

**SHOREVIEW PLANNING COMMISSION  
MEETING MINUTES**

**July 27, 2010**

**CALL TO ORDER**

Chair Proud called the meeting of the July 27, 2010 Shoreview Planning Commission meeting to order at 7:00 p.m.

**ROLL CALL**

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

Commissioners Ferrington and Mons were absent.

**APPROVAL OF AGENDA**

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

ROLL CALL:           Ayes - 5                           Nays - 0

**APPROVAL OF MINUTES**

MOTION: by Commissioner Schumer, seconded Commissioner Feldsien to approve the June 22, 2010 Planning Commission minutes as submitted.

VOTE:           Ayes - 3           Nays - 0           Abstain - 2 (Proud, Wenner)

**REPORT ON CITY COUNCIL ACTIONS**

City Planner Nordine reported that at the July 19<sup>th</sup> City Council meeting, the Council approved the following as recommended by the Planning Commission:

1. Amended sign plan for monument sign on Gramsie Road for Green Mill Restaurant;
2. Conditional Use Permit at 948 County Road I for detached accessory structure.

City Attorney Filla stated that he has reviewed the affidavit of required notice and the public hearing to be held later during this meeting is in order at this time.

## **NEW BUSINESS**

### **MINOR SUBDIVISION**

**FILE NO.: 2397-10-15**  
**APPLICANT: TOM FLEISCHHACKER**  
**LOCATION: 1349 MEADOW AVENUE**

#### **Presentation by Senior Planner Rob Warwick**

This property consists of 7.8 acres. The application is to subdivide the property into two lots. One lot would consist of 6.2 acres with the existing house and storage sheds. The second parcel would be 1.6 acres to develop a new single-family home. Property access is over a private drive to Meadow Avenue. This access drive runs over a 20-foot private easement on 1345 Meadow Avenue. The detached garage will be removed. There is also an unimproved drive access to County Road J with a curb cut there. The property is located in the R1, Detached Residential District. Both lots conform to all City standards of the R1 District. Parcel B would meet the minimum 90-foot width for a Key Lot.

The access to County Road J experiences periodic flooding. In 1989 as a result of Fire Department concerns about reliable access, the developer of Royal Oaks, 2<sup>nd</sup> Addition, agreed to an access easement in order to create access south to Meadow Avenue.

Both parcels would share infrastructure for utility connections. These connections are located within the 9 feet of unpaved driveway easement. The pipes are private and will be subject to agreements for shared infrastructure and maintenance. A turn around area is required to accommodate emergency and passing vehicles on the 250-foot long driveway. This turn around area should be a minimum of 20 feet in width for a length of 40 feet.

There is a large area of wetland that is tributary to Rice Creek. The flood elevation is 885.3 feet. The delineated wetland has been accepted by the Rice Creek Watershed District. The minimum building elevation is one foot above the flood elevation at 886.3. No alteration to the wetland or flood plain is proposed.

Replacement trees will be required for each landmark tree removed at a ratio of 3:1 for Parcel B. Tree protection will be required to the drip edge of retained trees.

The unimproved driveway to County Road J is recommended for construction access to the site and then to be permanently abandoned with curb cut removed, as recommended by Ramsey County.

There is no building permit application for Parcel B. The lot will be offered for sale for single-family development. However, in response to neighbors' questions about the future development on Parcel B, City regulations for such development in the R-1 District include:

- Approximate 580-foot front setback, plus or minus 10 feet, which is the approximate

location of the detached garage on Parcel B;

- Minimum 10-foot setback from west lot line and 30 feet from rear lot line;
- Minimum 20-foot setback from east lot line for this Key Lot;
- Maximum height of new structure is 35 feet to mid-point of roof.

Future subdivision of the two parcels is limited by street frontage and the extensive flood plain on the property. Future proposed subdivision of Parcel B would not have frontage on a public street. Future subdivision of Parcel A would likely require a variance due to the flood plain and limited building area. Also, the private access easement agreement is for a maximum of two single-family homes.

Notices were sent to property owners within 350 feet. Six comments were received. The Fire Marshal has reviewed the driveway and commented that the addresses need to be more visible on Meadow Avenue. Staff recommends the Planning Commission forward this application to the City Council for approval.

