10 years? Will the city have to regulate the cemetery? What will the city do when other churches propose cemeteries?

There are alternatives. If the church must have a cemetery, why not put it on the Victoria side? This location is flatter and far away from the playgrounds. Funerals will also not interfere with St. Odilia students recess because the procession from the church to the cemetery will be going away from the playground. Another area would be the woods on the south side of the church. Maybe they could do a land swap with the city...the vacated Cottage Place street property for the hill on the north side of the driveway. I think the best alternative is to abandon the project and go back to the drawing board.

Steve Petersen
3516 Nancy Place



The view from Harriet facing east.
This is the view neighbors will see when leaving the neighborhood.
A columbarium is proposed to be where the shed is at the top of the hill.



- The view from Vivian and Harriet facing northeast.
- The hill is so steep that you can't see the school.
- See the kids playing on the Island Lake Playground?
- See the water running down the hill?
- See how much screening deciduous trees provide?



The view from Vivian and Harriet facing southeast.
The hill is so steep that you can't see the church.
See the the St. Odilia playground?



Here is a cemetery with flat grave markers.
How would this look on a hillside facing a street?

February 27, 2013

Fr. Phillip Rask, Pastor
Catholic Community of St. Odilia
3495 N. Victoria Ave.
Shoreview, MN 55126

Dear Father Rask,

We've read about your plan to develop a Prayer Garden on the west side of the St Odilia campus. Jean & I want to offer our enthusiasm and financial support to your endeavor.

We were unable to attend the Feb. 26 presentation, but I've been briefed by your Jeanne Schaaf. What a wonderful idea! I am 75 years into my life's journey. It began at St. Columba and will hopefully end in the Prayer Garden of St. Odilia. The Bacig family has resided on Lake Owasso for 55 years and attended St. Odilia for most of them. We have two grandchildren attending your wonderful school. We are quiet but proud parishioners. In our opinion, the Prayer Garden will enrich and complete the St. Odilia community.

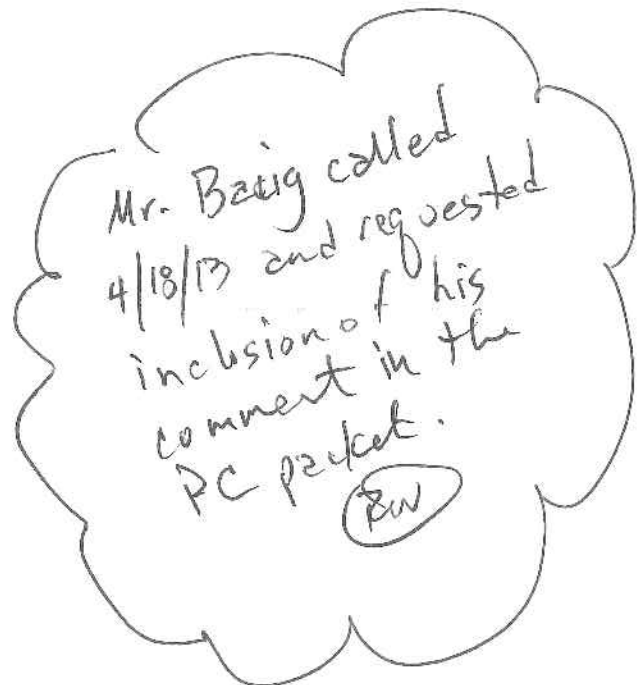
God bless your efforts and count on our support.

Sincerely,



Lou & Jean Bacig
408 Horseshoe Dr.
Shoreview, MN 55126

Cc: Jeanne Schaaf - Project leader



Mr. Bacig called
4/18/13 and requested
inclusion of his
comment in the
PC packet.
BW



Robert Warwick <rw@warwick@shoreviewmn.gov>

comments on revised plan - environmental concerns are still paramount

Jonathan Chen <jchen@liknon.com>

Thu, Apr 18, 2013 at 3:01 PM

To: rwarwick@shoreviewmn.gov

Cc: herbert.chiou@gmail.com, Steve Petersen <steve_petersen@comcast.net>

Dear Rob and Planning Commission:

I am writing to oppose the proposed St. Odilia Cemetery & Prayer Garden.

Unfortunately, it seems that our concerns about the proposed cemetery's environmental impact has not been clearly addressed. Excerpting from the letter sent by Rob (dated April 12, 2013), in the **Other** section: "Other concerns expressed at the March meeting included noise, traffic and environmental impact. The Church has indicated that they will implement operating rules for the prayer garden and cemetery that will address these items." It's not clear to me how "operating rules for the prayer garden and cemetery" will address the environmental concerns caused by the use of carcinogenic chemicals and materials in embalming bodies and burying these bodies.

A quick search online finds that many people and governments are concerned about potential contamination from the release of chemicals from decaying (embalmed) human remains and buried caskets over time. I've added my commentary below the relevant links:

1. published by World Health Organization: THE IMPACT OF CEMETERIES ON THE ENVIRONMENT AND PUBLIC HEALTH

[http://whqlibdoc.who.int/euro/1998-99/eur_icp_ehna_01_04_01\(a\).pdf](http://whqlibdoc.who.int/euro/1998-99/eur_icp_ehna_01_04_01(a).pdf)

This is a good introduction into the issue. It talks about the decomposition process and what chemicals are released. Formaldehyde is the chemical used to embalm corpses. It is carcinogenic and is the one I worry about. The WHO study also looks at soil types and their relative interactions with viruses and bacteria - clay was found to be not helpful in neutralizing viruses vulnerable to desiccation. I believe clay is the dominant soil in our area, thus we should be especially concerned. The report concludes that the risk of pollution exists and proper management is required to manage that risk. One important point is that "A cemetery should not be located in the lowest part of an area where the rainwater runoff collects and the infiltrated water comes into contact with interred remains." Contradicting this point, the St. Odilia proposal plans to locate the cemetery at the bottom of the hill, near a pond – which should raise a major warning flag.

2. study cited by the OH researchers in 2010:

<http://link.springer.com/article/10.1023/A:1005186919370>

This link goes to an abstract of the study, which concludes: "This study warrants a concern for the quality of soil, groundwater, and nearby surficial water systems." Again, there is a pond in the planned cemetery and we should be concerned about the prospective negative impact of this proposed cemetery.

3. guidelines published by UK's Environmental Agency in 2004

Assessing the Groundwater Pollution Potential of Cemetery ...

www.eppingforestdc.gov.uk/.../37-contaminated-land-dc?...gr...File Format: PDF/Adobe Acrobat - Quick View
www.environment-agency.gov.uk. Assessing the Groundwater Pollution. Potential of Cemetery Developments. Science Group: Air, Land & Water...

2 interesting points that I found. One, the report lists a thorough process for assessing the risk of pollution/contamination. This might be useful if the commission asks for an environmental impact study. Two, it talks about formaldehyde and how it breaks down over time. Basically, it breaks down relatively quickly, such that after 4 years, there's little left to measure - thus any studies which focused on inactive cemeteries (e.g., there was a 1992 study in Canada that sampled cemeteries where their last burials varied from 8-100 years before the study) cannot provide robust insight into the harmful effects of formaldehyde upon the environment. However, formaldehyde is carcinogenic and US EPA has strict guidelines for both airborne and water-borne quantities.

