

**CITY OF MENDOTA HEIGHTS
DAKOTA COUNTY, MINNESOTA**

**DRAFT PLANNING COMMISSION MINUTES
APRIL 25, 2023**

The regular meeting of the Mendota Heights Planning Commission was held on Tuesday, April 25, 2023 in the Council Chambers at City Hall, 1101 Victoria Curve at 7:00 P.M.

The following Commissioners were present: Chair Litton Field, Commissioners Patrick Corbett, Brian Petschel, Brian Udell, Jason Stone, and Andrew Katz. Those absent: Commissioner Cindy Johnson.

Approval of Agenda

The agenda was approved as submitted.

Election of Planning Commission Chair and Vice Chair for Year 2023

COMMISSIONER PETSCHER MOVED, SECONDED BY COMMISSIONER STONE TO ELECT LITTON FIELD AS CHAIR OF THE PLANNING COMMISSION FOR YEAR 2023.

Chair Field accepted the nomination.

AYES: 4
NAYS: 0
ABSTAIN: 1 (Field)

COMMISSIONER PETSCHER MOVED, SECONDED BY COMMISSIONER UDELL TO ELECT PATRICK CORBETT AS VICE CHAIR OF THE PLANNING COMMISSION FOR YEAR 2023.

AYES: 5
NAYS: 0

Approval of Minutes

COMMISSIONER CORBETT MOVED, SECONDED BY COMMISSIONER UDELL TO APPROVE THE MINUTES OF JANUARY 24, 2023.

AYES: 5
NAYS: 0

COMMISSIONER CORBETT MOVED, SECONDED BY COMMISSIONER PETSCHER TO APPROVE THE WORKSHOP MINUTES OF FEBRUARY 8, 2023, FEBRUARY 28, 2023, AND APRIL 17, 2023.

AYES: 5
NAYS: 0

Hearings

**A) PLANNING CASE 2023-03
MICHELLE CULLIGAN ON BEHALF OF LAWRENCE AND MARY
CULLIGAN, 1941 GLENHILL ROAD – MINOR SUBDIVISION AND VARIANCE**

Planning Consultant Jennifer Haskamp explained that the applicant, Michelle Culligan, on half of the owners, Lawrence and Mary Culligan, is requesting consideration of a minor subdivision and variance on the property generally described as Outlot A, Valley View Oak 2nd Addition. The subject property is subject to the R-1 One Family Residential Zoning District standards and the Mississippi River Corridor Critical Area (MRCCA) overlay district standards. The proposed minor subdivision will create two lots denoted as Parcel 2A and 2B on the exhibits. Since the property is located in the MRCCA overlay district, a variance from City Code Section 12-3-7 C which stipulates that driveways may not be located in the bluff impact zone (BIZ) would be required. The applicant is requesting to access proposed parcel 2A by upgrading an existing barn driveway, and such driveway must be widened in areas that currently cross into the BIZ. The staff report evaluates both requests concurrently because the minor subdivision cannot be approved without demonstrating that adequate access to both lots can be provided, which requires approval of the variance request.

Hearing notices were published and mailed to all properties within 350-ft. of the site; one comment was received from a resident expressing concern.

Planning Consultant Jennifer Haskamp provided a planning staff report and a presentation on this planning item to the Commission (which is available for viewing through the City's website).

Staff recommended approval of this application based on the findings and with conditions.

Chair Field opened the public hearing.

Michelle Culligan, on behalf of the applicant, commented that this is for the lot split and small variance. She noted that this would be the least disruptive way to maintain nature and use the road that has existed for over 40 years. She commented that this would provide large buildable areas.

Steve Golias City of Mendota, commented that he is happy to see this new request compared to the past request. He stated that he has been a member of the Planning Commission and/or City Council for many years. He asked if the Fire Department has provided input on the width of the driveway and whether that would further impact the BIZ.