Commissioner Wenner asked for clarification of the required turn around location on the driveway. Mr. Warwick stated that all that is stipulated is that the turn around area will be located on the applicant's property. No specific location is stipulated.

Commissioner Solomonson clarified that the Code requires a subdivided property to have frontage on a public street, not necessarily access off a public street.

Chair Proud opened the hearing for public comments.

**Mr. Tom Fleischacker**, 1349 Meadow Avenue, Applicant and **Mr. Richard Kotoski**, 2979 N. Grotto, Roseville spoke to the Commission. Mr. Kotoski described a new configuration of a driveway to Parcel B that takes into account aesthetic purposes. He asked if this would take care of the passing area required. Mr. Warwick stated that the Fire Marshal and staff will need to review the new proposed configuration which is fully located on the subject property.

**Mr. Peter Schmit**, 1345 Meadow Avenue, referred to a letter to Mr. Warwick, dated June 17, 2010, from his attorney, James Reichart. He does not oppose the minor subdivision as long as the four conditions in that letter are met. It is his understanding that those conditions have been, or will be, met. The easement use is limited to no more than two family residences. The easement will be recorded with the land and so will apply to any future owners. Agreement has been reached for the Schmits to purchase the additional 20 feet from Mr. Fleischacker. The 20-foot width required for the driveway will be located on the subject property and not the easement.

**Ms. Cindy Klum**, 1314 W. Royal Oaks, noted staff's response to her that the Code is silent on private access drives when there is public frontage. She asked how this is approved with the Code silent. Mr. Warwick stated that City Code requires public street frontage on the assumption that frontage creates access. In this case, because of the flood plain, an alternate

access was provided.

**Ms. Klum** further asked if future subdivisions will be considered. Chair Proud explained that the easement specifies two parcels and two residences. Parcel A cannot support further subdivision, and it is unlikely that the Planning Commission would support a subdivision that required a variance. Mr. Warwick noted that in order for future subdivision to be considered, the property owner at 1345 would have to agree to alter the easement agreement at the same time as the City acted to approve a variance.

**Ms. Klum** stated that she has large trees in her back yard on the lot line that she does not want to be disturbed. One large tree is on the lot line. With the drip line, it will encroach into the construction driveway. Her concern is protection for that tree. Also, her property does not have a fence and she is concerned about her small children being near construction traffic. Mr. Warwick stated that construction traffic will be on the east lot line of Parcel B so there will be no flood plain or wetland impacts. Staff will be further reviewing how fencing and wood chips can provide good protection for trees to avoid compaction. These conditions will be specified in the Development Agreement. Additionally, it may be wise to require temporary plastic fencing between the construction and the rear lots of Royal Oaks Drive without fencing to insure protection from the construction site traffic.

**Mr. Brian Lay**, 1355 Meadow Avenue, asked if any studies have been done to show how property values would be impacted to adjacent properties to the applicant's property. Chair Proud answered that such a study is not required for approval, but certainly property value is a concern of everyone.

City Attorney Filla stated that there is an assumption that the original subdivision and conveyance to Mr. Schmidt are being recorded. Also, the proposed easement is being recorded. He emphasized that those things must occur prior to application for a building permit.

**MOTION:** by Commissioner Schumer to recommend to the City Council approval of the minor subdivision application submitted by Thomas Fleischacker for 1349 Meadow Avenue, subject to the following conditions:

1. The minor subdivision shall be in accordance with the plans submitted.
2. The applicant shall pay a Public Recreation Use Dedication fee as required by Section 204.020 of the Development Regulations before the City will endorse deeds for recording. The fee will be 4% of the fair market value of the property, with credit given for the existing residence.
3. Public easements for drainage and utility, and ponding and flowage shall be dedicated to the City as required by the Public Works Director, and consistent with the requirements of the Rice Creek Watershed District. 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. A minimum setback of 20-feet from the east side lot line is required for future principal and accessory structures developed on Parcel B.
5. Municipal water and sanitary sewer service shall be provided to both lots.

