WAYZATA PLANNING COMMISSION
MEETING MINUTES
JULY 6, 2016

AGENDA ITEM 1. Call to Order and Roll Call

Chair Iverson called the meeting to order at 7:00 p.m.

Present at roll call were Commissioners: Gruber, Gonzalez, Iverson, Murray, Flannigan and Gnos. Absent: Commissioner Young. Director of Planning and Building Jeff Thomson and City Attorney David Schelzel were also present.

AGENDA ITEM 2. Approval of Agenda

Commissioner Murray made a motion, seconded by Commissioner Gruber, to approve the July 6, 2016 meeting agenda as presented. The motion carried unanimously.

AGENDA ITEM 3. Approval of Minutes

a.) Approval of May 2, 2016 Planning Commission Minutes

Commissioner Gonzalez made a motion, seconded by Commission Flannigan, to approve the May 2, 2016 Planning Commission Minutes as presented. The motion carried unanimously.

b.) Approval of May 16, 2016 Planning Commission Minutes

Commissioner Gruber made a motion, seconded by Commission Flannigan, to approve the May 16, 2016 Planning Commission Minutes as presented. The motion carried unanimously.

c.) Approval of June 6, 2016 Planning Commission Minutes

Commissioner Flannigan made a motion, seconded by Commission Murray, to approve the June 6, 2016 Planning Commission Minutes as presented. The motion carried 5-ayes and 1-abstain (Gonzalez).

AGENDA ITEM 4. Old Business Items:

a.) Bayside Residence – 320 and 346 Ferndale Rd S

i. Preliminary and Final Plat Subdivision

Director of Planning and Building Thomson stated the applicant, Peterssen/Keller Architecture, and the property owner, Abbey Road Realty, have submitted a development application to

combine the two (2) existing parcels at 320 and 346 Ferndale Road into a single lot of record. The existing houses on both of the lots would be demolished, and one (1) new single-family home would be constructed on the combined lot. The Planning Commission reviewed the development application and held a public hearing at its June 20, 2016 meeting. After discussing the application at the June 20, 2016 meeting, the Planning Commission directed Staff to prepare a draft Planning Commission Report and Recommendation recommending approval of the development application. Mr. Thomson reviewed the conditions of approval in draft Report and Recommendation prepared by staff and advised the Planning Commission to adopt the draft Planning Commission Report and Recommendation if it met with their approval.

Commissioner Gonzalez made a motion, seconded by Commissioner Gruber, to adopt the Planning Commission Report and Recommendation, as presented, recommending approval of the Preliminary and Final Plat Subdivision at 320 and 346 Ferndale Road South subject to the conditions outlined in the Report. The motion carried unanimously.

<u>AGENDA ITEM 5.</u> New Business Items:

b.) McLean Residence – 141 Woodale Ave

i. **Review of House Plans**

Mr. Thomson stated the applicant, D.T. Construction, has submitted building plans for construction of a new home at 141 Wooddale Avenue. The property is part of the Anchor Bank/Walgreens PUD that was approved by the City Council in January 2014. The City Council resolution approving the PUD and subdivision included a condition that the future owner of the residential lot must submit "Plans for review and approval by the City depicting architectural appearance, scale, mass, construction materials, proportion and scale of roof line and functional plan of the residential structures proposed to demonstrate similarity to the characteristics and quality of the existing homes in the neighborhood as required under Section 805.14.E.8 and 805.14.E.9." He reviewed the project location, surrounding land uses, and applicable code provisions for the Planning Commission to review. Mr. Thomson stated that the applicant has submitted a revised survey to address concerns of the west property line setback. The west property line is the external lot line of the PUD District, and therefore the minimum 20-foot front yard setback is required from this property line. The revised survey does comply with all of the setbacks for the property.

Commissioner Gruber asked if the builder for this home would be the same as the builder for the home at 155 Wooddale Avenue.