Also in the April 12 mailing from Rob is a diagram drawn by the landscaping firm. It seems to add 3 bioretention basins around Phase 2 burial plots. From the diagram, I do not see any of these "Rain Gardens" arrayed around Phase I plots. Again, I don't find these measures sufficient to mitigate the environmental and health concerns that this cemetery proposal contains. Assuming that these Rain Gardens are intended to prevent the leeching of carcinogenic chemicals into the local watershed and soil, why are they not planned for Phase I?

Again, a quick online search shows that bioretention basins are designed for stormwater runoff management – typically used in and near parking lots. http://www.stormwatercenter.net/Assorted%20Fact%20Sheets/Tool6_Stormwater_Practices/Filtering%20Practice/Bioretention.htm According to the fact sheet, only 1 study had been conducted on the efficacy of bioretention basins in removing pollutants, as summarized in the excerpt below:

Little pollutant removal data has been collected on the pollutant removal effectiveness of bioretention areas. In fact only one study has been conducted (Davis *et al.*, 1998). The data from this study is presented in Table 2.

Table 2. Typical Pollutant Removal Rates of Bioretention Systems	
Pollutant	Pollutant Removal (%)
TSS	81
TP	29
TN	49
NOx	38
Metals	51-71
Bacteria	-58

There's no measure of efficacy in extracting the dangerous chemicals, however, it does show a COMPELTE INEFFECTIVENESS in reducing bacteria – it seems to produce bacteria instead. Using bioretention basins just doesn't seem like an effective way to address the carcinogenic chemicals present in cemeteries.

Our family is also concerned about the cemetery's negative impact on student safety and property values, however, the negative environmental impact is of paramount concern at this time.

We oppose St. Odilia's cemetery proposal and hope the Planning Commission can compile the definitive set of facts re: prospective environmental impact with which to make your decision.

One question to clarify the planning process, if I may: how much neighborhood opposition does the Planning Commission need to see before deciding that a given proposal does not "foster High Quality development" for the local neighborhood?

Respectfully,

Jonathan Chen, for Chen Family

867 Harriet Ave.



cemetery proposal

Tom and Kay O'Dea <tomkajodea@comcast.net>

Thu, Apr 18, 2013 at 3:03 PM

To: rwarwick@shoreviewmn.gov

Dear Sir,

I am writing to voice my concern over the proposed cemetery in the area adjacent to Island Lake school.

I am opposed to this for several reasons foremost of which concerns the children. It hardly seems appropriate for burials to be taking place while the children are playing on the swings etc. In addition, the extended time for landscaping etc involved in the project will be a noise and distraction detriment to effective learning atmosphere.

The area is already plagued with water problems and this appears to compound the issue.

Cordially,

Kathryn O'Dea
925 Arbogast St.
Shoreview, MN 55126



Proposed Cemetery

snmetz METZ <snmetz@msn.com>

Thu, Apr 18, 2013 at 2:05 PM

To: "rwarwick@shoreviewmn.gov" <rwarwick@shoreviewmn.gov>

Cc: Darrick Metz <dmetz@wncinc.com>

Dear Rob Warwich-

I am writing with regard to the proposed cemetery at St. Odilia Church. My main concern is with the development of the land adjacent to Island Lake Elementary School. While I can appreciate the Church's desire to provide in-ground burial options for its parishioners and the community, it seems counterintuitive to utilize this very small parcel of land located between two school playgrounds and a soccer field. In addition, the slant of the hill and its location at the intersection of Vivian and Harriet will make the cemetery extremely visible for the residents and those exploring the neighborhood.

As an advocate of property rights I have wrestled with my own feelings on the matter. I have listened to neighbors and friends discuss why they are against the development. I have read the literature on St. Odilia's website, however, I have not met anyone in favor of the development. For my children and other "walkers" it adds additional safety issues. (Walkers are elementary school children not on the bus route due to the proximity of the school and their residence.) Those risks include, increased traffic and more places for predators to blend into the neighborhood. Many parents have expressed grave concern about children watching burials during recess or at after-school care. I understand and can appreciate their concerns. This makes me wonder if a cemetery would negatively effect recruitment for St. Odilia's and Island Lake. What are the city's implicit obligations to help sustain its excellent schools?

Finally, cemeteries do not get relocated. They are forever. For the health and vitality of our schools and the surrounding neighborhoods, please reject the current proposal.

Thank you for your consideration.

Sara Metz
903 Harriet Avenue
Shoreview, MN



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St Odilia Cemetery & Prayer Garden

jean chastain <jean_chastain@hotmail.com>

Thu, Apr 18, 2013 at 4:10 PM

To: "rwarwick@shoreviewmn.gov" <rwarwick@shoreviewmn.gov>

Cc: ady wickstrom <ady@adywickstrom.com>, "sandymartin444@gmail.com" <sandymartin444@gmail.com>,

"herbert.chiou@gmail.com" <herbert.chiou@gmail.com>, "steve_petersen@comcast.net"

<steve_petersen@comcast.net>

Mr. Warwick, I live in the neighborhood near St. Odilia. I walk the sidewalk on Vivian Street with my dog regularly. The hill area of that property has a current drainage problem. Last summer I would not walk my dog on the sidewalk at the base of the St. Odilia hill because the sidewalk was covered by a green mossy slime. This drainage issue exists from the soccer field at the top of the hill to the sidewalk and drains into the street and then enters the storm sewer.

I recently contacted the Ramsey/ Washington Watershed Office to inform them of the current issues that needs to be resolved before any land use changes should occur which would further deteriorate the area and degrade water quality in the watershed. They have not received a formal, complete report from St. Odilia regarding start date or plans for the property. The preliminary information describes installing rain gardens, drainage tile and piping to contain runoff.

A cemetery would put a significant number of impermeable objects -- graves, headstones and paths -- on this steep slope and further increase the volume of runoff. The runoff containment steps listed on available documents are not satisfactory to contain the volume of rainwater and snowmelt Shoreview commonly receives. A well-installed rain garden will only contain runoff equivalent to ½ inch rain on a small area. The number and location for installation of drainage tiles is not clear on the information St. Odilia released to the neighborhood or via their website. I did not see piping described in information released.

Neighbors will attend the March 23 Planning Commission meeting due to many concerns about this proposal for placement of in-ground burial on Vivian Street. We would appreciate time on the schedule for comments and questions.

I will be available to further discuss the issue of drainage and water quality impact due to land use changes.

Thank you. Homeowner and Voter on Chatsworth Street since 1989.

Jean Chastain



Robert Warwick <rwarwick@shoreviewmn.gov>

Comments for Proposed Cemetery at St. Odilia

Elizabeth Petersen <petersen_beth@hotmail.com>
To: "rwarwick@shoreviewmn.gov" <rwarwick@shoreviewmn.gov>

Thu, Apr 18, 2013 at 4:11 PM

Hi Rob,

I am planning to attend the meeting on Tuesday to oppose the proposal for St. Odilia's Garden Cemetery.