6. A vehicle turnaround approved by the Fire Marshall, and constructed to accommodate the weight of emergency vehicles shall be maintained on the property.
7. Address signs at the driveway access on Meadow Avenue shall be installed, subject to review and approval of the City Planner and Fire Marshall.
8. The access driveway shall be improved to include an area suitable for two-way traffic, in a configuration approved by the Fire Marshall.
9. The subdivision is subject to the permitting requirements of the Rice Creek Watershed District (RCWD), and no City permits shall be issued prior to approvals by the RCWD.
10. The applicants shall enter into a Development Agreement with the City. This agreement shall be executed prior to the City's release of the deeds for recording.
11. The old driveway providing access to County Road J shall be exclusively used for construction access for the future house on Parcel B. Prior to issuance of a Certificate of Occupancy for the future house on Parcel B, the applicant shall relinquish, in a form approved by the City, all rights of access to County Road J and to cross and access the City trail that adjoins County Road J. The unimproved dirt driveway shall be abandoned and restored to vegetative cover. The curb on County Road J shall be replaced. All work within the County Road J right-of-way is subject to the permitting authority of Ramsey County.
12. Tree removal requires replacement trees per City Code. City requirements for the tree removal and protection plan shall be detailed in the Development Agreement.
13. This approval shall expire after one year if the subdivision has not been recorded with Ramsey County.
14. Temporary fencing shall be installed as necessary along the east side lot line of Parcel B along the temporary construction drive from County Road J, to provide safety of nearby residents from construction traffic.

The recommendation for approval of the Minor Subdivision is based on the following findings of fact:

1. The proposed lots conform to the adopted City standards for new lots.
2. Municipal water and sanitary sewer service are available for each proposed parcel.
3. Drainage and utility, and ponding and flowage easements are provided as required by the Municipal Code.

Discussion:

Commissioner Feldsien stated that he would second the motion with the added condition to require temporary fencing to protect abutting properties from construction traffic.

Commissioner Schumer amended the motion to include a condition that during the period of construction, temporary fencing will be installed on the access road from County Road J to protect yards that do not have existing fences.

Commissioner Feldsien seconded the motion.

Commissioner Solomonson questioned condition No. 8 in light of the revised wishbone driveway design provided by the applicant at this meeting. This condition requires a 20-foot widening of the driveway for a 40-foot portion.

City Attorney Filla revised condition No. 8 to state, “The access driveway on the subject property shall be improved to include an area suitable for two-way traffic with a minimum 20-foot width for a minimum of 40 feet in length in any configuration approved by the Fire Chief.”

Commissioners Schumer and Feldsien accepted this amendment to condition No. 8.

Commissioner Solomonson expressed concern as to whether the 20-foot width for a 40-foot length can be met with a wishbone design. Mr. Warwick suggested accepting City Attorney Filla’s amendment but deleting the measurement specifications.

Chair Proud repeated the amendment to condition No. 8, which shall read, “The access driveway shall be improved to include an area suitable for two-way traffic based on a design approved by the Fire Chief.”

Commissioners Schumer and Feldsien accepted the amended language as stated by Chair Proud.

City Attorney Filla requested that the amended condition No. 8 include the stipulation “on the subject property” because there is also an access driveway to the Schmidt property.

Commissioners Schumer and Feldsien accepted this added language to the amendment read by Chair Proud.

VOTE:           Ayes - 5                           Nays - 0

**PUBLIC HEARING - CONDITIONAL USE PERMIT**

**FILE NO.:                   2400-10-18**  
**APPLICANT:               LARRY EVENSON**  
**LOCATION:                   895 AMBLE ROAD**

**Presentation by City Planner Kathleen Nordine**

This application is to construct a detached accessory structure of 280 square feet. The property is in the R1 Single-Family Residential District with the lot exceeding minimum standards for that District. There is an existing single-family home with an attached two-car garage of 624 square feet. The small shed in the rear yard will be removed to build the proposed new structure to store lawn equipment, a small camper and other personal items. The new structure would be in the same location as the existing shed. Exterior materials will match the house exterior. A conditional use permit is required for a detached accessory structure of 150 to 288 square feet.

