

**SHOREVIEW PLANNING COMMISSION MEETING
March 27, 2012**

CALL TO ORDER

Chair Solomonson called the meeting of the March 27, 2012 Shoreview Planning Commission meeting to order at 7:00 p.m.

ROLL CALL

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

Commissioner Wenner arrived late.

APPROVAL OF AGENDA

MOTION: by Commissioner Schumer, seconded by Commissioner Proud to approve the March 27, 2012 agenda as submitted.

VOTE: **Ayes - 6** **Nays - 0**

APPROVAL OF MINUTES

Correction: Add Commissioner Ferrington's name to those present at the meeting.

MOTION: by Commissioner Schumer, seconded Commissioner Proud to approve the February 28, 2012 Planning Commission minutes as corrected.

VOTE: **Ayes - 6** **Nays - 0**

Chair Solomonson noted that Commissioner Wenner arrived at the meeting at this time.

REPORT ON COUNCIL ACTIONS

City Planner Kathleen Nordine reported that the Concept Stage for Midland Terrace redevelopment was presented to the City Council. The Council felt that the six-story height could work because of the separation from the building and the single-family homes by the pond and wetland area. The Council encouraged the applicant to increase the setback on Victoria.

The Council approved the environmental text amendments regarding pests and tree diseases, as recommended by the Planning Commission.

NEW BUSINESS

PUBLIC HEARING - CONDITIONAL USE PERMIT

FILE NO.: 2443-12-6
APPLICANT: DAVID NELSON & CLAIRE IMSLAND
LOCATION: 5155 HODGSON

Presentation by City Planner Kathleen Nordine

The application is for a Conditional Use Permit to retain an existing storage shed that was constructed in 2004 without a building permit. The property consists of 0.82 acres with a width on Hodgson of 109 feet. The shed stores lawn equipment and tools. It is 13.4 feet in height, consists of 224 square feet and had 8-foot side walls. The setbacks are 15 feet from the side property line and 30 feet from the rear property line.

City Code requires a Conditional Use Permit for accessory structures that are between 150 and 228 square feet in size. The shed does comply with standards for location, height, design and setback requirements. The combined area of accessory structures does not exceed the maximum allowed of 1200 square feet for this property. The location is wooded, which mitigates any visual impact.

Property owners within 350 feet were notified of the application, including residents in North Oaks. Several comments were received in support of the application. Staff is recommending approval.

Commissioner Ferrington verified that the main reason for this application is because no building permit was issued for it. Ms. Nordine agreed and explained that the shed was built in 2004. When City regulations were tightened in 2006, this structure was not grandfathered in because there was no building permit, hence the need now for a conditional use permit.

Commissioner Schumer asked how the City came to be aware of the structure. Ms. Nordine stated that Code Enforcement reported it when responding to another issue with the property.

Commissioner McCool asked if the shed identified to be removed, in fact, has been removed. Further, he asked if there are open code enforcement issues on the property and if so, whether the Commission can grant a permit. Ms. Nordine answered that the shed has been removed. A permit can be granted if the requirements are met. The applicants have been very cooperative in working to bring the property into compliance.

Chair Solomonson noted that the windows in the garage are broken and asked if a certain level of maintenance is required. Ms. Nordine stated that Code Enforcement is working on this issue with the applicants.

consists of 6,200 square feet with a lot width of 40 feet. It is a substandard riparian lot on Snail Lake. The existing home encroaches upon the required 10-foot side setbacks. In 1991, a variance was granted to construct an attached garage 28 feet from the front property line. The addition would provide two bedrooms, an office area and bathroom. The height is 30.6 feet from the lake side. There would be no change in existing setbacks. Existing impervious surface of 38.6% can be retained, although the Code requirement is 30%.

The applicant submitted a statement stating that the addition will not increase impervious surface or foundation area. Their lot width limits any areas for expansion. The home is small with living space of 1,500 square feet, and the addition is needed to improve the livability of the home. The addition is consistent with the character of the neighborhood that has one, two-story and split-level homes. There are also other homes in the neighborhood that encroach into side yard setbacks.

Staff believes practical difficulty is present and is recommending approval. The lot is small and the width present limited options for expansion. The existing house encroaches upon the required setbacks. The neighborhood has a variety of housing styles and lot sizes. Expansion toward the lake would have a greater impact.