Mr. Thomson stated there were different builders for all three of the lots in this development.

Commissioner Gonzalez asked if there were samples of the building materials available for the Planning Commission to review.

Mr. Thomson stated the materials on the front elevation are a hardy board product and board and baton product and this is similar to the products used for the 155 Wooddale Ave project. The

applicant can provide information on the materials that would be used for the sides and back of the home.

Commissioner Gonzalez asked if the rear boundary had been established.

City Attorney Schelzel stated the subdivision and plats have been approved and filed, and the Planning Commission's review at this time is just on the conditions related to the proposed house.

Mr. Thomson stated if there was a problem with the plat, it would have had to be resolved prior to the plat being recorded, which has been completed.

Chair Iverson noted that the applicant was not at the meeting, and asked Staff to request the applicant attend the City Council meeting so the City could review the materials for the side and rear of the home.

Commissioner Gruber made a motion, seconded by Commissioner Gonzalez, to recommend the City Council approve the preliminary house plans for 141 Wooddale Ave, based on the findings that the design meets the standards of City Code Section 805.14.E.8 and 805.14.E.9, and satisfies the condition of Resolution No. 05-2015. The motion carried unanimously.

Chair Iverson recommended the applicant provide building material information for the sides and rear of the home for the City Council's review.

AGENDA ITEM 6. Public Hearing Items:

a.) Gardner Place – 350 Gardner St E

i. Preliminary and Final Plat Subdivision

Mr. Thomson stated the applicant, BohLand Homes, had submitted a development application to subdivide the property at 350 Gardner St. E. into three (3) single family residential lots. The existing house would be demolished and three (3) new homes would be constructed. The proposed lots would meet the minimum lot requirements for the R-3A Zoning District. The applicant submitted preliminary plans for the new houses that would be constructed on each of the lots and the proposed house locations would meet all setback requirements. Additional information would be needed on the proposed lot coverage and impervious surface for the homes. The new homes would be subject to a maximum 30% lot coverage and 35% impervious surface outlined in the R-3A Zoning District. The applicant is proposing to extend an existing private driveway to serve the three (3) lots and this would be widened to 16-feet in order to meet the fire code access requirements. He reviewed the subdivision street standards and the options for the application including a PUD, public street, or a variance to allow for a private street. He reviewed the grading and drainage plans proposed for the project, the proposed retaining walls and the extension of the sanitary sewer line. He reviewed the tree preservation plan and explained Staff has requested a tree inventory of the Gardner Street right-of-way in order to determine the number of trees that would be removed within the City's right-of-way.

Mr. Thomson explained that the application would need to come back to the Planning Commission, and may be amended based on recommendations of the Planning Commission and changes the applicant would make regarding the private street parameters. There would also need to be a second public hearing for a private street variance request.

Commissioner Flannigan asked if the property had been used as a public dump previously, and if there had been discussions regarding potential environmental concerns.

Mr. Thomson stated there was no record of the property being a public dump. The City is not aware of any environmental testing that has been done on the property. The City would only be aware of testing if it was completed by a property owner and submitted to the City. There are preliminary site investigations that can be done, but he is not aware that the applicant has had any environmental studies done on the property.

Commissioner Flannigan asked if the applicant would provide additional information regarding the trees along the street.

Mr. Thomson stated the applicant is currently working on a tree inventory for the trees along the street and this would be provided to the Commission at the next meeting on the application.

Commissioner Gonzalez requested the applicant mark every tree that would be removed, and that the proposed buildings be staked out on the parcels as well as the boundaries for the proposed street.

Commissioner Gruber stated the amount of fill brought to the site will be a concern. The property is unique and will require a large amount of fill.

Mr. Thomson stated the applicant has not provided the cut and fill calculation for the property.

Commissioner Gonzalez asked how far the proposed retaining wall along the east side of the property would be from the property line. There is a large oak tree along the property line, and the root system would be damaged with any excavation in this area.