Sandra Krebsbach asked the result of the lawsuit with this property to protect the slope and asked if this request would fall within that slope.

Commissioner Petschel stated that he is not an expert on the ruling but believed it was the nature of the subdivision proposed given the slope. He stated that it was not that nothing could be built, but that too much was proposed to be built and that many of the properties would not be buildable because of the grades involved.

Ms. Krebsbach commented that there was always concern about building on the slope because of the impact on the property below in Mendota. She commented that the residents in that area live on a sandstone ledge and did not want to disrupt the ledge.

Chair Field stated that this request is for a driveway variance and therefore they cannot comment on plans for a home.

Ms. Krebsbach commented that she would like to see additional information. She stated that they were aware that there would be two homes along Glenhill but noted that the second home would appear to be in the protected slope area. She wanted to ensure that this variance would not unravel the court ruling and effort the City went through to protect that area.

Allen Olstein, 1954 Glenhill Road, asked if the barn road has ever supported heavy vehicles, such as construction vehicles or emergency vehicles and how that activity would impact an unstable area. He was concerned with any construction activity in that area because it has been deemed geologically unstable.

Kathy McGuire, 1942 Glenhill Road, stated that she and her husband also lived in the MRCCA at their previous home. She commented that because this is within the BIZ it receives a secondary layer of protection. She stated that the guidelines were created for a reason and asked where the line would be drawn when variances are issued.

Public Works Director Ryan Ruzek read into the record a written comment received from Jane McKay at 1949 Glenhill Road who also objected to the variance and provided an alternate suggestion.

Ms. Culligan noted that the driveway plans would be reviewed at the time those plans are presented. She provided clarification on the lawsuit which was specific to that actual development and there was no discussion that the property was not buildable. She stated that since that time, the DNR has released the new boundaries of the BIZ and the area outside of the BIZ would be buildable. She commented that there are large, flat areas that are buildable on the property. She commented that they have done the background work and are presenting this plan which is minimally invasive. She noted that there are properties with homes on much more sloped area and within the identified BIZ that have existed for over 40 years. She commented that they are allowed to develop within areas that are not within the BIZ and that meet the Code requirements. She stated that the DNR is not concerned with this request, and they have done their best to present something that retains the natural characteristics of the area. She noted that they could have presented a third lot but decided not to do that in order to preserve additional trees.

Seeing no one further coming forward wishing to speak, Chair Field asked for a motion to close the public hearing.

COMMISSIONER CORBETT MOVED, SECONDED BY COMMISSIONER UDELL, TO CLOSE THE PUBLIC HEARING.

AYES: 5

NAYS: 0

Commissioner Petschel asked if the driveway expansion as proposed would receive any additional scrutiny.

Public Works Director Ryan Ruzek replied that he is not aware of any Code provisions that would mandate the construction of driveways.

Commissioner Petschel asked if additional review would be required if the driveway would need to be reinforced with retaining walls.

Public Works Director Ryan Ruzek explained that the City does not consider a retaining wall to be a structure if it is below four feet in height.

Commissioner Petschel asked if the applicant would have the right to put a driveway through the wooded area outside of the BIZ, if the variance were not approved or requested.

Planning Consultant Jennifer Haskamp confirmed that the applicant would be allowed to do that.

Commissioner Petschel clarified that the variance is a preference of the applicant in order to preserve additional trees, as they could achieve access by using the alternate route through the wooded area.

Commissioner Stone asked if there would be liability in approving the variance because of the previous lawsuit.

Planning Consultant Jennifer Haskamp replied that she was not working with the City during the lawsuit, but it is her understanding that there was nothing in the ruling stating that the property was not buildable, and that ruling was only applicable to that specific application.