We have lived in the neighborhood for nearly 4 years now and use Vivian Avenue daily. We chose the neighborhood for its location, proximity to schools, and overall aesthetics with parks, older trees, and nice homes.

I was actually shocked to hear that the St. Odilia Parish believes this is a good idea and a good location to locate a cemetery. My husband and I are opposed to the Cemetery for the following reasons:

- Aesthetics concerns of the cemetery on the neighborhood - Property values have held up fairly well despite the economy however locating a cemetery will negatively impact property values going forward if people see the cemetery from Vivian.
- While our children are not in school yet, when they are they will walk to Island Lake Elementary and the proximity to the school and playground is undesirable.
- The neighborhood already sees a fair amount of traffic with the Schools (St. Odilia and Island Lake elementary) as well as for church services and other activities St. Odilia puts on. There is a concern for the increased traffic a cemetery will produce with processions, funerals, etc.

I sincerely hope that St. Odilia and the City of Shoreview will re-consider this proposal and deny the plans for development. St. Odilia has been a good "neighbor" to have, but again I am shocked that the church and its parishioners feel this is a good location and a good idea. If they put themselves in our shoes would they want a cemetery by their house?

Thanks so much for your time.

Best regards,

Beth and John Petersen
Cannon Ave, Shoreview

MOTION

MOVED BY COMMISSION MEMBER: _____

SECONDED BY COMMISSION MEMBER: _____

To recommend the City Council approve the Preliminary Plat and Site and Building Plan review applications for St. Odilia, 3495 Victoria Street North, for development of a prayer garden, columbarium and cemetery, subject to the following conditions:

1. The project must be completed in accordance with the submitted site and building plans. Any significant changes to these plans, as determined by the City Planner, will require review and approval by the Planning Commission and the City Council.
2. The approval will expire after one year if the final plat has not been approved by the City Council.
3. The cemetery shall be developed in accordance with the approved Master Plan. St. Odilia shall notify the City after completion of Phase 1. Subsequent development phases shall be administratively approved provided the phase is in conformance with the Master Plan.
4. The cemetery shall be developed and operated in accordance with Minnesota Statutes.
5. No crematorium or mausoleum is proposed or permitted in this development.
6. The applicant shall develop operating rules for the cemetery that are in compliance with the Shoreview Municipal Code and other applicable laws. These rules shall include provisions that:
 - a. Require funeral attendees to use Victoria St. to access the cemetery, and to prohibit parking on Vivian for any funeral services or burials.
 - b. Allow the display of grave memorials only for limited duration after burial and specified holidays only.
 - c. Restrict ceremonial rifle salutes.
 - d. Address noise generated by funeral services (music, use of speakers or microphones, etc).
 - e. Require use of flush foot stones to mark all grave sites.
 - f. Require the use of in-ground burial containers for all traditional burials.
 - g. Establish hours of operation, that specify the times funerals may be held, and when site work for burials may occur.
 - h. The operating rules shall be submitted for City review and approval prior to adoption by the cemetery association.
7. The applicant shall obtain a grading permit prior to commencement of any work for the development of the prayer garden/cemetery/building area.
8. Landscaping shall be maintained in accordance with the approved plans to provide a buffer from the adjoining public school use and mitigate the visual impacts of the cemetery on adjoining land uses.

9. St. Odilia's is required to submit a Planned Unit Development application prior to a future sale of any of Lots 1 – 5, Block 1, The Catholic Community of St. Odilia.
10. The Applicant shall enter into a Development Agreement with the City.

This approval is based on the following findings:

1. The proposed improvement is consistent with the policies of the Comprehensive Plan.
2. The proposed improvements will not conflict with or impede the planned use of adjoining property.

VOTE:

AYES:

NAYS:

Regular Planning Commission Meeting
April 19, 2013

t:\2012pcf\2477-13-04\pcmotionapril

TO: Planning Commission

FROM: Kathleen Nordine, City Planner
Rob Warwick, Senior Planner

DATE: April 17, 2013

SUBJECT: File No. 2433-11-26, City of Shoreview - Text Amendment, Setbacks in Residential Districts

INTRODUCTION

The City Council and Planning Commission have previously discussed issues related to residential redevelopment and infill in established single-family residential neighborhoods. This discussion addressed the need for flexibility from certain residential zoning standards to enable property owners to improve their homes and reinvest in neighborhoods.

The Planning Commission addressed this matter at several workshops, most recently on February 23rd. The Commission supported the proposed revisions and directed staff to prepare text amendments which could then be presented to the Commission and public through the public hearing process. Minutes from the February 23rd meeting are included in the Commission's Planning Commission packet. The public hearing for this matter was continued at the March 26th meeting and there was no discussion due to the late hour.

BACKGROUND

The intent of the proposed text amendments is to relax certain structure setback standards for single-family residential homes located in the R1, Detached Residential zoning district. There are a few neighborhoods in the City that were constructed in the 1940's – 1950's that are characterized with smaller one, and one-and-half story homes. The majority of single-family residential construction occurred during the 1970's and 1980's where the neighborhoods are dominated by long-faced and short-faced split-level homes. The expansion of these homes can be difficult at times due their interior floor layout coupled with placement on the property right at the minimum front structure setback. Modifying setback requirements will provide additional options for homeowners who are looking at improving and/or updating their homes so as to meet current lifestyle needs.

In addition, the City Subdivision standards, specifically regarding road rights of way needs, required larger street rights-of-ways for local streets until the late 1980s. The actual pavement or road design width has not changed, therefore, in some of our older neighborhoods, there are larger boulevard areas which result in larger "front" yard areas (as measured from the structure to the curb line) when compared to newer developments.

The City also has neighborhoods that were developed with 25-foot front yard setbacks, smaller than the current 30-foot required. These neighborhoods include both older and newer subdivisions. One benefit that results from smaller structure setbacks from the front property line is shorter driveways and less impervious surface. The application of these shorter setbacks has not resulted in any negative impacts.

DEVELOPMENT CODE

The proposed code revisions apply to single-family residential development in the R1, Detached Residential, R2, Attached Residential District, and RE, Residential Estate zoning districts, and in the Shoreland Overlay District. The following summarizes the existing regulations that are being proposed for revision:

Front yard structure setbacks, including side yards abutting a street

- A minimum of 30-feet, but not more than 40-feet as measured from the property line, for all local and collector streets;
- Where the dwellings on adjacent properties exceed the minimum front setback by more than 10-feet, the structure setback is determined by average of the setbacks of the two adjacent dwellings, then adding and subtracting 10-feet to identify the required front yard setback range on the subject property; and
- A minimum of 40-feet from arterial roads.

The Development Code does allow certain structural elements or features to encroach into the required front and side yard. Examples of these improvements a 2-foot cantilevered area or bay window and 5- by 7-foot unenclosed stoops or covered landings. These encroachments would still be permitted with the proposed amendments, therefore, there may be some structure features that are set closer to the front or side property line than the main structure. A complete list of permitted encroachments is listed in the attached text.