Mr. Thomson stated the retaining wall would be within 1-foot of the property line.

Commissioner Gonzalez stated if the application moves forward, she would recommend a condition that the construction along the east property line be setback 10-feet in order to protect the oak tree.

Chair Iverson stated a 7-foot retaining wall could be dangerous. She asked if there were retaining walls this high in other areas of the City.

Mr. Thomson stated he did not know of specific examples. Retaining walls are allowed by the Ordinances and there is not a setback requirement to them.

Commissioner Gonzalez stated if the application comes back as a PUD, it would be reasonable to add a condition for the retaining wall that would address the health, welfare, and safety of the residents of the adjacent properties.

Mr. Thomson stated Staff would ask the applicant to inventory the trees immediately adjacent to the property line and show critical root zones and how these relate to the proposed retaining wall location. This would help the Commission in determining any changes to the retaining wall that may be warranted to reduce potential impacts.

Commissioner Flannigan asked if the retaining wall would be above the grade of the street or if it would be filled in and the retaining wall at grade.

Mr. Thomson explained the retaining wall is on the north side of the driveway and the top of the retaining wall would be similar to the grade of the proposed driveway. The face of the retaining wall is on the north side as the grade falls off.

Applicant's representative, Mr. Steve Bohl, 550 Far Hill Road, Wayzata, provided historical background on the property and the proposed development. He stated they had done some testing, and he does not believe there is a sizable dump on the site. He explained they were proposing a private driveway because of the challenges with creating a city street due to the topography and grading of the property. The proposed driveway would be built to the requirements of fire safety. He clarified the three homes presented would be the three homes that would be built on the lots. They are currently working on trying to drop the second home 1 to 2 feet in order to drop the height of the retaining wall proposed for 5 to7 feet to 4 to 5 feet. He acknowledged that the neighbors have expressed concerns, and they are working to ensure the proposal works for the neighborhood. He explained the property currently has a non-conforming private driveway, and they are proposing to make some improvements to this and keep it as a private driveway. They would prefer to have a variance request approved, rather than having the project go through the Planned Unit Development (PUD) process for the private street. This street would not be the responsibility of the City because it would be private and would be managed by an easement between the property owners.

Commissioner Gruber asked how much fill would need to be brought into the site.

Mr. Bohl stated the grading plan calculates the import and export amount of fill. They are planning to have the base of the street done, and will be removing all of the poor soil from the existing driveway and all of the calculations include this soil correction. The first home would be at the existing grade, the second home is about 3-feet above grade, and the third home is about the same. The grade at the back of the homes works for the plans proposed. They are proposing to fill the "bowl" of the property about 3-feet.

Chair Iverson requested a calculation based on the number of truckloads of fill that would be imported and exported from the site.

Mr. Bohl stated he would provide this information for the homes and for the street. He is not sure on the street at this time because he does not know how deep they will have to go to correct the soils of the street. Currently they are calculating 20 trucks.

Commissioner Gonzalez expressed concerns about the vegetation in the right-of-way to the north. This screens the homes to the south. She asked if the applicant had talked with the neighbors about moving the private road further south to avoid having to put the retaining wall and the clear cutting in the right-of-way.

Mr. Bohl stated he had not talked specifically about moving the road further south. They intend to replace the trees removed with conifers.

Commissioner Gonzalez asked if the applicant had calculations for lot coverage and impervious surface coverage in order to ensure they are meeting the maximum requirements.

Mr. Bohl stated the impervious surface coverage would be: Lot 1 is 30.5%, Lot 2 is 27%, and Lot 3 is 28%.

Commissioner Gonzalez asked how the applicant would justify the granting of a variance for a private street.

Mr. Bohl stated the property is unique in that it is a dead end on a public right-of-way and the primary reason they are looking a private street is a public street in the City right-of-way would require a large amount of excavating and the removal of more trees. If the homes were pushed 30-feet north the impacts would be devastating. The variance request is to have the least amount of impact on the current setting.