The request complies with all standards and requirements for a conditional use permit. The maximum area allowed is 288 square feet; 280 square feet is proposed. Total area for accessory

structures cannot exceed 90% of the dwelling unit foundation area. In this case, the total area would be 56%. The minimum side setback is 5 feet; the setback proposed is 17 feet. The rear yard setback must be a minimum of 10 feet; the setback proposed is 57.75 feet. The maximum height for sidewalls is 10 feet; 8.5 feet is proposed. The building height maximum is 18 feet; 11.75 feet is proposed. No storage loft is planned. The property can have a maximum of 2 detached accessory structures; one is proposed.

Property owners within 350 feet were notified of the application. Responses received are in support of the proposal. Staff is recommending approval with the conditions listed in the staff report.

**Mr. Larry Evenson** stated that he is available for questions.

Chair Proud opened the public hearing. There were no comments or questions.

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

**VOTE:** Ayes - 5 Nays - 0

**MOTION:** by Commissioner Feldsien, seconded by Commissioner Schumer to recommend to

the City Council approval of the Conditional Use Permit application submitted by Larry Evanson for a 280 square foot detached accessory structure located on his property at 895 Amble Road. The approvals are subject to the following conditions.

1. The project must be completed in accordance with the plans submitted with the applications. The accessory building shall not exceed 280 square feet in size. 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 commenced.
3. The structure shall be used for personal use only and no maintenance of automotive vehicles or commercial use/commercial related storage is permitted.
4. The accessory structure shall be screened from view of adjacent properties by retaining the existing vegetation along the side property lines.
5. The exterior design and materials used for the storage building shall be compatible with the dwelling unit and be similar in appearance from an aesthetic, building material and architectural standpoint.

The approval is based on the following findings of fact:

1. The proposed accessory structure complies with the standards identified for detached accessory structures in Section 205.082(D).
2. The use of the structure for personal storage purposes is in harmony with the purpose and intent of the Development Code.
3. The residential use of the property, and this accessory structure, is consistent with the policies and designated land use of the Comprehensive Plan.  
The design and use of the proposed structure are compatible with the existing neighborhood.

Discussion:

Commissioner Solomonson asked if conditions should include removal of the existing shed. Ms. Nordine stated that she has not determined whether the existing shed would comply with City Code requirements if it were relocated.

Commissioner Solomonson offered an amendment to the motion to require removal of the existing shed and that it not be relocated on the property.

Commissioners Feldsien and Schumer accepted the amendment.

VOTE:                      Ayes - 5                      Nays - 0

**VARIANCE/RESIDENTIAL DESIGN REVIEW**

**FILE NO.:                      2401-10-19**  
**APPLICANT:                      DAN IWASZKO**  
**LOCATION:                      999 OAKRIDGE AVENUE**

**Presentation by Senior Planner Rob Warwick**

This property is a substandard riparian lot on the south side of Turtle Lake. The application is to tear down the existing home and rebuild a new home. A variance is requested to reduce the front setback from 342.4 feet minimum requirement to 275 feet, which is the approximate setback of the existing home. Also, a variance is needed to reduce the side setback from 10 feet to 9.5 feet. The area of the lot is 40,000 square feet, but is substandard due to the width of the front at 86 feet and 65 feet at the Ordinary High Water (OHW) mark street. Access to the property is over a 30-foot private street.

The proposed house would be 2,500 square feet on one level with a walkout basement. Three existing detached accessory structures on the property will remain. One landmark tree would be removed. The proposed new house complies with all City standards for substandard riparian lots with the exception of the front and east side setbacks. The front setback is the calculated average of the two adjacent front setbacks and is 342.4 to 362.4 feet. The existing setback on the west side is 9.5 feet, which can be reused. However, on the east side the existing setback is 10 feet and a variance is needed to reduce it to 9.5 feet.

The applicant states that irregular lot shapes are common in the area, which create hardship. The subject property narrows toward the OHW. The proposed new home is in the approximate location of the existing home. The east side setback is 9.5 feet at the northeast corner of the house and 11.4 feet at the southeast corner due to the narrowing lot configuration. The house will have the same orientation to the lake as adjacent properties. It will not change the character of the neighborhood. Three properties adjoin along the west side lot line, each with a different front setback.