PROPOSED TEXT AMENDMENTS

1. Reduce the minimum front yard setback required for structures from 30 feet to 25 feet, as measured from the front property line.

The proposed 25-foot minimum front setback has been applied to many developments, including newer subdivisions (Snail Lake Landing and Whispering Pines). Several older developments also have a 25-foot or less front setback, including the Villas of North Point, Willow Creek, Willow Glen, Heather Ridge and Turtle Lake Hills.

Applying this flexibility throughout all residential neighborhoods should not have a negative effect on neighborhood character since the general alignment of dwellings along the street would be maintained. Exceptions to the setback with the 'plus or minus 10-feet' rule results in a general structure alignment that is retained with the proposed regulations. Reducing the front setback to a 25-foot minimum should still result in a general alignment, with dwellings aligned within the 20-foot front setback range that is now developed in the City. In many areas of the City dwellings have been developed with uniform front setbacks of 30-feet, and the 5-foot front setback reduction would therefore be in keeping alignment within the intent of the Code. This reduction would apply to

local and collector streets. No change is proposed for the 40-foot minimum setback that applies along arterial streets (see Map 5-2 Functional Road Classifications).

In response to comments by Commissioners, the text related to calculating an average setback

2. For parcels abutting a 60-foot right of way of a local road, reduce the required structure setback to a minimum of 20 feet from the front property line provided the structure is setback a minimum of 35 feet from the improved road surface.

Right-of-way widths of 60-feet were required for all local roads until the late-1980s. The boulevard area on these 60-foot ROW is typically 14-16 in depth, compared to the 9-foot boulevard for a street developed under the current 50-foot ROW standard. The areas developed with 60-foot ROWs include neighborhoods where the house style is dominated by split level and ramblers where flexibility is most important. A further front setback reduction would increase flexibility for homeowners, while achieving the same visual setback from the developed street curb as a 25-foot setback on a 50-foot wide ROW. This would position any alterations 10-feet in front of adjacent houses developed with the minimum 35-foot setback from the front lot line. This reduction would apply to only to local streets, and not to collector roads which have a different function and have a more fully developed ROW than local streets.

3. Allow a building addition or alteration to maintain an existing side yard structure setback which is less than the required 10-foot minimum structure setback, provided the alteration is setback a minimum of 5 feet and is a single story.

Until about 1970, City Code permitted a minimum 5-foot side setback for living area. As a result there are older dwellings that have a side yard setback less than the current 10-foot minimum. The proposed text mimics the provisions currently applicable only to substandard riparian lots, where an existing side setback of at least 5 feet can be maintained for a single story alteration or addition. In response to comments by the Commissioners, the text has been revised to limit the ceiling height for such expansions to 9-feet or less.

PLANNING COMMISSION REVIEW

The Commission reviewed the proposed amendments at the February 26th workshop. The Commission was supportive of the changes to provide some flexibility for property owners who want to improve their homes and reinvest in the property and neighborhood. The discussion did address building height and impact on adjoining properties when a structure is closer to the side lot line.

Text Amendment - Residential Setbacks
File No. 2433-11-26
March 22, 2013

RECOMMENDATION

The Staff is presenting text amendments that relax certain front and side yard setback standards for properties in the residential districts. The intent of these changes is to provide flexibility to property owners who want to or need to add onto and improve their homes but may not be able to do so due to the placement of the home on the property and floor layout. The proposed amendment is addresses concerns previously raised by Commission members and is consistent with the direction received at the February 26th workshop. The Staff is asking the Commission to hold the public hearing, review the proposed text amendment and recommend approval to the Council.

T:/2011 pcf/2433-11-26 text amend – setbacks/03-20-2013 pc report.doc

205.080 Residential Districts Overview.

(A) Purpose. The Residential Districts are established to:

- (1) Ensure that development conforms to the capacity of the utilities provided in an optimal way.
- (2) Ensure adequate light, air, privacy, and open space for each dwelling unit.
- (3) Reserve appropriately located areas for residential development at reasonable population densities consistent with sound standards of public health and safety.
- (4) Provide for a diversity of housing opportunities within the City at varying densities, costs and environments.
- (5) Protect residential properties from excessive noise, illumination, unsightliness, odors, dust, dirt, smoke, vibration, heat, glare, and other objectionable influences.
- (6) Provide residential development at the minimum standards of this ordinance but not to exceed the gross development densities designated in the Land Use Chapter of the Comprehensive Guide Plan.

(D) Required Conditions. In addition to the standards of Sections 203-206, the following specifications apply to Residential Districts:

(1) Setbacks.

- (a) Corner Lots. Buildings on corner lots shall be set back from both streets, a distance equal to the established or required front yard setback for the use on both streets.
- (b) Minor Arterial and Collector Streets. Along minor arterial streets as identified in the Comprehensive ~~Guide~~-Plan, residential structures shall maintain a 40-foot setback. Along collector streets as identified in the Comprehensive ~~Guide~~-Plan, residential structures shall maintain a 30-foot setback, except as otherwise permitted pursuant to Section 205.082 (D)(2)(b).
- (c) Shoreland. Lakeside setbacks in shoreland areas shall be regulated by the Shoreland Regulations in Section 209.080.
- (d) Major Subdivisions. The front yard setback for all residential structures in subdivisions platted after October 21, 2002 may be reduced to a minimum of 25 feet provided the minimum rear yard setback is increased to 35 feet. Application of the setback provisions shall be described in the Development Agreement. As of Dec. 27, 2011, this setback provision had been selected to

Stricken text proposed for deletion

Underlined text proposed for adoption

apply by the Developers to the following Major Subdivisions: Snail Lake Landing; Villas of Whispering Pines; and Whispering Pines.

- (e) Butt lots created after the effective date of this ordinance, principal and accessory structures shall have a minimum setback of 20 feet from a side lot line when that side lot line abuts the rear lot line of an existing parcel.
- (f) Key lots created after the effective date of this ordinance, principal and accessory structures shall have a minimum setback of 20 feet from a side lot line when that side lot line abuts the rear lot line of an existing parcel, or a minimum 40 feet from a rear lot line when that rear lot line abuts the side lot line of an existing parcel.
- (g) Exceptions to Minimum Front Yard Setback Requirements. Front yard setbacks established in the following manner shall not be reduced unless a variance is approved.
- (i) New Construction. Where existing dwellings are located on lots which are immediately adjacent to a vacant lot and have established front yard setbacks that exceed the minimum front yard setback allowed in the zoning district by more than ~~fifteen~~ (150)-feet, the front yard setback for a dwelling to be constructed on the vacant lot shall be equal to the average of the front yard setbacks for such immediately adjacent dwelling plus or minus 10-feet. If one of the immediately adjacent dwellings is located on a corner lot or on a lakeshore lot the setback of such dwelling shall not be utilized when computing the permissible front yard setback for the newly constructed dwelling, and, in such case, the front yard setback for the newly constructed dwelling shall be equal to the front yard setback for the remaining adjacent dwelling plus or minus ten (10) feet, but never less than a minimum of twenty-five (25) feet.
- (ii) Additions to Existing Structures.
 - (aa) On lots where two or more existing adjacent dwellings have front yard setbacks which exceed the minimum front yard setback allowed in the zoning district by ~~ten~~fifteen (150) or more feet, the front yard setback for an addition to any of the dwellings shall not be more than ten (10) feet less than the average of the front yard setbacks for such existing adjacent dwellings.
 - (bb) On non-riparian lots, if one of the immediately adjacent dwellings is located on a corner lot or a lakeshore lot, the front yard setback of such dwelling shall not be utilized when computing the permissible front yard setback for the addition to an existing dwelling, and, in such case, the front yard setback for the addition

Stricken text proposed for deletion
Underlined text proposed for adoption

to an existing dwelling shall not be less than the front yard setback for the remaining adjacent dwelling, minus ten (10) feet.