Commissioner Gonzalez stated the Code would require the applicant to have a cul-de-sac and there is not enough land for three (3) homes and a cul-de-sac.

Mr. Bohl stated he had looked at a hammer head design for fire safety and they could do this with a public street, but this design would disrupt more soils. With the current proposed driveway, the Fire Marshal had requested the proposed homes have fire sprinkler systems installed.

Commissioner Flannigan asked the applicant to explain what justified changing the aesthetics of the property and the neighborhood. He asked if the Applicant had done any studies on the effect the project would have on the noise levels for the neighborhood. He asked what the reasoning would be to remove all of the trees and put an undue burden on the sight lines and sound quality to the neighborhood to the south.

Mr. Bohl stated the original platting for this property was for three (3) parcels. Those parcels had been combined into one (1) when the existing home was constructed. All of the trees north of the retaining wall would remain in the proposed project. He stated the proposed removal of six trees would not likely have an impact on noise for the neighborhood. They are proposing to remove dead and damaged boxelder trees and replace these with conifers at the entrance. The

proposal meets all of the requirements outlined in the Staff Report with the exception of the private street. Three homes in this area would provide a better sound barrier than the six trees that are being removed. Several of the trees are in the core of the site.

Chair Iverson stated having the trees tagged on the site would help to answer some of the questions and concerns the Commission has presented.

Commissioner Murray clarified the current home was approximately 40-feet wide, and noted that the addition of two (2) additional homes the same size would add 80-feet of sound barrier that currently does not exist on the property.

Commissioner Gonzalez expressed concerns about the preservation of the trees close to the property line to the east. She would like to see a plan on how these trees would be protected.

Mr. Bohl stated they would talk with the neighbor and work on a preservation plan for those trees.

Commissioner Gnos requested a landscape plan be included with the application that shows where new trees would be planted and the types of trees that would be planted.

Chair Iverson opened the public hearing at 8:08 p.m.

Mr. Joe Madson, 344 Gardner St. E., Wayzata, requested the trees not be marked with spray paint. He requested the information he had given to City staff be included as part of the record of the discussions on this development. He expressed concerns regarding the width and location of the private driveway and the impacts this would have to the trees on his property, which shares the existing private driveway and is adjacent to the proposed development. He stated they are close to the Highway and any removal of trees would impact their experience as a homeowner and their ability to sell their home in the future. He expressed concerns about the water main placement. The water main would be on the corner of his property, and there is not an easement in place at this time. He asked what rights or responsibility he would have as a property owner since it would be serving three (3) additional homes instead of one (1). He also expressed concerns regarding the access for maintenance for this water main. The driveway repair and replacement is more than he had expected and this is a shared driveway. He does not want the existing bushes near the home that will be demolished to be impacted. He asked the Commission to consider the tree removal and the storm water runoff and the impacts these would have on his property and neighboring properties. He expressed concerns with the private driveway and having to share a driveway with three (3) additional homes.

Ms. Elissa Madson, 344 Gardner St. E., Wayzata, stated she lives on the property that shares the driveway with the applicant's property, and the properties currently have access to the street through an easement in their front yard. She stated the biggest concern is the project location and the shared driveway. There will be a significant number of drivers using this road and the maintenance of this road would increase and have a greater impact on them. Garbage is currently collected in her front yard for the two existing homes and she expressed concerns that there would be eight garbage cans in her front yard on garbage days. She stated all homes in the

