

CITY OF MENDOTA HEIGHTS  
DAKOTA COUNTY  
STATE OF MINNESOTA

Minutes of the Regular Meeting  
Held Tuesday, May 2, 2023

Pursuant to due call and notice thereof, the regular meeting of the City Council, City of Mendota Heights, Minnesota was held at 7:00 p.m. at City Hall, 1101 Victoria Curve, Mendota Heights, Minnesota.

CALL TO ORDER

Mayor Levine called the meeting to order at 7:00 p.m. Councilors Lorberbaum, Paper, Mazzitello, and Miller were also present.

PLEDGE OF ALLEGIANCE

Council, the audience, and staff recited the Pledge of Allegiance.

AGENDA ADOPTION

Mayor Levine presented the agenda for adoption. Councilor Mazzitello moved adoption of the agenda. Councilor Paper seconded the motion.

Ayes: 5

Nays: 0

CONSENT CALENDAR

Mayor Levine presented the consent calendar and explained the procedure for discussion and approval. Councilor Lorberbaum moved approval of the consent calendar as presented.

- a. Approval of April 18, 2023 City Council Minutes
- b. Approval of April 18, 2023 Council Work Session Minutes
- c. Acknowledge January 24, 2023 Planning Commission Meeting Minutes
- d. Acknowledge February 8, 2023 Planning Commission Work Session Notes
- e. Acknowledge February 28, 2023 Planning Commission Work Session Notes
- f. Acknowledge April 17, 2023 Planning Commission Work Session Notes
- g. Approve Alcohol License – Mendota Liquor Barrel
- h. Approve City Clerk Out of Metro Area Travel Request
- i. Authorize Purchase Order for Fence Work at Mertensotto Field (Civic Center)
- j. Accept Resignation of Firefighter Steve Reamer
- k. Approval of Claims List

Councilor Mazzitello seconded the motion.

Ayes: 5

Nays: 0

## PUBLIC COMMENTS

No one from the public wished to be heard.

## PRESENTATIONS

No items scheduled.

## PUBLIC HEARING

No items scheduled.

## NEW AND UNFINISHED BUSINESS

### A) RESOLUTION 2023-25 MINOR SUBDIVISION AND VARIANCE AT PROPERTY GENERALLY LOCATED NEAR 1941 GLENHILL ROAD, PLANNING CASE 2023-03

Planning Consultant Jennifer Haskamp explained that the Council was asked to consider adopting a resolution of approval for a minor subdivision and variance of Outlot A, Valley View Oak 2<sup>nd</sup> Addition, generally located northeast of the Glenhill Road and Victoria Curve intersection, as requested by applicant Michelle Culligan, on behalf of Lawrence and Mary Culligan.

Councilor Paper asked the city attorney for input on the classification of the driveway as being a legal nonconforming driveway.

City Attorney Elliott Knetsch replied that he agrees with that description.

Councilor Paper asked if the width of the driveway could be capped to prevent a wider section.

Planning Consultant Jennifer Haskamp replied that a maximum width could be designated at 12 feet if desired. She stated that the Council would also have the opportunity to review the driveway design as part of the MRCCA Permit when that comes forward.

Councilor Paper asked if that would provide enough space for two vehicles to pass.

Planning Consultant Jennifer Haskamp replied that it would not but explained that a driveway does not need to be designed for two-way traffic, noting that driveways typically range from 12 to 15 feet in width.

Councilor Paper referenced the elevation change for proposed Lot 2A and asked if there would be a lot of dirt work or retaining walls needed to create the building pad.

Planning Consultant Jennifer Haskamp replied that the building pad location for that lot is quite flat.

Councilor Paper referenced Lot 2B and asked for details on that elevation change, as it appears to be fairly minimal.

Planning Consultant Jennifer Haskamp confirmed that there is minimal grade change for that proposed lot.

Mayor Levine asked for clarification on elevation based on the provided maps.

Public Works Director Ryan Ruzek provided more detailed information on the elevation changes throughout the property.

Councilor Lorberbaum asked if approving the subdivision would imply that they are buildable lots.

Planning Consultant Jennifer Haskamp confirmed that would be true, unless there were some issues that came forward during the design of the homes that proved otherwise.

Councilor Lorberbaum stated that she did walk the driveway for Lot 2A, which seems very steep. She asked if the driveway could be required to be located elsewhere if there was concern about this location.

Planning Consultant Jennifer Haskamp commented that the Council could agree that the barn driveway is the least impactful based on the information provided and the variance would be provided for that only. She stated that any other alignment of the driveway, if it crossed into the BIZ, would need to come forward for a new variance. She stated that another option would be to provide a variance for crossing of the BIZ and at the time of application the applicant would need to demonstrate that the alignment has the least amount of impact, whether that is to the trees or BIZ.