The applicants will be required to use two shoreland mitigation practices. One will be architectural mass; the second is not yet determined.

Notices were sent to property owners within 150 feet. No comments were received.

Commissioner McCool asked the other shoreland mitigation options being considered. Ms. Nordine stated that a rain garden is a possibility to address runoff. Commissioner McCool asked if gutters or downspouts are included. His concern is added runoff to the neighboring property to the north.

Chair Solomonson asked the height of the addition as seen from the street. Ms. Nordine referred this question to the applicant.

Commissioner Wenner asked if the addition would block sunlight to the abutting properties. Ms. Nordine responded that the house to the north sits closer to the lake so there would be minimal impact.

Mr. Greg Olfelt, Stone Hearth Remodeling, stated that the house was built in 1936. If a rain garden is done in a location that could capture the water from the gutters, they would be installed. There is a good slope to the rear of the property. That has not yet been determined. In response to Chair Solomonson's question regarding height, he stated that the height will be just under 30 feet.

Commissioner Ferrington commended the design of this addition and her appreciation for not increasing the foundation area or extending the house closer to the lake.

MOTION: by Commissioner Ferrington, seconded by Commissioner Thompson to adopt Resolution 12-21 approving the residential design review and variance requests submitted by Greg Oothoudt, Stonehearth Custom Homes, Inc., on behalf of Christine Anderson, to construct an addition on to the existing home at 4327 Snail Lake Boulevard. The variances approved are: 1) To reduce the minimum 30-foot structure setback from the front property line to 28 feet, and 2) to reduce the minimum 10-foot structure setback for required from a side property line for living space to; 5 feet 9 inches from the north side property line and 7 feet 5 inches from the south side property line.

Approval is subject to the following conditions:

1. The project must be completed in accordance with the plans submitted as part of the Residential Design Review/Variance applications. Any significant changes to these plans, as determined by the City Planner, will require review and approval by the Planning Commission.
2. This approval will expire after one year if a building permit has not been issued and work has not begun on the project.
3. Impervious surface coverage and foundation area shall not be increased above the current coverage areas without a variance.
4. The mitigation plan shall be completed within one year of this approval date. A Mitigation Affidavit shall be executed prior to the issuance of a building permit for the new addition.
5. The approval is subject to a 5-day appeal period. Once the appeal period expires, a building permit may be issued for the proposed project. A building permit must be obtained before any construction activity or site work begins.

This approval is based on the following findings:

1. The proposed improvement is consistent with the policies of the Comprehensive Plan, including the Land Use and Housing Chapters.
2. **Reasonable Manner.** The intent of the proposed expansion is to provide additional bedroom space to improve the livability of the home. Currently, the home has only one bedroom and has a small 956 square foot foundation area (excludes garage area) with about 1,500 square feet of living area. The proposal to add bedroom space is reasonable and is consistent with the City's housing policies regarding housing and neighborhood reinvestment and life-cycle housing.
3. **Unique Circumstances.** The property is a substandard riparian lot that has a small lot area and narrow width. The current structure encroaches upon the

services for the community. Third-party sales are prohibited. No additional signage would be allowed, except window signs in the vehicles.

Conditions in the Development Code are met in that no additional improvements are needed for this use, and the parking lot has the capacity to accommodate this additional use.

Property owners within 350 feet were notified, including in Arden Hills. No comments were received.

The proposed use is consistent with the commercial land use designation and policies. This use must be restricted because of other uses on this property. Staff is requesting that the Planning Commission recommend the City Council approve with the conditions listed in the staff report.

Commissioner Wenner stated that allowing this use would set precedent for other service stations that also have the capacity. Ms. Nordine stated that is also a concern of staff. The location at Lexington and I-694 with restrictions would be unique enough to not set precedent. Commissioner Wenner stated that consumers like to buy cars where there are a number of dealers in the same location. He believes this would set a precedent.

City Attorney Filla stated that the City Code allows this type of use. If this use is not desired, consideration should be given to amending the Code and putting this application on hold.

