



## PLANNING COMMISSION MEETING AGENDA

April 28, 2014

7:00pm

### 1) Call to Order

Stulberg called the meeting to order at 7:00pm.

In attendance:

Planning Commission: Vice Chair Mike Stulberg, John Strandell, Michael Molitor and Lora Sandholm; Council Liaison Mayor Anne Hunt; Staff: Community Development Director David Abel, City Clerk Terri Haarstad and City Attorney Sarah Sonsalla

Absent: Mark Heck, Bob Pollman and Patricia Thoele

#### a) Approval of Agenda

Motion by Strandell Second by Sandholm to approve the agenda as amended.  
Motion carried 4 – 0.

Remove Item 2b) Conditional Use Application from Jeffrey & Deanna Montang to construct a guest home exceeding 1,000 square feet on the property located at 540 County Road 92, AP Zoning, PID# 05-117-24-43-0005 at the request of the applicant pending research into other options.

Abel stated that this item may be on the Planning Commission agenda in May.

#### b) Approval of Minutes – March 24, 2014

Motion by Molitor Second by Strandell to approve the Planning Commission minutes dated March 24, 2014 as presented. Motion carried 4 – 0.

### 2) Public Hearing:

#### a) ANNUAL DOCK LICENSE: Application from D.R. Horton for 10 dock slips on the properties located at 950 County Road 110N, PUD Zoning, PID#'s 12-117-24-22-0027 & 12-117-24-23-0001.

Stulberg reminded commissioners that the public hearing for this item is still open as it was continued to this meeting.

Abel presented the staff report as found in the Planning Commission Packet dated April 28, 2014.

Mike Soule (DR Horton) explained why the docks were proposed at the location shown on the plan and stated that they have not yet followed up with the County regarding the encroachment on the City's parcel obtained through tax forfeiture.

Chris Tompkin (810 Co Rd 110 N) spoke on behalf of The Landings board and described issues with boat use and silting in surrounding the proposed development. He expressed concern that the lakeshore areas associated with this development would not be maintained and expressed his belief that because

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of silting in, in a few years much of the land shown as lakeshore will not be useable as lakeshore. As such, he believes those areas should not count as lakeshore in allowable dock calculations. He expressed concern about how the proposed docks and additional usage will impact the silting issues experienced by residents of The Landings, impacting usage and repair costs. He also expressed his belief that these docks breach the intent that the City's parcel be used as a conservation area and that allowing this is a dangerous precedent.

Sonsalla clarified that the City acquired the parcel through the tax forfeiture process. It was not donated to the City for purposes of conservation. While the state does have encumbrances on the property, because the proposed docks do not touch the City's land, it does not impend on any of these obligations.

Bill Bushnell (940 Maplecrest Dr) expressed disappointment that residents could no longer take canoes down Painter's Creek to Lake Minnetonka. He expressed concern that the volume of boats created by these docks would contribute to the current silting issue creating expense for area residents who will be responsible to fix it through dredging. He also expressed concern that the proposed docks encroach on designated wetland area and will negatively affect nesting area for federally protected Great Blue Herons, Eagles and Beavers. He requested that the slips be narrowed by a foot and that the boardwalk be narrowed by two feet to reduce environmental impacts.

Chris Johnson (5520 Ridgewood Cove) on behalf of the Ridgewood Cove Home Owners Association, he spoke in support of the current proposal for docks. He stated that they are adjacent to docks that already have some dredging in place and stated his belief that the environmental impact would be greater if the docks were in any other location on the property. He stated that the Ridgewood Cove dock slips were built in the 1970s and that it is very difficult to maneuver boats into slips. He stated that the proposed dock sizes are consistent with the proposed boat size limits and pointed out that additional space is needed for the boat lifts and canopies proposed by the developer. He requested that solutions for dredging concerns be addressed as the development goes forward.

John Wallace (co-applicant) provided the Planning Commissioners with area flowage and dredging history dating back to the 1920's and 1930's, including the creation of The Landings loop and the filling in of the swamp formerly located on the tax forfeiture property owned by the City.

Chris Tompkin stated that The Landings Home Owners Association purposefully forfeited the parcel through the tax forfeiture process with the intent and understanding that the City could not develop or use the property as anything but a wetland area. He reasserted his claim that the current property owner has neglected the shoreline, reasserted his request that the 'at risk' shoreline not be used in calculations and stated his belief that narrower docks would be sufficient.

Bill Bushnell claimed that the dock builder is dictating the terms of the docks, not the applicant and suggested a shore station be built instead of the proposed docks. Stulberg informed him that the City cannot make decisions based on

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speculations and that the applicant has the right to ask for whatever he wants. It is the Planning Commission's job to review the request and make a recommendation to the City Council regardless of the reasons behind the request.

Stulberg closed the public hearing at 8:09pm

Discussion included:

- Whether or not allowing the proposed docks to extend into the City's dock use area will cause the City's portion of land to revert back to County ownership
- Design and intended usage of the boardwalk
- The size of Ridgewood Cove docks
- Residents of nearby developments need to back their boats out of their slips and use the area where DR Horton is proposing to build docks to turn their boats around
- The fact that The Landings had the option of donating the land to the City with a Quit Claim deed which would have allowed legal encumbrances to be put in place. Instead they allowed it to be taken through tax forfeiture and has no claim or rights to the property usage.
- Whether or not there are other areas of the City where a private dock encroaches on City dock use area. (The City owns very little lakeshore property)

Greg Nybek, Executive Director of the Lake Minnetonka Conservation District (LMCD), answered questions from the Planning Commission. He confirmed that all of the shoreline considered in the allowable dock calculations was considered official shoreline and that dredging and silt filling in is an issue for all of Lake Minnetonka. He pointed out that the applicant has already reduced the size of the dock by 17.5 feet, that this improved visibility and usage of docks of the properties to the west and that the applicant has riparian property rights to the lakeshore. He also stated that this current proposal has the least environmental and neighborhood impacts of all the options available to the applicant.

Motion by Strandell second by Sandholm to recommend the City Council approve the application from D.R. Horton for 10 dock slips on the properties located at 950 County Road 110N, PUD Zoning, PID#'s 12-117-24-22-0027 & 12-117-24-23-0001 with the thirteen conditions outlined in the City staff report and the other regulatory agencies. Motion carried 4 – 0.

### **3) Informational Items:**

#### **a) Staff Reports**

Abel provided updates regarding Woodland Cove, Mattamy Homes, building permit activity and Trista Day.

#### **b) Council Reports**

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Hunt provided updates about the water treatment feasibility study and the Met Council Thrive MSP. She asked the Planning Commission about their thoughts about the joint meeting.

Commissioners spoke favorably about the meeting and asked if, to that end, the City Council should direct staff to work with the Planning Commission on reviewing water sustainability issues. Commissioners also asked for background information prior to future meetings so they may arrive prepared.

The Planning Commission suggested having a joint meeting to discuss changing Council philosophy so recommendations can be made accordingly and suggested that staff and consultants spend extra time reviewing downstream water flow and how developments and projects affect drainage.

Strandell had questions about data and open meeting law. Sonsalla and Haarstad answered his questions and informed the Planning Commission that data practices and open meeting law would be addressed at the next meeting when all commissioners were in attendance.

#### **4) Adjournment**

Motion by Strandell Second by Molitor to adjourn the meeting at 8:39pm. Motion carried 5 – 0.

Respectfully Submitted,

Terri Haarstad  
City Clerk

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