

**STAFF SUMMARY
CITY OF MINNETONKA
CITY COUNCIL SPECIAL STUDY SESSION
MONDAY, APRIL 14, 2004
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Council Present: Jan Callison, Bob Ellingson, Terry Schneider, Al Thomas, Tony Wagner, Brad Wiersum and Mayor Karen Anderson

Staff: Geralyn Barone, Jo Colleran, John Gunyou, Geoff Olson, Desyl Peterson, Ron Rankin, and Elise Souders

Others: Eleanor Berscheit and Joe Schmidt

Anderson called the study session to order at 7:00 p.m.

1. Land Use Policy

Gunyou introduced the item by providing background information, noting the council discussed possible changes in city development policy at a previous March 1st study session. Based on that discussion, the staff prepared specific recommendations for council consideration, which address both environmental protection and affordable housing.

Gunyou discussed the recommended environmental protection performance standards. He reviewed the results of the community survey, which indicates support to do more to protect environmental resources.

Schneider expressed a concern with the preservation of open space, noting he did not think current or future residents want all open space protected. He is opposed to saying the city will preserve as much as possible. Schneider would like staff to identify what is a significant resource and what needs to be protected.

Callison asked if the performance standards would be specific to a property. Peterson provided an example regarding grading and said the standards would not be property specific.

Callison said she is concerned with piecemeal conservation development and does not want to use this tool over aggressively. She said people should be able to remove some trees. Schneider supported a minimum size conservation easement.

Anderson suggested a certain percentage of trees to be saved instead of a specific number of trees per acre. Peterson said that the standards would look at more than just the number of trees. The goal is to provide a definition of what is worth saving.

Anderson referred to the city's practice of requiring conservation easements over reasonable portions of the property to permanently protect valuable natural

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resources. She said not all properties are required to meet the standard. Wiersum said the real change would be "to require".

Gunyou said that the philosophy was to enable good behavior. Schneider agreed, saying that the ordinance requirements should not focus on the bad behavior of a few developers.

Anderson asked if the city had enough staff to enforce the proposed standards and practices, particularly for monitoring the easements and construction sites. Gunyou said staff is proactively monitoring construction sites now, and it would not be a significant change.

Thomas asked how much effort it takes to monitor a conservation easement. Colleran said she has about 30 conservation easements of various sizes right now. Thomas said he would support the standard if the staff were currently doing annual monitoring. He said he could foresee the monitoring position evolving into a full time job with conservation easements and construction projects. Callison said the staff should monitor conservation easements. Wiersum expressed concern that this would be an unfunded mandate.

Gunyou asked the council if they agreed with the concept of adopting environmental protection performance standards. Wiersum, Callison, Thomas, and Wagner said yes. Anderson and Ellingson generally agreed. Schneider agreed to proceed in this direction cautiously.

Callison asked about planned unit developments (PUD). Schneider asked if the city could require someone with properly zoned property to rezone with a PUD. He said although the developers would like to do a better job preserving the trees, they are very apprehensive of variances and PUDs. He suggested changing the language to allow for more flexibility if certain conditions exist on the property (e.g. size or environmental features). Anderson said she was comfortable with Schneider's suggestion.

Gunyou supported the intent of Schneider's suggestion, indicating that it enabled good behavior. He said if significant environmental features were present, more flexible standards might be available within current zoning. A PUD would allow even more flexibility, including density.

Gunyou asked what would happen if an applicant refused to negotiate. Schneider said some cities establish certain minimum standards, such as Eden Prairie. They have a sliding scale tree replacement policy. Schneider also suggested adding a penalty if the applicant does not respect the terrain and trees.

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Wiersum said if someone requested a PUD, he would not want it to be a way to drive more density.

Schneider disagreed with Wiersum, noting a PUD should be allowed to have greater density if it allows the development to fit the terrain better. Callison and Schneider were concerned about applying tree preservation requirements to home additions.

Gunyou next addressed water protection standards, and outlined staff recommendations to add standards.

Colleran said the city currently regulates Type 2 through 8 wetlands. A Type 1 wetland is a low shallow depression that is wet in the spring and fall and usually dries out in summer. Type 1 wetlands are not currently regulated.