Chair Solomonson noted that there are no other car sales in the City. He asked if the prohibition is particular to this conditional use permit. Ms. Nordine answered that it is. Chair Solomonson asked how other dealers might set up a business in Shoreview. Ms. Nordine responded that the property would have to be zoned C-2, and a conditional use permit would have to be granted.

Commissioner Schumer suggested that the Code could stipulate that only service stations be allowed to have this use, not just any gas station.

Commissioner Ferrington stated that there are potential serious enforcement issues with the number of vehicles on the lot, vandalism of vehicles left out. No signage would be allowed, but there is a changeable sign on-site. What would prevent that sign reading car sales? She is hesitant to opening the door for the difficult enforcement this use would entail. Also, it is not compatible with the development that is coming to that area, which the City has made sure will be upscale. Putting in a car dealer where people will be trying to turn is not consistent with what is being done.

Ms. Nordine stated that staff struggles with the same issues. However, in looking at the criteria for a conditional use permit, staff did not believe there was enough leverage to deny the application.

Commissioner Ferrington asked if her personal opinion that it is not compatible is enough for denial. City Attorney Filla answered, no and stated that the discussion should focus on the criteria for a conditional use permit whether or not there is agreement with staff. If the Planning Commission needs more information, he would advise taking the time to get it.

Commissioner Proud asked if the history of violations and existing violations on this site are germane to the application. City Attorney Filla stated that one condition can be required is that the property be brought into Code compliance. History of noncompliance is not justification for denial of the application.

Chair Solomonson asked the zoning of the Sinclair Station across the street. He noted that on the applicant's property there has been a car for sale from time to time that is parked in the drive aisle where a tow truck is also sometimes parked. He asked if that area could be designated as No Parking. Ms. Nordine answered that the zoning of the property across the street from Sinclair is a Planned Unit Development. The drive aisles at the service station could be designated No Parking. Five spaces must be designated for cars to be sold to obtain the state dealer's license.

Chair Solomonson opened the public hearing.

Mr. Mark McClain, 3850 Lexington, stated that the intent is not to become a used car dealer, but he would like his business to be allowed to sell a car occasionally. In order to get a license, five spaces must be designated for that purpose. In the last few years, cars that have been approved for repairs are left after the work is done because owners cannot pay for the repairs. In one instance he was able to sell a car that helped a customer get some cash to put down on another car. These occurrences happened maybe once a year in the years he has been in business, since 1972. Now perhaps there are half a dozen such instances per year. The dealer license is needed in order to be bonded and be able to do the title work. Five stalls are needed, but he is not looking to have five cars for sale at all time. He wants to be able to handle these situations in the correct manner.

Commissioner Wenner asked and Mr. McClain stated that he would have free and clear title to any cars that would be sold and that there would be no mechanics liens on them.

Commissioner Ferrington asked if signage would be needed. Mr. McClain stated that signage could be done internally.

Commissioner Proud asked for further information on the type of bonding needed and the process for acquiring the title of cars. Mr. McClain stated that owners sign over the title. Sometimes a technician will make a deal. That is what he is trying to avoid and have all such sales be official with his corporation. Commissioner Proud asked the type of signage that will be used. Mr. McClain stated that window signage on the vehicle

property. Once a permit is issued, the property can be used in that manner as long as there is compliance with stipulated conditions. Ms. Nordine added that there is a revocation process if required conditions are not met.

Commissioner Wenner stated that he is not against the project, but this proposal is incomplete and more information is needed.

Mr. McClain stated that he is willing to provide the information the Planning Commission requests.

Chair Solomonson further requested that information be provided by staff as to the reasons this type of use was not allowed by the City in 1983.

MOTION: by Commissioner Proud, seconded by Commissioner Ferrington to table this matter to the next regularly scheduled Planning Commission meeting on April 24, 2012.

VOTE: Ayes - 7 Nays - 0

MISCELLANEOUS

Commissioners Proud and Thompson will respectively attend the April 2nd and April 16th City Council meetings.

Commissioner Proud requested that an upcoming workshop agenda include discussion of the City's ability to use history of enforcement actions when considering new matters that come before the Commission.

ADJOURNMENT

MOTION: by Commissioner Schumer, seconded by Commissioner McCool to adjourn the regular Planning Commission Meeting of March 27, 2012, at 8:58 p.m.

VOTE: Ayes - 7 Nays - 0