- (f) Encroachments. The following shall be considered as permitted encroachments on setback requirements:
- (i) In any yard: eaves, gutters, awnings, chimneys, landings, sidewalks and fences.
 - (ii) In interior side and rear yards: decks, open terraces, balconies and unenclosed porches provided they are no closer than five feet to any property line.
 - (iii) In front yards and in side yards adjoining a right-of-way of property zoned for residential use, bay windows and cantilevered habitable area may encroach up to two feet into the required dwelling setback.
 - (iv) In side yards of corner lots zoned R-1 adjoining a public right-of-way, at-grade patios may encroach up to ~~five ten~~ feet into the required dwelling setback provided that the side yard does not abut a front yard on an adjacent property.

205.081 Residential Estate District (RE)

(3) Setbacks.

- (a) Front Yard. Dwellings and accessory structures shall have a front yard setback of at least ~~twenty-five (25) thirty (30)~~ feet but in no event more than forty (40) feet.
- (b) Rear Yard. Dwellings shall have a rear yard setback of at least 30 feet and accessory structures shall have a rear yard setback of at least 10 feet, regardless of lot area requirements.
- (c) Side Yard. Side yards adjoining a street right-of-way shall be treated as a front yard for purposes of setback requirements. Dwellings and accessory structures shall maintain minimum side yard setbacks as follows:

<u>District</u>	<u>Dwelling</u>	<u>Accessory Structures</u>
RE (20)	10	5
RE (40)	10	5
RE (60)	15	10
RE (80)	15	10

205.082 Detached Residential District (R1)

(D) Required Conditions. In addition to the conditions of Section 205.080(D) (Residential Overview), the following conditions apply:

- (1) Lot Size. A lot of not less than 10,000 square feet with a minimum width of 75 feet and a minimum depth of 125 feet.
- (2) Setback. Dwelling and accessory structures shall have a front yard setback of at least ~~twenty-five (25) thirty (30)~~ feet but in no event more than forty (40) feet. The side yard setback shall be a minimum of ten (10) feet except that ~~on corner lots, the side yard setback shall be a minimum of thirty (30) feet. Side yards adjoining a street right-of-way shall be treated as a front yard for purposes of setback requirements.~~ The rear yard setback shall be a minimum of thirty (30) feet. Zero lot line developments are permitted if consistent with adjacent land uses.
 - a. In those cases where an existing principal structure is set back less than 10 feet but at least 5 feet from the side property line, then the existing setback may be maintained provided the expansion, addition or reconstruction is no more than one story as defined, and with a floor to ceiling height of 9 feet or less. A minimum setback of 10 feet is required for any part of the structure that exceeds one story in height.
 - b. In those cases where the subject property abuts a local street with a right-of-way width of sixty (60) feet or more, the front setback may be reduced to a minimum of twenty (20) feet, provided there is a minimum of thirty-five (35) feet from the proposed structure to the improved road surface or back of curb.

Revised so that one story has a ceiling height less than 9 feet

205.083 Attached Residential District (R2)

(C) Required Conditions. In addition to the conditions of Section 205.080(D) (Residential Overview), the following conditions apply for the Attached Residential District:

- (1) Lot size. Minimum zoned area of 5 acres unless being rezoned from Urban Underdeveloped; minimum lot size of 10,000 square feet per building plus 1,000 square feet per unit and a width of not less than 80 feet per building.
- (2) Setback. A front yard of ~~30~~ 25 feet, a side yard of 10 feet except that ~~corner lots shall have 30 feet and a rear yard of 30 feet. Side yards adjoining a street right-of-way shall be treated as a front yard for purposes of setback requirements.~~ Zero lot line developments shall be permitted.

209.080 Shoreland Management.

(2) Substandard Riparian Lots.

- (a) No structures shall be expanded, constructed or reconstructed on a substandard lot of record unless design review approval is first obtained from the City in accordance with Section 203.034.
- (b) Reconstruction of a structure is defined to mean replacement of three or more of the structure's six structural components (roof, floor, and four walls). Determination as to the extent of structural component replacement shall be made by the Building Official.
- (c) Design Standards for Substandard Riparian Lots. Any structures expanded, constructed, or reconstructed on a substandard riparian lot shall comply with the following standards:

- (i) Impervious Surface Coverage. The impervious surface coverage of the parcel shall not exceed 25 percent. A maximum impervious surface coverage of 30 percent may be permitted if there are no structures (except for docks, stairways, lifts, landings, retaining walls, and fences) in the required setbacks from the Ordinary High Water level and/or bluff.

If the existing impervious surface coverage on a parcel exceeds the allowable impervious surface coverage, existing impervious surface coverage may remain but shall not be increased. Existing impervious surface coverage is the impervious surface coverage legally present on or before March 20, 2000 or approved thereafter by the City.

- (ii) Building Height. The maximum building height shall not exceed 35 feet as measured from the highest roof peak to the lowest point at finished grade.

- (iii) Foundation Area. The foundation area of all structures, including dwellings and attached accessory structures, cantilevered areas, detached accessory structures greater than 150 square feet, and covered porches, covered decks, and covered patios shall be limited to 18 percent of the lot area of 1,600 square feet, whichever is greater. If the existing foundation area exceeds the allowed foundation area, the foundation area percentage may be maintained but not increased. Existing foundation area is the foundation area legally present on the property on or before March 20, 2000 or approved thereafter by the City.

- (iv) Building Setbacks.

~~Stricken text proposed for deletion~~

Underlined text proposed for adoption

- (aa) Minimum Setback from the Property Front Line: ~~Twenty-five (2530)~~ feet. However, in those cases where the existing setbacks for the two adjacent dwellings exceed this requirement ~~by more than 10 feet~~, the setback of the new dwelling or any new addition shall be equal to the average setback of the two adjacent dwellings, plus or minus 10 feet. In those cases where there is only one existing adjacent structure which has a setback greater than ~~twenty-five (2530)~~ feet, then the setback for the new dwelling or addition shall be equal to the average of ~~twenty-five (2530)~~ feet and the setback of the existing adjacent structure, plus or minus 10 feet.

Section 207.050 Non-conformities

(C) Nonconforming Lot Restrictions. The following requirements shall apply to all substandard non-riparian lots that do not satisfy the minimum dimension standards set forth in Development Ordinance. Substandard riparian lots shall comply with the requirements set forth in Section 209.080(L).