north platted neighborhood of Wayzata have access to a public street. There are four (4) other shared driveways in the north neighborhoods. Anywhere there is a shared driveway in this area it serves two (2) homes only. She expressed concerns about who would be responsible for maintaining the driveway and for snow removal, where the trash and recycling pickup would occur for these new homes, and if her home would be expected to be a part of the new homeowners' association. She stated the project location was in conflict with the preliminary plat criteria of the City's Subdivision Ordinance in that: the creation of a lot or lots shall not adversely impact the scale, pattern, or character of the City, neighborhoods, or its commercial areas; the design of a lot, the building pad, and the site layout shall respond to and be reflective of the surrounding lots and neighborhood character; the lot size that results from a subdivision or lot combination shall not be dissimilar from adjacent lots or lots found in the surrounding neighborhood or commercial area; and the proposed subdivision or lot combination shall be accommodated with existing public services, primarily related to transportation and utility systems, and will not overburden the City's service capacity. She stated there are no other locations in Wayzata where four (4) homes share a driveway, the parcels in this area are larger due to the topography, and a significant character of Wayzata is the large heritage trees and removal of these would impact the neighborhood. The City right-of-way has several large trees that provide a significant site and sound barrier for the neighborhood and these are owned by the City, not the applicant, and this is in conflict with the criteria that: building pads that result from a subdivision or lot combination shall preserve sensitive areas such as lakes, streams, wetlands, wildlife habitat, trees and vegetation, scenic points, historical locations, or similar community assets; existing stand of significant trees shall be retained where possible. Building pads that result from a subdivision or lot combination shall be sensitively integrated into existing trees; and the proposed subdivision or lot combination shall not tend to or actually depreciate the values of neighboring properties in the area in which the subdivision or lot combination is proposed. She stated the proposed plan would drastically change the topography of the land. The ground level would be raised up to 5-feet and require significant retaining walls and this is in conflict of the criteria that the building pads that result from subdivisions or lot combinations shall be selected and located with respect to natural topography to minimize filing or grading. She expressed concerns about safety because there would be a large number of trucks going to and from the property and there are several children under the age of 10 in this area.

Ms. Lucy Brunschen, 402 Gardner Street, stated her property shares a significant tree with the Applicant's property and has other features that buffer her property. The property has remained largely unchanged, and provides character and privacy for the neighborhood. The proposed development would change the topography. She stated subdividing the property would be insensitive to the natural topography, requires the removal of several significant trees, and requires a massive 4 to 7-foot retaining wall. She asked about the storm water management that would be included on the site. She stated there are too many homes expected to share a driveway, and this is a safety concern.

Ms. Marilee Babcock, 337 Reno Street, Wayzata, expressed concerns about the community trees that would be impacted, and thatthere was not a tree survey included in the proposal. She asked who would be paying to remove these trees and build the retaining wall.

Mr. Thomson stated the cost for the removal of trees and the construction of retaining walls would be the obligation of the applicant.

Ms. Babcock asked where the applicant would place the conifer trees proposed because the top of the hill would be hardcover. The trees in this area clean the pollutants coming from the highway as well as serve as a sound barrier for the neighborhood. She would like to see a tree survey of the public right-of-way reflecting the caliper inches that would be removed.

Ms. Linda Linden, 345 Gardner St. E., Wayzata, stated she would like to know if it is normal practice to advertise for something that has not been approved yet.

Mr. Thomson stated the City's role in any subdivision application is the review and approval of the Planning Commission and City Council. The City manages the public process for review of these applications in terms of noticing the neighborhood, putting it in the newspaper, and sending notices to the neighborhoods about the public hearing. Nothing is approved for the property until the City Council has taken action to approve it, and staff has issued permits for the project. However, there is nothing that restricts a developer from marketing a project that may not have gone through this whole review and approval process. He noted that it is not unusual for developers to market a project, and there are no restrictions in the City's Ordinances.

City Attorney Schelzel further clarified in this case there are also several issues related to the Application that would need to be worked out with the neighbors, and these are not all City issues. The City can only address those things that pertain to the applicable criteria of the City's Code, and not issues between neighbors. Based on the public comments, there are issues that the neighbors will have to work out or this project will not move forward as presented.

Chair Iverson closed the public hearing at 8:40 p.m.