Councilor Lorberbaum asked if the Council could state that they are not in favor of using the barn trail and would prefer a different driveway location. She noted that the area further north would seem to have less tree impact.

Planning Consultant Jennifer Haskamp commented that the area to the north is actually within the bluff area designated by the DNR and therefore would require a different variance. She stated that if the Council agrees that the barn driveway alignment is not preferred, a variance could be provided allowing crossing into the BIZ for a driveway as long as it can be demonstrated to show the least amount of impact.

Councilor Lorberbaum commented that appears to be a long driveway and asked if the Fire Department would be able to reach the home.

Planning Consultant Jennifer Haskamp replied that she spoke with the Fire Chief the previous day and the fire code does not permit the review of the Fire Chief for a driveway to a single home. She stated that it is the responsibility of the property owner to ensure a fire truck could reach their home or assume that risk. She noted that in those cases, an insurance company for the homeowner may require sprinkling of the home if a fire truck were not able to reach the home. She commented that she believes that the house pad would be within 600 feet of the hydrant.

Councilor Lorberbaum referenced proposed Lot 2B and asked if the curve would create a hazard for those entering and exiting the driveway.

Public Works Director Ryan Ruzek replied that there is not a City code which would prevent the location of the driveway for that lot.

Councilor Mazzitello asked if it would be possible to include language in the variance approval that the variance is for impacts necessary to create a safe driveway and the applicant for the subsequent MRCCA Permit could propose a driveway and provide supporting reasons.

Planning Consultant Jennifer Haskamp replied that could be done but suggested that a qualifier be included such as minimal impact to the BIZ.

Councilor Mazzitello referenced proposed parcel 2B, noting that this is the second lot split within a number of months that has come forward. He stated that residents have expressed concern that there would continue to be proposed lot splits for that area. He asked if a condition could be placed upon approval that would specify that any future proposed lot splits would need to wait until the certificate of occupancy (COO) is received for lot 2B.

Planning Consultant Jennifer Haskamp confirmed that condition could be added.

Councilor Mazzitello recognized that the City cannot prevent a future lot split request.

Mayor Levine asked for clarification on the lot widths, and staff provided that clarification. She stated that she received a number of emails from residents with concerns as to whether the driveway could handle heavy machinery. She asked if that would be addressed in this process or in the future.

Planning Consultant Jennifer Haskamp commented that the design of the driveway and home would be under a future MRCCA Permit and would not be included under this request. She commented on the process that would be followed to design the driveway and ensure that it would provide safe access.

Mayor Levine commented that there are other ways to create access into the property, noting that it could be moved over slightly outside of the BIZ but that would require more tree removal. She stated that the question before the Council is what is the least impactful route.

Planning Consultant Jennifer Haskamp confirmed that the route outside of the BIZ would require significant tree removal and most other routes would still require a variance to encroach into the BIZ.

Councilor Paper asked if there would be a utility easement for Lot 2A and whether that lot would be on septic.

Public Works Director Ryan Ruzek provided details on the proposed utilities.

Councilor Paper asked if a retaining wall would count towards the width of a driveway.

Planning Consultant Jennifer Haskamp commented that the driveway has not yet been designed and therefore the suggestion of Councilor Mazzitello to not specify the width but ask that the driveway be designed in a safe manner with the least amount of impact makes sense.

Mayor Levine invited the applicant to address the Council.

Michelle Culligan, applicant, stated that she is present to address any questions. She stated that they completed significant soil borings in preparation for the previous development request and came to the

conclusions that this area was buildable. She stated that the previous development involved a lot more infrastructure. She stated that they reevaluated after the last request in a manner that would provide some value to her parents that have lived on the land for years. She stated that they would not have an issue with the suggestion of Councilor Mazzitello to require that the COO be obtained prior to another lot split request.

Mayor Levine commented that the Council has watched the public hearing and read the emails and letters received from residents. She invited audience members to speak. There were no audience members that spoke.

Councilor Mazzitello moved to approve RESOLUTION NO. 2023-25 APPROVING A LOT SPLIT (MINOR SUBDIVISION) AND VARIANCE AT OUTLOT A, VALLEY VIEW OAK 2<sup>ND</sup> ADDITION, PLANNING CASE 2023-03, WITH THE FOLLOWING AMENDMENTS:

1. UNDER NOW THEREFORE BE IT RESOLVED, NUMBER FOUR SHOULD READ “THE PROPOSED VARIANCE TO ENCROACH INTO THE BLUFF IMPACT ZONE USING THE EXISTING BARN DRIVEWAY ALIGNMENT TO CREATE A SAFE ACCESS TO THE PROPERTY WILL HAVE THE LEAST IMPACT TO EXISTING VEGETATION AND TOPOGRAPHY AND MINIMIZES THE VARIANCE REQUEST TO THE EXTENT POSSIBLE;
2. UNDER BE IT FURTHER RESOLVED, ANOTHER CONDITION FOUR WILL BE ADDED STATING “ANY SUBSEQUENT LOT SPLITS CANNOT TAKE PLACE UNTIL CERTIFICATE OF OCCUPANCY IS RECEIVED ON LOT 2B.