(D) Design Standards. Any structures constructed, reconstructed or expanded on a nonconforming lot shall comply with the following site and building design requirements:

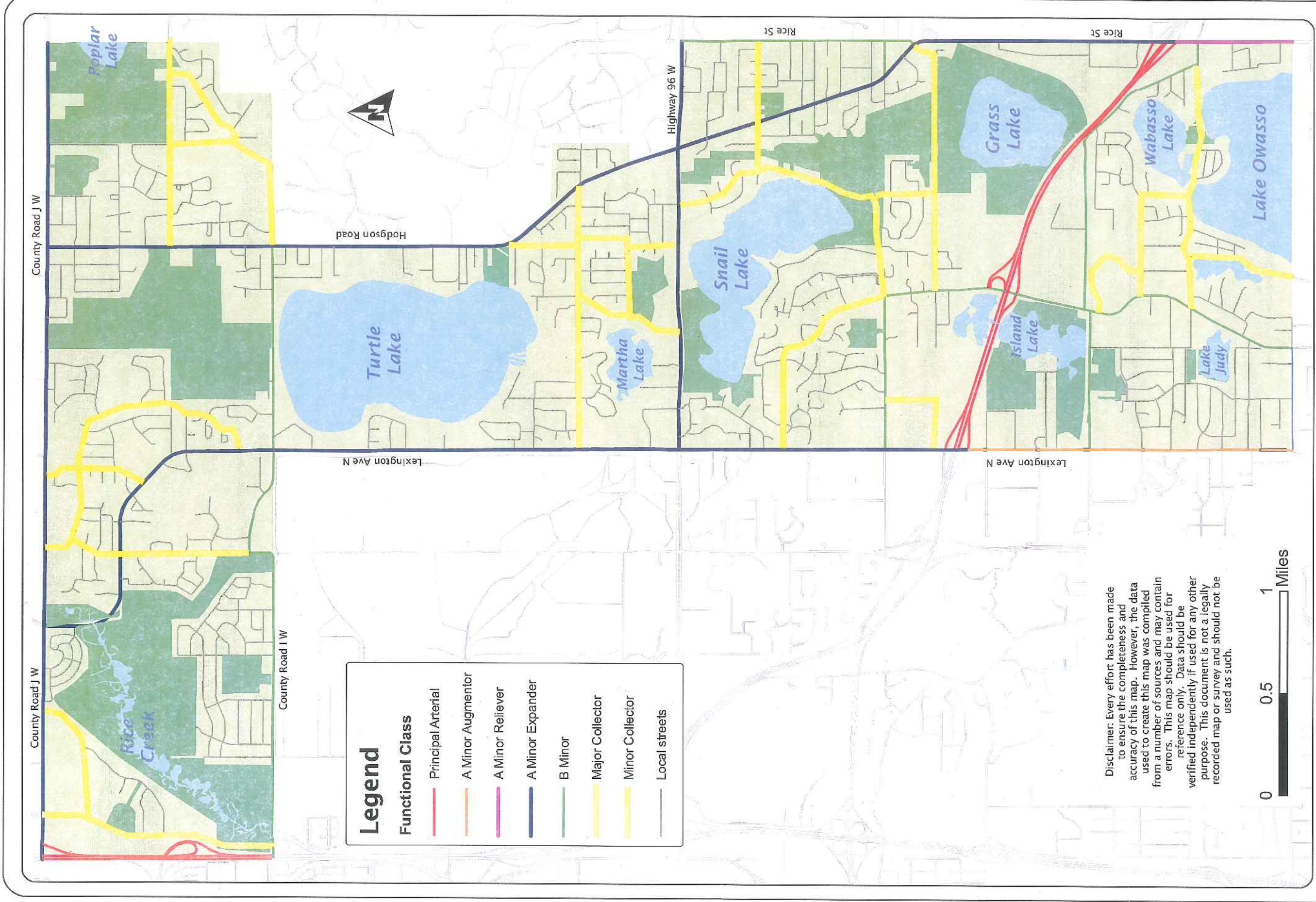
- (1) Impervious Surface Coverage. Lot coverage shall not exceed 30%.
- (2) Building Height. The height of the proposed dwelling shall not exceed 28 feet from roof peak to grade (as defined by the Uniform Building Code) on the street side of the dwelling, and the dwelling shall not exceed two stories as viewed from the street.
- (3) Foundation Area. The foundation area of all structures, including dwellings and attached accessory structures, cantilevered areas, detached accessory structures greater than 150 square feet, and covered porches, covered decks, and covered patios shall be limited to 18 percent of the lot area or 1,600 square feet, whichever is greater. If the existing foundation area exceeds the allowed foundation area, the foundation area percentage may be maintained but not increased. Existing foundation area is the foundation area legally present on the property on or before April 17, 2006 or approved thereafter by the City.
- (4) Minimum Setback from the Property Front Line: ~~Twenty-five (2530)~~ feet. However, in those cases where the existing setbacks for the two adjacent dwellings exceed this requirement ~~by more than 15 feet~~, the setback of the new dwelling or any new addition shall be equal to the average setback of the two adjacent dwellings, plus or minus 10 feet. If one of the immediately adjacent dwellings is located on a lakeshore lot, the front yard setback of such dwelling