Commissioner Gruber stated this project does not fit the topography of the site. She expressed concerns about the private street, the tree removal, the storm water management has not been discussed, the details of the water main need to be worked out and there are safety concerns with adding additional homes in this area. This application is not ready to be forwarded to the City Council. She stated the project does not meet several of the Preliminary Plat Criteria in the Subdivision Ordinance.

Commissioner Gonzalez stated the Comprehensive Plan discusses protecting neighborhoods from encroachment or intrusion by incompatible uses or higher densities. This project has too many homes for the size of the site in comparison to what is already there. The applicant has the right to develop the site with one building and this would not require much action from the Planning Commission. She stated the property may be able to have two (2) buildings but she would not support having three (3) new homes on this property as presented, especially the clear cutting of the trees in the City's right-of-way. She stated the possible variance request is being economically driven and she would not support the request. The project is too intrusive for the neighborhood.

Commissioner Gnos stated he would like to see a landscape plan, tree inventory, and fill calculations.

Commissioner Flannigan stated the applicant purchased the property to build three (3) homes. Just because three (3) homes will mathematically fit on the property does not mean that there should be three (3) homes there. Mr. Bohl was not able to demonstrate how the plan he presented addressed the Preliminary Plat Criteria of the Subdivision Ordinance. He would not support a variance because it would be due to economic reasons. There are also impacts to the neighborhood that have not been looked into.

Commissioner Murray stated the property is unique, and that the project is not the right one for this parcel.

Chair Iverson stated she would agree with the concerns brought up with the project. The project does not meet the Preliminary Plat Criteria. She expressed concerns that the topography of the property will be changed, and there would be significant removal of trees. The applicant could have worked more with the neighborhood to work out some of the concerns prior to the project coming to the Commission. She stated density, traffic, and snow removal are concerns. She does not believe the turnaround proposed is adequate for fire trucks to turn around. She stated she would not support a variance request.

Commissioner Gonzalez stated what is presented does not meet the Code because they are proposing a private street and this is not allowed in the City. She stated there is not a variance requested presented at this time, and when a properly prepared variance is proposed she would give due consider at that time.

Mr. Thomson stated staff would work with the applicant on addressing the Preliminary Plat Criteria and the private street issues. He again noted that the Subdivision Ordinance states that in a subdivision, private streets are prohibited. The intent of this regulation is to construct public streets to serve a subdivision or development. He stated the three options for this project would be a PUD, a variance, or a public street. The applicant has looked at the public street option. Staff can review this information as compared to the private street proposed. A public street would be larger and potentially have more impacts on the natural resources of the site.

City Attorney Schelzel stated based on the statements of the Commissioners, the Commission could direct staff to prepare a Report and Recommendation recommending denial of the application, or they could continue the application to future meeting to review additional information from the applicant.

Mr. Bohl stated the Commission had not discussed several specifics of the application. He clarified the private street would be managed similar to public streets in Wayzata, but the responsibilities will be on the three (3) home owners.

Commissioner Gonzalez stated some of the concerns raised are private matters and should be negotiated and settled between neighbors. The Commission is looking at the application to determine if it meets the City's Code. As presented the application does not meet the code

because they are proposing a private street and this is not allowed under the Subdivision Ordinance.

Mr. Bohl asked what specific information the Planning Commission was looking for. He noted that some of the information requested is in the application, but the Commission has not discussed it yet. He stated they would prepare a landscape plan for the City.

Chair Iverson recommended the applicant walk through the Preliminary Plat Criteria of the Subdivision Ordinance, and provide information on each of the criteria points on how the application meets the criteria.

Mr. Bohl stated he was prepared to answer the questions and concerns brought up.

Commissioner Gruber stated the Commission has stated the plan is too dense for the area. A plan with fewer homes would not have the same issues as the one presented.

Mr. Bohl stated having one (1) home on the property would have the same number of trees removed with the exception of the driveway.