COMMISSIONER CORBETT MOVED, SECONDED BY COMMISSIONER PETSCHER TO RECOMMEND APPROVAL OF THE LOT SPLIT AND VARIANCE BASED ON THE FINDINGS OF FACT SUPPORTING THE REQUEST AND WITH THE FOLLOWING CONDITIONS:

1. APPLICANT MUST RECORD THE LOT SPLIT (MINOR SUBDIVISION) AT DAKOTA COUNTY INDICATING THE NEWLY CREATED PARCEL 2A AND PARCEL 2B.
2. A DETAILED PLAN, INCLUDING ANY SIGNIFICANT TREE REMOVAL, OF THE BARN DRIVEWAY EXPANSION MUST BE SUBMITTED FOR REVIEW AND APPROVAL BY THE CITY STAFF. THE EXPANSION/WIDENING OF THE

DRIVEWAY MUST BE DESIGNED TO MINIMIZE ENCROACHMENT INTO THE BIZ TO THE EXTENT POSSIBLE.

3. ANY FUTURE IMPROVEMENTS OR DEVELOPMENT ON THE SUBJECT PARCELS, INCLUDING THE MODIFICATION/EXPANSION OF THE BARN DRIVEWAY, SHALL BE SUBJECT TO MRCCA REVIEW AND ALL NECESSARY PERMITS MUST BE OBTAINED.
4. ALL TRANSFER OR DEED DOCUMENTS WHICH CONVEY THE PORTION OF LANDS UNDER THE LOT LINE ADJUSTMENT AND LOT SPLIT PROCESS SHALL BE RECORDED WITH DAKOTA COUNTY.

FURTHER DISCUSSION: COMMISSIONER CORBETT COMMENTED THAT THERE HAS BEEN A LOT OF CONSIDERATION AND TIME SPENT ON REDESIGNING THIS COMPARED TO THE ORIGINAL APPLICATION. HE COMMENTED THAT HE AGREES THAT THE BEST OPPORTUNITY/POSITION OF THE DRIVEWAY WOULD BE TO UTILIZE THE EXISTING BARN ROAD AND BELIEVES THIS TO BE A REASONABLE USE OF THE LAND.

COMMISSIONER PETSCHER COMMENTED THAT HE SUPPORTS THIS BECAUSE THE PROPERTY HAS THE RIGHT TO DEVELOP AND THIS IS PROBABLY THE LEAST INVASIVE PROPOSAL. HE NOTED THAT THE BARN ROAD IS AN EXISTING ACCESS AND WOULD BE MINIMALLY DISRUPTIVE COMPARED TO REMOVING TREES TO PROVIDE THE ACCESS. HE NOTED THAT MRCCA DOES NOT PROHIBIT DEVELOPMENT, BUT INSTEAD PROVIDES A SPECIFIC SET OF RULES TO ACHIEVE DEVELOPMENT. HE STATED THAT THERE WERE MANY COMMENTS MADE ABOUT THE STABILITY OF THE LAND BUT THE ONLY QUALIFIED EXPERT THAT MADE COMMENTS ABOUT STABILITY WERE OF THE APPLICANT. HE CAUTIONED RESIDENTS ABOUT MAKING THOSE ASSERTIONS.

COMMISSIONER CORBETT AGREED THAT HE SEES THIS AS THE BEST PATH FORWARD, NOTING THAT EVERYTHING THAT WILL BE BUILT WILL NEED TO MEET THE MRCCA STANDARDS.

AYES: 5
NAYS: 0

Chair Field advised the City Council would consider this application at its May 2, 2023 meeting.

**B) PLANNING CASE 2023-04
SAINT THOMAS ACADEMY, SAINT THOMAS ACADEMY CAMPUS –
VARIANCE**

Planning Consultant Jennifer Haskamp explained that the applicant, Saint Thomas Academy, is requesting consideration of a variance from the maximum height of a principal structure to reconstruct and expand the existing natatorium (pool house) on the Saint Thomas Academy campus located at 949 Mendota Heights Road. It should be noted that after review of the historic

files it was determined that no Conditional Use Permit amendment is needed for the proposed project.