~~Stricken text proposed for deletion~~

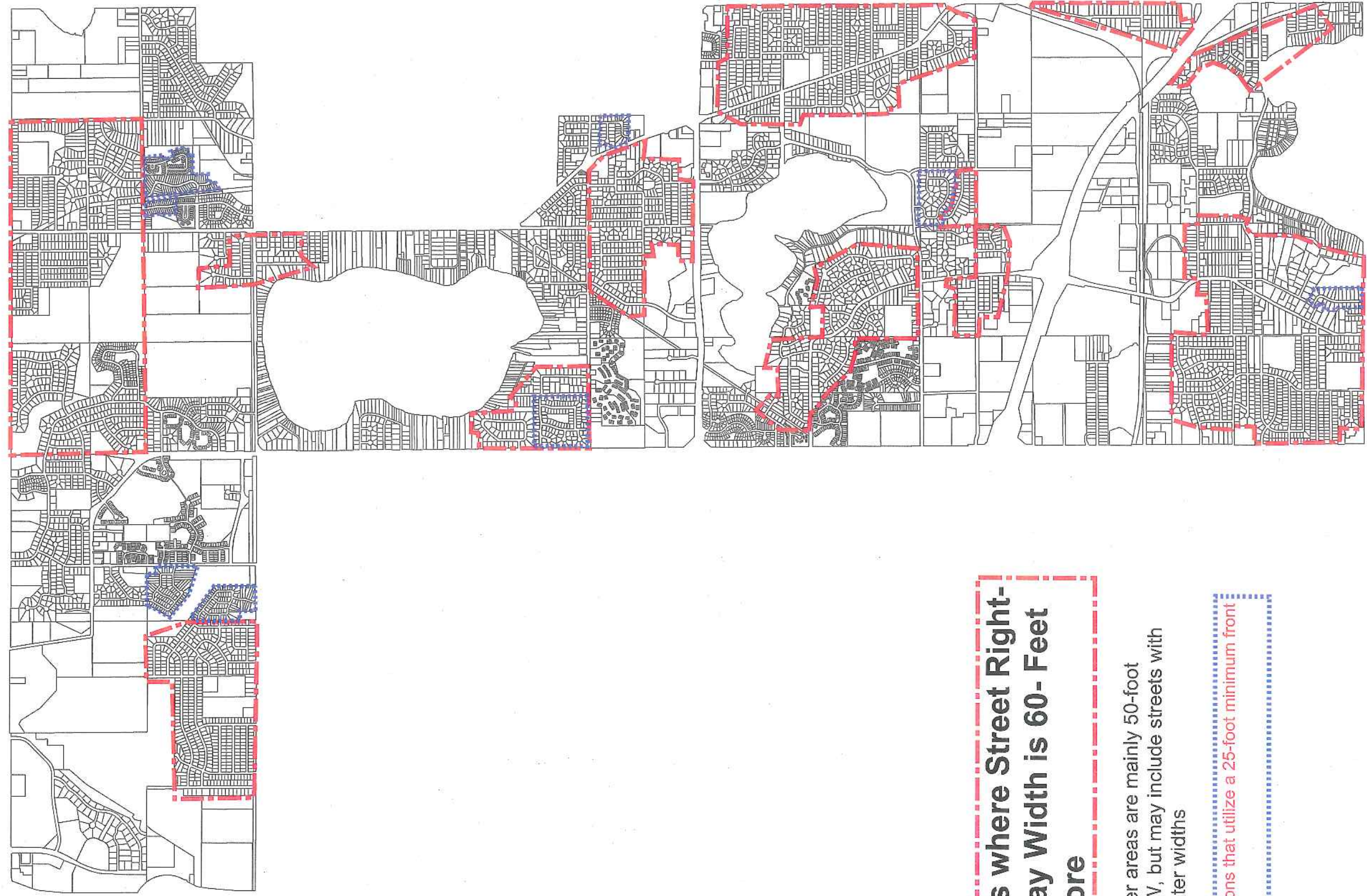
Underlined text proposed for adoption

shall not be utilized. In those cases where there is only one existing adjacent structure which has a setback greater than ~~twenty-five (2530)~~ feet, then the setback for the new dwelling or addition shall be equal to the average of ~~twenty-five (2530)~~ feet and the setback of the existing adjacent structure, plus or minus 10 feet, but never less than a minimum of twenty-five (25) feet.

- (5) Architectural Mass. The architectural design and mass of the structure is determined by the City to be compatible with the existing neighborhood character.
- (a) When determining compliance with the existing character of a neighborhood, the City Council may require revisions that include, but shall not be limited to the alteration of: dwelling style (2-story walkout, rambler, etc.); roof design; garage width, height, and depth; garage style (attached versus detached); location and amount of driveway/parking/ sidewalk area; and/or the location and design of doors, windows, decks and porches. The City may also restrict deck enclosures; prohibit accessory structures except for a garage; and require greater than standard setbacks.
- (E) Residential Design Review Conditions. The City may impose any or all of the following requirements as a condition of approval in order to construct or reconstruct a single family dwelling on a nonconforming lot of record:
- (1) If the nonconforming lot adjoins a lot in the same ownership that exceeds minimum dimension standards, the adjoining lot may be required to be subdivided, to the extent practical, to increase the size of the nonconforming lot in order to reduce the amount of the non-conformity.
 - (2) Any other conditions that the City deems necessary in order to satisfy the intent of the Development Ordinance.



5.2 Functional road classifications



Areas where Street Right-of-Way Width is 60- Feet or more

Other areas are mainly 50-foot ROW, but may include streets with greater widths

Subdivisions that utilize a 25-foot minimum front setback

PROPOSED MOTION

MOVED BY COMMISSION MEMBER _____

SECONDED BY COMMISSION MEMBER _____

To recommend the City Council approve the text amendment to Chapter 200 of the Municipal Code, pertaining to setbacks in Residential Districts. The amendments relax setback standards for dwellings and are intended to promote reinvestment in the City's housing stock.

VOTE:

AYES:

NAYS:

Regular Planning Commission Meeting – April 23, 2013

TO: Planning Commission
FROM: Kathleen Nordine, City Planner
DATE: April 19, 2013
SUBJECT: Development Moratorium – Message Center Signs

INTRODUCTION

At their March 23rd meeting, the Planning Commission formally recommended the City Council enact a moratorium pertaining to the installation of message center signs in response to a Comprehensive Sign Plan application submitted by Sign Maintenance, Lighting and Electrical, Inc. on behalf of Willow Creek Center, Inc. to install such a sign on a commercial property. The Commission had some difficulty reviewing the proposal because of the potential text changes to the City's Sign Code addressing message center signs. The application was tabled and the Commission recommended the Council enact moratorium for a one-year period to permit the time needed to adopt new regulations.

This Commission's suggestion for a moratorium was discussed by the City Council at their April 8th workshop with a representative from the Planning Commission and Economic Development Commission in attendance. The Council recognized the need for the moratorium but asked that moratorium be no longer than four months.

DEVELOPMENT MORATORIUM

The overall intent of the development moratorium is to provide the City with a reasonable time period to study the use of message center signs and develop regulations that consider the needs of the business (or other) uses while minimizing the impacts of said signs on nearby residential land uses. The Council also indicated that any proposed regulations should also consider the potential impact on traffic and public safety. The proposed moratorium would temporarily prohibit the installation of message center signs. The term Message Center Sign as defined is "a sign that consists of electronically changing alpha-numeric text except as otherwise permitted for Gas Price Display signs. A Message Center Sign must be integrated into a freestanding sign but not including Dynamic Display Billboards". The proposed duration for the moratorium is four months.

Attached is the draft ordinance language for message center signs.

RECOMMENDATION

Attached is the draft ordinance language for message center signs. The Commission should review the amendment and provide Staff direction on the items that should be addressed with the text amendment. Ordinance language will be drafted and presented to the Commission in May.

Attachments

1. Draft text
2. League of MN Cities Summary

DRAFT TEXT LANGUAGE

Message Center signs would be permitted for other uses and not just public/quasi public uses. No change in standards proposed

(8) **Message Center.** The changeable copy portion of the sign must be accompanied by the name of the building or facility. Said name shall be displayed in an individual-letter format in letters that dominate all other names and graphics on said sign. Message Center signs are permitted only when integrated into a freestanding sign ~~on the site of an approved Public/Quasi-Public use~~, except as otherwise permitted for Gas Price Display signs.

(a) In Business and Industrial Districts, Message Center signs are permitted ~~on the site of an approved Public/Quasi-Public use~~, provided the maximum area of the changeable copy shall not exceed 30-square-feet of area in a C2, General Commercial, C1, Retail Service District, OFC, Office District, or BPK, Business Park District, and not more than 20-square-feet of area in a C1A, Limited Retail Service District.

(b) In Residential Districts, Message Center signs are permitted when displayed on the site of an approved public or quasi-public land use, provided the changeable copy sign does not exceed 20 square feet of area, unless it faces an arterial roadway, in which case up to 30 square feet of message center sign area may be permitted.