Anderson said Type 1 wetlands should be added, but the buffer ordinance should not apply.

Schneider said the intent is reasonable but the practicality would be disastrous because of the nature of Minnetonka. He said many areas within the city do not drain properly and therefore have created wetlands.

Colleran said it is possible to regulate Type 1 wetlands, but exempt them from buffer requirements. A permit would be required to fill the wetland. The wetland could be exempt if it can be shown the area was created with artificial hydrology.

Anderson said she liked that idea. Thomas agreed for the need to protect Type 1 wetlands. Wagner thought it would put too much of a burden of proof on the landowner. He would not want progress on wetland conservation ruined by stricter standards. Schneider pointed out the impact of wetlands on mosquito control. He recommended having more regional ponds instead of numerous small ponds. Ellingson expressed support for a proposal to protect Type 1 wetlands.

All of the council was very supportive of the recommended additions to the current water resource protection standards.

Colleran discussed the proposed standard regarding boathouses. She said the shoreland ordinance is out of date, and then reviewed the current state law.

Schneider said he was very supportive of the storage-shed definitions. He did not understand the concerns regarding boathouses.

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Colleran said the issue is the potential pollution from gasoline storage. Colleran reviewed the proposed standards regarding appropriate buffers around lakes and creeks. She said the goal is to get more current lawn care practices away from lakes and creeks.

Regarding buffers, Schneider asked why new standards were being developed if the DNR has rules regarding the same issues. He and Anderson were opposed to buffers around the lakes.

Ellingson said some people clear-cut lots on Lake Minnetonka and then build big houses on them. Thomas said that many residents cut their grass right up to the lake, which contributes to polluted water. He felt the lake could be restored if there are appropriate buffers. Callison said the buffers are a DNR rule. Peterson said staff would research what has been negotiated by other cities with the DNR. Gunyou confirmed that the city would enforce the standards.

Schneider asked if the phosphorus ban would have big impact on this issue. Colleran said as of January 1, 2004, lawn fertilizer with phosphorus is prohibited by the State of Minnesota. However, nitrogen sediment will still get into the lake through grass clippings, geese, duck and pet feces.

Gunyou reviewed the recommended forestry protection standards.

Callison said she has mixed feelings about the proposed standard regarding minimizing the loss of trees. The open space task force decided not to require compensation for lost trees because of the impact on the cost of the development.

Schneider said he had real difficulty with this topic. He said there are many reasons why people want trees. He thought people should be able to remove a tree if desired, although most people do not want to remove them.

Anderson said although she would like the ordinance to preserve more trees than currently allowed, she does not want to go to the extreme.

Schneider said the city could include a site plan review for single-family additions. He supported the tree preservation plan requirement for new developments.

Callison said the tree removal issue arises with new developments. She liked all of the proposed standards except the one regarding minimizing the loss of trees.

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Gunyou said the city is currently requiring tree preservation plans with new developments. He reminded the council that if they want to be stricter, they would have to add more standards beyond requiring a plan.

Wiersum inquired about standards that other communities have enacted. Peterson said they ranged from requiring a permit to cut down a tree to a sliding scale to a cost penalty. Wiersum supported mitigation with an exception and a larger requirement such as 2 for 1 or 3 for 1 replacement. Wiersum said he wanted to be more restrictive regarding forestry protection.

Gunyou noted that the recommendations prefer the preservation of trees over replacement with new trees.

Callison agreed, noting that focusing on replacement of trees would not solve the problem. Gunyou said the city would continue to require tree preservation plans, and said the standard discouraging the removal of significant trees is a reasonable alternative approach.

Wiersum referred to the Crosby Cove project. He said the council knew what they wanted to do and what was right, but were not able to achieve it under the current ordinances. He would like to avoid a similar situation in the future and hopes to compel developers to do a better job of saving more trees.

Gunyou said the staff would investigate alternatives. He confirmed with the council that they do not want to apply tree preservation standards for additions to existing homes.

Thomas said he is concerned about reforestation. When feasible, he prefers replanting of bass, oak woods and maples. Gunyou said as part of tree preservation plans, the city could add more requirements. Ellingson suggested requiring native species within landscaping plans. He wants to prohibit buckthorn because it prevents the growth of native trees.