Staff believes the proposal is reasonable use of the property due to the condition of the existing house, which was built 1963, and valued at only \$20,000. Hardship is due to lot configuration and justifies the variance requests. Shoreland mitigation is required. The practices the applicants have identified are architectural mass and infiltration areas for storm water runoff. Staff is recommending approval with the conditions listed in the staff report.

Property owners within 150 feet were notified of the application. One comment was received in support of the project. A permit will be required from Rice Creek Watershed District.

Commissioner Solomonson asked if there is a variance for the house at 999. Mr. Warwick answered that a variance was granted. Commissioner Solomonson asked the reason for a 0.5 foot east side setback variance, if an adjustment could be made for compliance. Mr. Warwick explained that the west side of the house sits parallel to the west lot line. Because of the narrowing width, a variance is needed for the northeast corner of the house. Even if the house were moved back 6 feet, the northeast corner would still be at only 9.7 feet and require a variance.

Commissioner Feldsien asked if there has been any discussion about reducing impervious surface. Mr. Warwick answered, no.

**Mr. Dan Iwaszko**, Applicant, stated that they have worked with their neighbors regarding the front setback variance. His neighbors support the side setback variance. They are making every effort to work with neighbors and design a home that fits the neighborhood. The elevation of the property to the east is lower. On that side only awning windows are planned, and the neighbors are supportive of the proposed house and side setback variance. There is a brick walkway that is being removed and will reduce some impervious surface.

Commissioner Wenner asked the square footage of the new home compared to the existing one. **Mr. Iwaszko** stated that the living area for the new home is 2300 square feet. With the front covered porch, it is 2,500 square feet. The square footage of the existing home is 1400 square feet. **Mrs. Lynn Iwaszko** stated that the driveway will be kept the same. The home could have been a two story, but they wanted to work with neighbors and kept it to one story.

Chair Proud opened the discussion to public comments. There were none.

Chair Proud stated that he is pleased at the work the applicants have done to work with neighbors

and will support the variances.

Commissioner Schumer agreed and stated that the house will fit well into the neighborhood.

**MOTION:** by Commissioner Schumer, seconded by Commissioner Solomonson to adopt Resolution 10-64 approving the variance requests to reduce the front and east side setbacks for a new dwelling, and to approve the residential design review application at 999 Oakridge Avenue, subject to the following conditions:

1. The project must be completed in accordance with the plans submitted as part of the Residential Design Review/Variance applications. Any significant changes to these plans, as determined by the City Planner, will require 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 shall not exceed 30% of the total lot area as a result of this project. Foundation area shall not exceed 18%. Building height shall not exceed 35 feet, measured peak to lowest grade within 5 feet of the foundation.
4. An erosion control plan shall be submitted with the building permit application, and implemented and maintained during construction.
5. No parking or storage is permitted on any public property, including Hanson Road and the public portion of Oakridge Avenue. Unobstructed access to the properties sharing the private road easements shall be maintained throughout the period of construction.
6. One landmark tree will be removed and three replacement trees are required.
7. The mitigation plan shall be completed within one year of this approval date. A Mitigation Affidavit shall be executed prior to the issuance of a building permit for the new home.
8. The project is subject to the permitting requirements of the Rice Creek Watershed District.
9. The approval is subject to a 5-day appeal period. Once the appeal period expires, a building permit may be issued for the proposed project. A building permit must be obtained before any construction activity or site work begins.

The approval is based on the following findings:

1. A dwelling represents a reasonable use of the property.
2. The existing house is outdated and in need of renovation, and so the request represents a reasonable use of the property.
3. Hardship exists due to the configuration and depth of the two lots adjacent to the subject property since a calculated front setback is used for this riparian lot.
4. The proposal will not alter the character of the neighborhood, since the proposed front setback is several feet more than the existing front setback.