Mr. Thomson summarized the additional information the Planning Commission is requesting be included as part of the application: provide a tree inventory for the public right-of-way; flag the trees that would be removed with red flags; stake out the homes and other site improvements to provide reference for site investigation; submit the amount of site disturbance and fill including the number of trucks; update the tree inventory to include the trees on the adjacent properties with the critical root zone and look at the retaining wall based on this; provide the tree replacement plan; provide information on the impervious surface requirements.

Commissioner Gonzalez requested a storm water runoff plan.

Chair Iverson requested information on the impact the project would have on the existing trees and retaining wall at 344 Gardner Street E.

Mr. Thomson stated the applicant will need to determine what option for the street and driveway they would like to pursue, and noted that there is a significant amount of private negotiations that would need to be worked out. It is the applicant’s responsibility to respond to the concerns and comments.

Commissioner Flannigan stated he would like to see less impact to the trees on the south portion of the property.

Mr. Bohl asked for a clarification on the extent of the grading plan for the tree inventory for the right-of-way.

Chair Iverson stated staff would provide a boundary for Mr. Bohl to inventory.

Commissioner Gonzalez requested the applicant consider plans that would avoid or reduce the need to build the large retaining walls.

Mr. Bohl explained they would look into this and provide additional information to the Commission. He stated he would work with the neighbor to come to agreement on their concerns.

Chair Iverson stated the existing water main is on private property. She asked how this connection would work.

Mr. Bohl stated he would provide an alternative plan to what is included in the application.

Commissioner Gonzalez made a motion, seconded by Commissioner Flannigan, to continue the application to a future Commission meeting to provide the applicant and Staff an opportunity to explore other possibilities and to address the concerns that were expressed by the Commission and the public. The motion carried unanimously.

The Planning Commission recessed at 9:10 p.m.

The Planning Commission reconvened at 9:15 p.m.

b.) Frenchwood Third Addition – 250 and 270 Bushaway Rd

i. Preliminary and Final Plat Subdivision with Variances

Mr. Thomson stated the applicant submitted a development application to subdivide the properties at 250 and 270 Bushaway Road. The applicant is proposing to subdivide the two (2) existing lots into four (4) single-family residential lots. The two (2) existing homes would remain and two (2) new homes would be built. The applicant is requesting approval of a concurrent Preliminary and Final Plat review and lot width variance. The R-1 Zoning District requires a minimum lot width of 150-feet for each lot. Three (3) of the four (4) lots would have lot widths that are less than 150-feet, which requires a variance for each of the lots. The proposed plans include a tree inventory for Lots 1, 2, and 3, but a tree inventory has not been completed for Lot 4 since the applicant is not proposing any construction on the existing 270 Bushaway property. The existing 270 Bushaway Road property is encumbered by a private driveway, which serves both the 250 and 270 Bushaway Road properties, the vacant property adjacent to the east, and the six lots within the Enchanted Woods development. The proposed plans would not change the driveway access for the two (2) existing homes, and the two (2) new homes on Lots 2 and 3 would have a driveway access from the existing shared driveway. The Street Design Standards state if a subdivision of parcels adjoins an existing private street, the private street must be dedicated to the public and scheduled for improvement to public street standards. The applicant thus has the option of moving forward with a PUD, a public street, or a variance for this street, which would require an amendment to the application. The applicant could put driveways that would connect with a public street but this may involve additional grading impacts and would result in additional access pints on Bushaway Road. He stated there are no home designs at this time. If this moves forward the Commission may want to consider

adding conditions regarding these new homes. The applicant would need to work out the private easements for the utilities.

Chair Iverson opened the public hearing at 9:23 p.m.

Applicant's representative, Mr. Peter Benincasa, Executive Real Estate Professionals, 8749 Helswig Trail, Brooklyn Park, stated the property has a shared easement due to the driveway and the utilities, and most of the homes that share the driveway were granted a variance. Many of the trees that would be removed are damaged and falling down. They are looking to subdivide the property and the developers can submit applications for the Commission to review to ensure these homes would meet the City's requirements.