Gunyou reviewed the current topography and grading standards and said no changes are recommended. He reviewed the open space protection standards, and said the proposed change is an increased setback on major highways for additional tree and open space preservation.

Callison expressed concern about including highways that do not have many trees close to the roadway, like Highway 101. Peterson said the focus is on Highway 7, and Olson added the intent is to have objective standards in areas with significant trees.

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Schneider questioned if there are that many sites that would be impacted, and suggested the end result may not be that much different from the status quo.

Anderson called a recess at 8:35 and reconvened the meeting at 8:45 p.m.

Gunyou summarized the lots behind lots recommendations.

Anderson supported the standards with the understanding that the city would not require public streets. Ellingson asked if it would be possible to subdivide one-acre lots into two half-acre lots. Peterson said the area and the width at the street would require conforming lots.

Wiersum asked what would happen if the city does require a public street and there are no natural resources worth saving. Schneider said the city could not prohibit someone from having a private street. Anderson raised the issue about a street verses a driveway and the amount of hard surface. Wagner said there could only be three driveways on a private drive.

Wiersum said he liked the idea of restricting lot coverage. Ellingson asked if this constituted a taking. Peterson responded it would not, as long as reasonable use of the property is allowed.

Callison said the question for the council is: did they want to prohibit a lot more lot behind lot developments? Wagner said except for the access standard, his concerns are met. He did not want to prohibit lots behind lots.

Schneider said he also had concerns with the recommended standard for number of lots. He liked the standards regarding the compatibility with surrounding homes.

Anderson confirmed with the council that they did not support the proposed standard requiring the lot to be developable with a public street. The council was in agreement with the recommendation that variances for lots behind lots should not allow more lots than could be subdivided with a public street.

Schneider said the proposed standard regarding the building height did not make sense. He suggested that the city stay with setbacks and coverage ratios. Wiersum said the side setbacks could be greater than normal but not to forty feet. Olson said twenty-five feet is the current house setback for lots behind lots. Anderson thought the setback should be greater than 25 feet.

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Wiersum, Wagner, Callison, and Anderson agreed that the standard needs to be greater than 25 feet.

Schneider suggested considering a percentage for coverage, with a sliding scale to fit the lot.

Wagner asked how the neighborhood character would be defined. Callison said the phrase regarding neighborhood character provides the council leverage. Schneider said he agreed with the general premise and the site plan recommendations, although he was concerned with regulating house design. Anderson believed it meant the council would approve the design.

Callison asked whether the question is about design or size, because she prefers to address size rather than design. Peterson said the intent was not to look at the style. Ellingson said he would not want to prevent innovative architecture.

Gunyou introduced the affordable housing topic.

Anderson said the city has added more new housing in the high price range in recent years. Gunyou said the value of middle level housing has shifted upward. Rankin said the lower cost housing is now predominantly condominiums and townhomes.

Gunyou asked the council if they agreed that the city should look at strategies beyond WHAHLT and indexing. He asked the council if they had any concerns with the possible strategies to be investigated.

Wagner said he did not see developers having to provide financial subsidies as an option. Wiersum said the strategy is pretty broad and could be a separate study session topic. Schneider said with the city's encouragement, developers could build quality affordable homes.

Gunyou noted the community survey results showed that the community favors financial incentives to support affordable housing goals. He asked the council if they wanted to consider financial incentives, and all concurred.

Gunyou next asked the council if they agreed with the suggested roles for the planning commission and EDA, and all responded affirmatively.

The council then discussed next steps. Anderson proposed having opportunities for public information and input about the recommended changes in the early stages. Peterson suggested involving the neighborhood watch block captains.

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Callison said she preferred to consider concepts and ordinances at the council level first. Schneider suggested having the potential ordinances illustrated with case studies.

Schneider said the city should focus on potential redevelopment areas for mid-range housing by identifying four to five specific areas.

5. Adjournment.

The study session adjourned at 9:27 p.m. Gunyou said the study session for April 19th would be cancelled.

Respectfully submitted,

Karen Telega
Administrative Assistant