**VOTE:**                      Ayes - 5                      Nays - 0

**VARIANCE**

**FILE NO.:** 2399-10-17  
**APPLICANT:** ANDREW DUNN  
**LOCATION:** 1091 EDGEWATER

**Presentation by Senior Planner Rob Warwick**

The applicant requests a variance to construct a 6-foot vinyl privacy fence in a side yard abutting a street. The maximum height fence allowed is 4 feet. The reason for the fence is to provide a buffer between his home and Lexington Avenue. The property is located at the corner of Lexington and Edgewater. The fence would be on the west property line, 1.5 feet from the lot line and 11.5 feet from the trail in the right-of-way. The house has a setback from Lexington of 30 feet, which is less than the required 40 feet. The fence would extend from the southwest corner of the house to the lot line and then north along the west lot line. Along arterial roads a 6-foot fence is permitted as long as it is set back 10 feet from the property line.

The applicant states that the 6-foot fence will replace a 4-foot fence that had to be removed. It will provide privacy and reduce road noise. Mature trees prevent a fence with a 10-foot setback from the right-of-way. The applicants will plant landscaping on their property on the street side of the fence.

Staff believes the request is reasonable. Hardship is present because of the location of the trees and the traffic volume on Lexington Avenue. There is a 10-foot boulevard area between the trail and property line of the subject property, which will lessen the walled in effect. The lot width is 100 feet, which exceeds the 90-foot requirement. However, because of the placement of improvements, the side setback from Lexington is 30 feet instead of the now required 40 feet. With the mature trees, it is reasonable to not require a 10-foot setback which would constrain the back yard area.

Property owners within 150 feet were notified of the application. Two comments were received in support. Ramsey County has no plans to widen the road and has no objections to the request. Staff is recommending approval with the conditions listed in the staff report.

Commissioner Wenner stated that incrementally 6-foot fences are appearing along street corridors instead of retaining the beautiful street vistas. He asked the City's direction on this issue. Mr. Warwick stated that there have been perhaps a half dozen requests similar to this one in the last 7 or 8 years due to mature trees or irregular lot line configurations. An increase of fences may also be because permits are not obtained. The City is developing a file of aerial photos that will show how roads and properties looked in the past as to how they look now.

Commissioner Solomonson noted the increased elevation from the street to the location of the fence. He asked if noise is mitigated with the first 2 or 3 feet of fence? Mr. Warwick stated that trees are better mitigation than fences. The elevation is not steep, but he does not have the exact elevation.

**Mr. Andrew Dunn**, Applicant, stated that new trees that have been planted would have to be removed if the fence setback is pushed back 10 feet. The problem is road noise but also ambulance noise at night.

Chair Proud asked what landscaping would be planted. **Mr. Dunn** stated that daisies, grasses and other perennial plants. Chair Proud noted that the boulevard and trail add distance from the fence to the roadway and create the desired aesthetics.

Chair Proud opened the discussion to public comments. There were none.

Commissioner Schumer stated that with the trees present, he does not believe the elevation will impact the look of the 6-foot height.

Commissioner Solomonson stated that because of the elevation, he believes a 4-foot fence would sufficiently mitigate noise. It is his recollection that road noise is mitigated with the first 2 or 3 feet of fencing. No amount of fencing will block a siren. He does not support this application.

Commissioner Wenner agreed with Commissioner Solomonson. Other plants, such as arbor vitae would better block noise. The perennials planned will not be seen in the winter.

Commissioner Feldsien stated that he supports the proposal because if the lot were configured differently, a 6-foot fence would be allowed. The proposed fence will add privacy to the back yard and is worthwhile. There are several other 6-foot fences in the area, but this one is set back from 11 feet from the trail.

**MOTION:** by Commissioner Schumer, seconded by Commissioner Feldsien to adopt Resolution

10-63, approving the variance request to reduce the setback for a fence in a side yard, subject to the following conditions:

1. The project must be completed in accordance with the plans submitted as part of the Variance applications. Any significant changes to these plans, as determined by the City Planner, will require review and approval by the Planning Commission.
2. Construction of the fence shall not interfere with the use of the trail. No construction materials can be stored on the trail. The fence shall be set back a minimum of 11.5 feet from the trail and shall not encroach in the Lexington Avenue right-of-way.
3. This approval will expire after one year if a building permit has not been issued and work has not begun on the project.
4. 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 begins.