Hearing notices were published and mailed to all properties within 350-ft. of the site; no comments or objections to this request were received.

Planning Consultant Jennifer Haskamp provided a planning staff report and a presentation on this planning item to the Commission (which is available for viewing through the City's website).

Staff recommended approval of this application based on the findings and with conditions.

Commissioner Petschel asked if the lost parking spaces would be a boulevard to direct traffic.

Planning Consultant Jennifer Haskamp confirmed that would align and direct traffic.

Commissioner Petschel asked and received confirmation that the road identified to be ripped up would be replaced with greenspace.

Commissioner Corbett asked if there is a capacity increase noted or anticipated.

Planning Consultant Jennifer Haskamp replied that the capacity would be about 300 people, whereas the existing space has a capacity of about 150 people.

Chair Field opened the public hearing.

Ryan Hoffman, representing the applicant, stated that the Academy is looking forward to getting this project underway. He commented that the new façade will be more modern and include more glass. He stated that the five-lane pool will be expanded to eight lanes. He commented that there would be two or three meets per year that would increase the attendance over the current average attendance. He confirmed that those meets would not occur during the school day and therefore the school would have ample parking to support that need.

Commissioner Petschel asked if this project would remove the entire entranceway from that area.

Mr. Hoffman commented that entranceway would remain and provided additional details on the design.

Commissioner Corbett asked for more details on parking.

Mr. Hoffman commented that often meets are held on weekends.

Marty, Saint Thomas Academy, stated that he is not aware of any meets that would be held during school hours when there would be students, staff and visitors onsite at the same time.

Commissioner Corbett asked if the meets would be held at the same time as another sporting event.

Mr. Hoffman replied that it would be no different than today and believed there would be sufficient parking to handle the needs.

Seeing no one further coming forward wishing to speak, Chair Field asked for a motion to close the public hearing.

COMMISSIONER PETSCHER MOVED, SECONDED BY COMMISSIONER STONE, TO CLOSE THE PUBLIC HEARING.

AYES: 5
NAYS: 0

COMMISSIONER PETSCHER MOVED, SECONDED BY COMMISSIONER STONE, TO RECOMMEND APPROVAL OF THE VARIANCE BASED ON THE FINDINGS OF FACT SUPPORTING THE REQUEST AND WITH THE FOLLOWING CONDITIONS:

1. ALL PARKING MUST BE ACCOMODATED ON-SITE DURING ANY EVENT HELD AT THE NATATORIUM. IF ADDITIONAL PARKING IS NEEDED, THE PLAN TO ACCOMMODATE PARKING MUST BE SUBMITTED FOR REVIEW AND APPROVAL BY THE CITY STAFF.
2. THE LANDSCAPE PLAN SHALL BE UPDATED TO INCREASE THE NUMBER OF REPLACEMENT TREES PLANTED EAST OF THE PROPOSED EXPANSION AREA.
3. THE APPLICANT MUST OBTAIN ALL NECESSARY PERMITS FROM THE PUBLIC WORKS DIRECTOR AND COMPLY WITH LAND DISTURBANCE REQUIREMENTS.
4. THE APPLICANT MUST OBTAIN ALL REQUIRED CITY PERMITS, INCLUDING BUT NOT LIMITED TO, A GRADING PERMIT AND BUILDING PERMIT.
5. THE APPLICANT MUST OBTAIN ANY NECESSARY PERMITS FROM ALL APPLICABLE AGENCIES WITH JURISDICTION OVER THE PROJECT.
6. IF ANY CHANGES TO THE PLAN SET ARE PROPOSED, THE APPLICANT MUST COME BACK TO THE CITY TO DETERMINE THE PROPER PERMITTING PROCESS.

AYES: 5
NAYS: 0

Chair Field advised the City Council would consider this application at its May 2, 2023 meeting.