Removed language regarding duration due to the ability to enforce. Added the term "and displayed" under limited text to address duration of messages so they are readable.

~~(c) — Duration. In non-residential districts, any portion of the message must have a minimum duration of one hour and must be a static display. In residential districts any portion of the message must have a minimum duration of two hours and must be a static display. In all districts, no portion of the message may flash, scroll, twirl, change color, fade in or out or in any manner imitate movement.~~

(d) Color. In residential districts, all portions of the sign text shall use an amber color. All text shall be of a single color, including those signs in non-residential districts.

(e) Limited Text. Messages shall be limited to text only. The text of the sign must be limited and displayed to allow passing motorists to read the entire copy with minimal distraction.

(f) Audio or pyrotechnics. Audio speakers or any form of pyrotechnics are prohibited in association with an electronic changeable copy sign.

(g) Brightness. ~~The sign must preset by the manufacturer not exceed a maximum illumination as measured from the sign's face at maximum brightness of 5000 nits~~

Standards changed to be similar to standards adopted for digital billboards.

~~(candelas per square meter) during daylight hours and a maximum illumination of 500 nits (candelas per square meter) for the time period between one half-hour before sunset and one half-hour after sunrise. Notwithstanding the manufacturer's preset, sign brightness shall comply with the requirements of~~

~~Section 208.030(B).~~

- i. Lighting shall be set at a minimum level necessary to provide clear viewing from the roadway in which the message center sign is intended to be read and shielded to minimize glare.
- ii. Said sign shall be equipped with a dimmer control and photo cell designed to measure the ambient lighting conditions and adjust the sign brightness as needed.
- iii. The light level shall not exceed .3 foot-candles above the ambient light conditions as measured at the centerline of the street.

(h) Dimmer control. The sign must have an automatic dimmer control to produce a distinct illumination change from a higher illumination level to a lower level, depending on ambient weather conditions and for the time period between one half-hour before sunset and one half-hour after sunrise.

(i) Orientation. In all districts the sign must be oriented so that no portion of the sign face is visible from an existing or permitted principal structure on any residential lot.



RISK MANAGEMENT INFORMATION
SIGN ORDINANCES AND THE FIRST AMENDMENT

This memorandum discusses some of the basics of designing a sign ordinance that meets the requirements of the First Amendment.

General First Amendment Principles

The First Amendment protects signs as speech, and courts will look very closely at any attempts to regulate signs.

There are a few rules for regulating signs:

1. Do not regulate based on content.
2. Do not favor commercial speech (advertising) over noncommercial speech.
3. Restrictions on signs must accomplish a substantial government interest and be no broader than necessary. The main substantial governmental interests recognized by courts are traffic safety and aesthetics.

With this background in mind, there are several steps cities can take when drafting ordinances.

Provisions All Sign Ordinances Should Have

Every sign ordinance should probably contain the following provisions:

Statement of Purpose

Tells why the ordinance was drafted and how it should be applied. Should state clearly that it is not intended to have content-based restrictions and should not be applied that way. Provides a quick clear statement of government purposes and how the ordinance fulfills those purposes rather than needing to review your legislative record if challenged.

Sample Ordinance

View a sample sign ordinance from the city of Hopkins in the Land Use area of the League website at www.lmc.org.

Substitution Clause

Provides that for every sign that is allowed, any non-commercial message could be legally substituted. Ensures that non-commercial speech is never discriminated against based on content because it will always allow a noncommercial message on any sign. Many ordinances inadvertently define signs in terms of advertising and may incidentally seem to allow only commercial messages. A substitution clause may correct these mistakes by providing a catch-all allowance of noncommercial messages notwithstanding other provisions.

This material is provided as general information and is not a substitute for legal advice.
Consult your attorney for advice concerning specific situations.

Severability Clause

Provides that if any provision of the ordinance is found to be invalid, the remainder of the ordinance stands on its own and is still valid. May prevent a flaw in part of the ordinance from invalidating all of it.

Acknowledgement of election season pre-emption

Minnesota Statute 211B.045 requires municipalities to allow noncommercial signs of any size during election season, from August 1 until ten days after the election.

Do not misinterpret this language. It gives extra protection to noncommercial speech during election season. It does not limit political signs to only that time.

Content Neutral regulations based on time, place, and manner

Regulations should be objectively based on time, place, and manner, not content. Examples include regulations based on size, brightness, zoning district, spacing, and movement.

Provisions All Sign Ordinances Should Avoid

Unfettered discretion

Avoid discretionary approval by the city. Having discretion creates the potential for favoring some messages or messengers over others, whether or not that discretion is actually abused. Permit requirements should be transparent and objective.

Exemptions or favoritism

Avoid exempting certain groups or messages, such as church signs or official flags, from permit requirements. This could be content-based discrimination.

Exemptions also may “water down” the substantial government interest. For example, if an ordinance prohibits temporary signs but allows a long list of exemptions, it suggests the city is not really concerned about temporary signs.

This is different from providing exemptions based on valid time, place, or manner restrictions, such as exempting all signs under a certain size from permitting requirements.

Inadvertently treating non-commercial speech differently by defining “sign” as “advertising”

Beware of over-defining terms. This occasional problem is the combination of a few steps:

1. Signs are defined as advertising devices.
2. The ordinance allows signs as defined.
3. All other signs are prohibited.

This arguably prohibits noncommercial speech, which is unconstitutional.

Common Questions and Issues

Off-premise advertising (Billboards)

Off-premise advertising consists of commercial signs that do not advertise for a business on the same premises as the sign. It is legal to forbid off-premise advertising, so long as the prohibition does not extend to noncommercial messages.

Flags

Be cautious of regulations that might favor some types of flags, particularly the United States Flag, over other flags. This is a good place for the substitution clause; if one type of noncommercial flag would be acceptable, any noncommercial flag should be allowed.

Yard Signs

Some courts have held that yard signs are constitutionally protected and cannot be prohibited. Be especially cautious about provisions that favor some messages over others, such as exemptions for real estate or construction project signs.

Electronic Signs

Electronic signs present new challenges, as the technology is capable of new levels of brightness, movement, flashing, and potential distraction. Most sign ordinances do not adequately address these issues. The League has commissioned a study on the traffic safety implications of the technology. Cities may wish to consider moratoriums while the study is conducted and then drafting ordinances that apply the information to each community. A moratorium may prevent electronic signs from becoming grandfathered.

More Information

Learn more about dynamic signage in:

- *Regulating Dynamic Signage*

It's available at www.lmc.org.

Summary

Keep in mind these basic rules of thumb:

1. Do not regulate content.
2. Do not favor commercial speech over noncommercial speech.
3. Provide and follow clear procedures.
4. Explain your rationale and purpose.
5. Avoid exceptions.

There are exceptions to these rules, but they should be approached cautiously and with legal advice.

For assistance or sample ordinances, contact one of the LMCIT land use attorneys: Paul Merwin at 651-281-1278; or Jed Burkett at 651-281-1247.