The approval is based on the following findings of fact:

1. The construction of a six-foot fence is reasonable due to the abutting Lexington Avenue, an arterial road.
2. The construction of a fence at the proposed location is reasonable due to the location of mature trees on the property that prevent installation of a fence with a ten-foot setback.
3. The proposed fence, because of its setback and vegetation, will not alter the essential character of the neighborhood.

VOTE: Ayes - 3                      Nays - 2 (Solomonson and Wenner)

City Attorney Filla noted that 4 votes are needed to approve the variance. It can be appealed to the City Council.

Mr. Warwick explained that an appeal can be made to the City Council within 5 working days. While there was a majority vote of the Commissioners present, 3 is not a majority of the Planning Commission which has seven members.

### **SITE AND BUILDING PLAN REVIEW**

**FILE NO.:**                      **2402-10-20**  
**APPLICANT:**                **Ecumen**  
**LOCATION:**                    **3530 LEXINGTON AVENUE NORTH**

#### **Presentation by City Planner Kathleen Nordine**

Ecumen has submitted an application to install an emergency generator for their office facility. The company provides senior housing services with in-home care. The emergency generator would provide power to the facility in emergency situations. The generator is a Ziegler CAT 175 kw with diesel fuel and full sound enclosure. It is proposed to be located at the northwest corner of the

building 10 feet from the north property line. It would be constructed on a concrete pad. Evergreen plantings would be put in for screening.

The property is zoned Office (O) as are the properties to the north and south of the subject property. The setback of 10 feet complies with City regulations. It is adjacent to a retaining wall, which will further provide screening. The unit is fully enclosed. The setback from residential properties is over 520 feet. There is wetland and wooded area that would prevent any visibility from those homes.

Property owners within 350 feet were notified of the proposal. No comments were received.

Staff is recommending approval with the conditions listed in the staff report. Hours would be restricted to 8:00 a.m. to 6:00 p.m.

Commissioner Solomonson noted that the 100 decibel noise level would be reduced to 75 decibels with the enclosure. Ms. Nordine stated that the noise level for adjacent resident properties would be further reduced and is within acceptable City standards.

Commissioner Feldsien asked where fuel is stored. **Mr. Dennis Lensa**, Ecumen, stated that the generator is on a 6' x 14' slab. Fuel will be stored in a unit that fits on the slab. It is not buried.

Chair Proud asked if there is a secondary containment unit for fuel. **Mr. Joe Dahlby**, Ecumen stated that there is a dual tank.

Commissioner Feldsien asked how often the generator has to be run to maintain it. **Mr. Lensa** answered, 30 minutes once a month.

MOTION: by Commissioner Feldsien, seconded by Commissioner Wenner to recommend that the City Council approve the Site and Building Plan Review application submitted by Ecumen to install an emergency generator on their property at 3530 Lexington Avenue, subject to the following conditions:

1. Approval is for the installation of an emergency generator, Zieglar CAT 175 kw diesel fuel generator with a full sound enclosure as identified in the submitted plans and specifications. Said unit shall be installed in accordance with the plans submitted. Minor modifications may be made to the plans subject to approval by the City Planner. Significant changes to the plans require review and approval through the Site Plan Review process.
2. Use of the generator is for emergency purposes only. Said generator may be used only when the primary source of electricity for the office building is disrupted. Testing or regular operational maintenance is allowed and shall occur during daytime business hours, 8:00 a.m. to 6:00 p.m., Monday through Friday.
3. Said generator shall be screened with evergreen shrubs as identified in the submitted plans.

VOTE: Ayes - 5 Nays - 0

## **MISCELLANEOUS**

### **City Council Meetings**

Commissioner Wenner and Chair Proud will respectively attend the August 2, and August 16<sup>th</sup> City Council meetings.

## **ADJOURNMENT**

MOTION: by Commissioner Schumer, seconded by Commissioner Feldsien to adjourn the July 27, 2010 Planning Commission meeting at 9:21 p.m.

ROLL CALL:           Ayes - 5                   Nays - 0

ATTEST:

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Kathleen Nordine  
City Planner