**C) PLANNING CASE 2023-05
ROBERT WHEBBE, 598 SIBLEY MEMORIAL DRIVE – VARIANCE AND
CONDITIONAL USE PERMIT**

Planning Consultant Jennifer Haskamp explained that Robert Whebbe, the applicant, owner, and resident of 598 Sibley Memorial Drive, is requesting a Conditional Use Permit for a 1,500 square foot garage and a Variance to City Code Section 12-1D-3.B.2, which regulates the height of the accessory structure. The applicant is seeking an allowance to construct an approximately 17-foot-tall garage which exceeds the height of the principal building.

Hearing notices were published and mailed to all properties within 350-ft. of the site; no comments or objections to this request were received.

Planning Consultant Jennifer Haskamp provided a planning staff report and a presentation on this planning item to the Commission (which is available for viewing through the City's website).

Staff recommended that the Commission give careful consideration to denying the request for Variance from the height standard or to table the request so that an alternative design solution can be presented.

Commissioner Petschel asked if the garage door is a standard height.

Planning Consultant Jennifer Haskamp confirmed that the garage door is of average height. She commented that it would be likely that any garage would bump up against the height limit in this case because the home is lower in height. She noted that she did speak with the applicant prior to the meeting and he is willing to support the recommendation to table and continue to work with staff.

Commissioner Stone asked if there were any complaints from neighbors.

Planning Consultant Jennifer Haskamp replied that staff did not receive any written testimony.

Chair Field opened the public hearing.

Robert Whebbe, applicant, commented that the height of the home is pretty low noting that a person could touch the gutters from the ground. He provided additional details on the attempt to design in a manner that would not disturb the solar panels on the home. He stated that rather than deny the request, he would request that the Commission table this so that he could work with staff to figure out how to make this work. He confirmed that they would be adding additional solar panels onto the garage in addition to the panels on the home.

Commissioner Petschel stated that even if the height were lowered slightly, the peak would still be higher than the existing home.

Mr. Whebbe confirmed that would be true.

Commissioner Petschel commented that there would be no way to have a standard garage door and not exceed the height of the home in this case.

Mark Kemp, 586 Sibley Memorial Highway, commented that his family agrees with the recommendation of staff to deny or table in order to find something that works better than what is proposed.

Jill Kane, 586 Sibley Memorial Highway, commented that they have concern with the overall scale and height of the garage.

Mr. Whebbe confirmed that he was agreeable to tabling the request and he would continue to work with staff in order to present a more appealing option.

COMMISSIONER PETSCHER MOVED, SECONDED BY COMMISSIONER CORBETT, TO TABLE THE REQUEST AND DIRECT STAFF TO EXTEND THE APPLICATION REVIEW PERIOD AN ADDITIONAL 60 DAYS, IN COMPLIANCE WITH MN STAT. 15.99.

FURTHER DISCUSSION: COMMISSIONER CORBETT COMMENTED THAT HE APPRECIATES THAT THE ORIGINAL STRUCTURE IS VERY LOW AND IT WOULD SEEM IMPOSSIBLE TO BUILD A NEW ATTACHED GARAGE STRUCTURE THAT WOULD NOT REQUIRE A VARIANCE. HE AGREED WITH STAFF THAT THERE WOULD BE AN OPPORTUNITY TO REDUCE THE HEIGHT OF THE GARAGE.

COMMISSIONER STONE ENCOURAGED THE APPLICANT TO WORK WITH STAFF AND SPEAK WITH THE NEIGHBOR, NOTING THAT HE IS NOT OPPOSED TO THE CONCEPT OF A VARIANCE.

CHAIR FIELD NOTED THAT THE PUBLIC HEARING WILL REMAIN OPEN.

AYES: 5
NAYS: 0

New/Unfinished Business

No comments.

Adjournment

COMMISSIONER PETSCHER MOVED, SECONDED BY COMMISSIONER UDELL, TO ADJOURN THE MEETING AT 8:34 P.M.

AYES: 5
NAYS: 0