Kristi Oman, 250 Bushaway Road, Wayzata, stated the neighbors are supportive of the project.

Chair Iverson closed the public hearing at 9:27 p.m.

Commissioner Gonzalez stated she would like to see the property staked out with property lines and proposed building sites. She clarified the private street that was constructed was part of a PUD and this had been approved because the private street was saving hundreds of trees. The City's code requires that a private road be approved only if it is part of a PUD or through a variance application. Since neither one of these are part of the application the Commission would not be able to make a recommendation.

Mr. Thomson stated the Commission can provide feedback on the plans, and the applicant would need to come back to the Commission with the appropriate revisions and an amended application.

Commissioner Gonzalez asked what the practical difficulties were that would allow the Commission the ability to grant a variance.

Ms. Oman stated the lots are configured so to allow for the lowest impact on the trees. They do not want to impact the aesthetics and appeal of the property. She could configure the properties to meet the requirements of the ordinances but there would be a significant impact on the trees.

Commissioner Flannigan asked the applicant if there were letters of support from neighbors.

Ms. Oman stated she would to provide this. She pointed out that there were no residents at the public hearing to speak negatively about the project.

Mr. Benincasa stated the changes to Highway 101 and the loss of an entry point to the property from that road also drive the request for a private street.

Mr. Thomson stated staff could bring a draft report and recommendation on the project to the next meeting of the Commission, and at that point, the Commission could also hold a an additional public hearing on the new requests added to the application.

Commissioner Gonzalez requested the applicant provide a reasonable explanation why the lot width variances should be granted. She stated the Code states that a variance can be granted when there are practical difficulties that are unique to the site and not created by the applicant. Economic reasons cannot be the driving force.

Chair Iverson asked if the Commission if they supported the variance request for the lot widths.

Commissioner Gonzalez made a motion, seconded Gnos by Commissioner to direct staff to prepare a draft Report and Recommendation, with appropriate findings, recommending approval of the Application, as may be amended, for consideration at the next meeting, and ask the applicant revise the application to include a request for a variance for the private road, and a written report showing appropriate hardship for the variance requests. The motion carried unanimously.

Commissioner Flannigan requested written confirmation from neighbors that they support the project.

AGENDA ITEM 7. Other Items:

a.) Review of Development Activities

Mr. Thomson stated the July 18 agenda is scheduled to include the two carry over items from this meeting, and the redevelopment application for the Gold Mine and Mail Center properties on Broadway Avenue.

b.) Other Items

Mr. Thomson stated the City Council reviewed the Mill Street Ramp project on July 5, and did vote to approve the schematic design and move into final design of the ramp. The Council also adopted the first reading of the Tree Ordinance.

City Attorney Schelzel stated the adoption of the Tree Ordinance would affect the types of items the City requests with development applications, including a Tree Preservation Plan as defined in the new ordinance.

Mr. Thomson sated once the ordinance has been adopted, staff would review the changes under the ordinance and related procedures with the Planning Commission.

Mr. Thomson noted that the City Council tabled the Meyer Dairy project, and that the project at 529 Indian Mound was approved. The six (6) lot subdivision on Holdridge Road was reviewed by the City Council, and the Council denied the project.

Commissioner Gnos asked if there would be an application coming for the “pink” building on Lake Street. They are advertising the property.

Mr. Thomson stated the City has not received a formal development application for this property.

<u>AGENDA ITEM 8.</u> Adjournment.

Commissioner Gonzalez made a motion, seconded by Commissioner Murray, to adjourn the Planning Commission. The motion carried unanimously.

The Planning Commission meeting was adjourned at 9:52 p.m.

Respectfully submitted,

Tina Borg
TimeSaver Off Site Secretarial, Inc.