Councilor Paper seconded the motion.

Councilor Lorberbaum asked if the amendment would encourage the use of the existing barn driveway rather than asking the applicant to come back with a driveway that would be the least impactful to the BIZ and existing vegetation.

Councilor Mazzitello replied that condition three under be it further resolved states that future improvements and development, including the modification and expansion of the barn driveway would be subject to further MRCCA review and all future permit requirements. He stated that his condition would state that the driveway should be least impactful and demonstrated on the future application.

Councilor Lorberbaum clarified her understanding of Councilor Mazzitello’s statement in that the council motion encourages the use of the barn driveway, and if so, it would cause her to vote against it. She stated that she would prefer to see language that states the applicant would need to show the proposed design and why it would be least impactful.

Councilor Mazzitello explained that he is recommending using the barn driveway alignment. He stated that as an engineer walking the site and understanding the codes and requirements of the MRCCA, he believes that utilizing that alignment would be the least impactful to the critical area because of the minimal amount of fill or excavation because the alignment is already compacted. He noted that this

would also be the least impactful to existing vegetation. He noted that running the driveway down the finger area of the lot would require significant vegetation removal.

Councilor Lorberbaum stated that while she respects that knowledge and opinion, she will be opposing this as she is concerned with use of the barn driveway.

Councilor Paper commented that he is satisfied with the request as proposed as this seems to be a good compromise to allow development of the property.

Councilor Miller commented that he agrees that the path of least resistance is use of the barn drive as it has had traffic on it and there are not mature trees growing in that area. He stated that if they choose another route, there would be mature trees cut which would degrade the soils near the bluff area. He stated that he supports using the existing drive as it would create less work, less potential headaches, and less impact of future development. He had concern with the amount of leniency that would be given in terms of width and looked forward to discussion on that when the application comes forward. He commented that he believes that residents have a right to develop their property, and this is a much better plan than the previous plan that came to the City. He stated that this could create something nice that fits into the essence of this area and with surrounding homes.

Councilor Lorberbaum agreed with Councilor Miller's statement that the owners of the property have the right to develop, and this is a better plan but believes they could do even better.

Mayor Levine commented that this area has been identified as buildable in the 2040 Comprehensive Plan. She stated that the lot split conforms to City Code and would be permitted, therefore it would come down to the variance. She stated that the variance should be the least impactful to the BIZ and it is clear to her, after walking the driveway, that the barn driveway is the least impactful location for a driveway. She agreed with Councilor Miller that any other route would not be good for the bluff. She stated that the MRCCA Permit will provide a secondary layer of review to ensure everything is done according to MRCCA rules.

Councilor Paper appreciated that this would remove the least amount of vegetation.

Ayes: 4

Nays: 1 (Lorberbaum)

#### B) RESOLUTION 2023-26 VARIANCE AT SAINT THOMAS ACADEMY, PLANNING CASE 2023-04

Planning Consultant Jennifer Haskamp provided a brief background on this item. The Council was being asked to consider adopting a resolution of approval for a variance at 949 Mendota Heights Road as requested by the applicant, Saint Thomas Academy.

Councilor Paper asked how this would compare to the Two Rivers natatorium.

Ryan Hoffman, owner's representative for the applicant, commented that he also worked on the Two Rivers project noting that natatorium has a capacity of 325 and is much larger in size. He commented that the two would be comparable in height and provided details on the diving well.

Councilor Paper asked if the building would match the existing gym.

Mr. Hoffman confirmed that the two heights would be very comparable.

Councilor Lorberbaum commented that the property has a workable pool that the applicant wants to expand. She asked the city attorney for legal clarification about what is the plight that is unique to the property that's not created by owner of the property.

City Attorney Elliott Knetsch stated that it is the role of the Council to make the findings that would support issuance of a variance. He stated that it is not his role to state whether or not the variance should be given. He stated that in speaking with staff there are unique elements of the property in that this is a school in an R-1 district but without residential neighbors. He stated that the overall question to the Council is whether the request would be reasonable. He acknowledged that the applicant does have a pool but desires to expand that and make the facility more modern and up to date.

Councilor Mazzitello asked if the elevation of the existing natatorium matches the height of the existing structure.

Planning Consultant Jennifer Haskamp replied that the existing natatorium is shorter than the main building by less than one story.

Councilor Mazzitello commented that because schools are a permitted use rather than a conditional use, the standard the applicant is asking for a variance against is how the height is measured for residential structures. He noted that this is not a residential structure. He applauded staff and the Planning Commission for the first condition to not require additional parking, as he would not want to see unnecessary impervious surface.

Mayor Levine agreed that parking should be reviewed holistically noting that most swim meets are at night when the student parking would be available.

Councilor Mazzitello moved to adopt RESOLUTION NO. 2023-26, APPROVING A VARIANCE AT 949 MENDOTA HEIGHTS ROAD (SAINT THOMAS ACADEMY PLANNING CASE 20234-24). Councilor Paper seconded the motion.

Councilor Paper commented that this will be the second quality swimming facility in the community, and it will be a great addition to the school and community.

Ayes: 4

Nays: 1 (Miller)

C) RESOLUTION 2023-24 AMENDMENTS TO THE SAINT THOMAS ACADEMY CONDUIT DEBT

Councilor Lorberbaum recused herself from the discussion.

Finance Director Kristen Schabacker stated that the City Council is asked to pass the resolution consenting to amendments to Saint Thomas Academy conduit debt and execute the Third Amendment to Educational Facilities Revenue Refunding Note, Series 2010.

Councilor Paper asked if the City has a lot of these.

Finance Director Kristen Schabacker replied that it does not come up that often and provided two other examples.

Councilor Paper asked if there are additional requests that are anticipated prior to June.

Finance Director Kristen Schabacker replied that she did not anticipate further requests in that timeline.

Mayor Levine asked staff to provide more details on conduit financing.

Finance Director Kristen Schabacker provided a summary of conduit debt financing and how the City issues that type of financing using its policy.

Councilor Paper moved to adopt RESOLUTION NO. 2023-24 APPROVING THE EXECUTION OF THE THIRD AMENDMENT TO EDUCATIONAL FACILITIES REVENUE REFUNDING NOTE (SAINT THOMAS ACADEMY, SERIES 2010 AND AUTHORIZING THE EXECUTION OF DOCUMENTS RELATED THERETO.

Councilor Mazzitello seconded the motion.

Ayes: 4

Nays: 0

Councilor Lorberbaum rejoined the Council.

#### D) CITY COUNCIL STRATEGIC PRIORITIES

City Administrator Cheryl Jacobson explained that the Council sets strategic priorities at each two-year mayoral election cycle. The City Council has discussed and reviewed priorities and goals for 2023-2024.

Mayor Levine thanked both the Council and staff for collaborative work on this refresh of the goals and priorities that were created two years ago.

Councilor Lorberbaum moved to CONFIRM AND ACCEPT THE 2023-2024 STRATEGIC PRIORITIES AND GOALS.

Councilor Miller seconded the motion.

Ayes: 5

Nays: 0

#### COMMUNITY ANNOUNCEMENTS

City Administrator Cheryl Jacobson announced upcoming events and activities.



COUNCIL COMMENTS

Councilor Miller noted that this month is No Mow May and asked residents to be patient with those that are choosing to participate. He thanked the residents that are participating in the initiative.

Councilor Lorberbaum commented on the Par 3 celebration. She stated that the Par 3 is a great example of community participation where residents and businesses came together. She reviewed the history of how the City acquired the course through use of a referendum. She commented that 15 years have passed since that time and has become successful while other courses have closed. She recognized the hard work of staff to make the course more sustainable with increased participation. She encouraged residents to stop in at the course on May 6 to celebrate the bond payoff.

Councilor Mazzitello agreed that No Mow May is a great chance to support pollinators. He stated that it is encouraging to see people investing in their properties during the spring. He advised of a local production of Mama Mia and encouraged residents to attend. He wished residents a happy Cinco de Mayo.

Councilor Paper noted that applications are available for the upcoming Scott Patrick Memorial 5k.

Mayor Levine noted the recent Arbor Day and Earth Day events and thanked the volunteers that participated in clean-up and plantings. She encouraged residents to continue clean-up efforts before the green up occurs.

ADJOURN

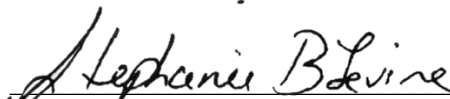
Councilor Mazzitello moved to adjourn.

Councilor Paper seconded the motion.


Ayes: 5

Nays: 0

Mayor Levine adjourned the meeting at 8:43 p.m.

  
Stephanie B. Levine  
Mayor

ATTEST:

  
Christine Lusian  
City Clerk