

August 5, 2008

A regular meeting of the Scandia City Council was held on the above date. Mayor Seefeldt called the meeting to order at 7:00 p.m. The following councilmembers were present: Council members Pete Crum, Michael Harnetty, Dolores Peterson, Mayor Dennis Seefeldt, Donnette Yehle. Staff present: Administrator Anne Hurlburt, City Attorney Dave Hebert, Building Official Steve Thorp, Deputy Clerk Brenda Eklund.

**APPROVAL OF THE AGENDA**

**Councilmember Peterson, seconded by Councilmember Yehle, moved to approve the agenda as presented. The motion passed unanimously.**

**TEMPORARY LIQUOR LICENSE FOR SCANDIA SOFTBALL ASSOCIATION**

The Scandia Softball Association has applied for a temporary license for their beer sales during games at the lighted ball field during the Taco Days event on September 5, 2008.

**Councilmember Yehle, seconded by Councilmember Peterson, moved to approve the Temporary Liquor License for the Scandia Softball Association for September 5, 2008. The motion passed unanimously.**

**APPOINT JUDGES FOR THE 2008 PRIMARY AND GENERAL ELECTIONS,  
RESOLUTION 08-05-08-01**

Thirty individuals have recently completed a two-hour training session for qualification to serve as an election judge. The list will be used to schedule judges for the primary and general elections. **Councilmember Peterson, seconded by Councilmember Crum, moved to adopt Resolution 08-05-08-01 Appointing Judges for the 2008 Primary and General Elections. The motion passed unanimously.**

**COMMENTS ON MAY TOWNSHIP COMPREHENSIVE PLAN**

The Town of May has submitted its 2030 Comprehensive Plan and has requested comments as soon as possible so that the Metropolitan Council's review can begin. Staff review has determined that the plan appears to have little impact on Scandia's planning and recommends no revisions. **Councilmember Harnetty, seconded by Councilmember Peterson, moved to approve a letter to the Town of May indicating no comments or revisions on the 2030 Comprehensive Plan. The motion passed unanimously.**

**COMMENTS ON FOREST LAKE COMPREHENSIVE PLAN**

The City of Scandia has submitted its 2030 Comprehensive Plan for review and comments. Staff review has determined that the plan does not appear to have any significant impacts on Scandia's planning. **Councilmember Harnetty, seconded by Mayor Seefeldt, moved to approve a letter to the City of Forest Lake indicating no comments on the 2030 Comprehensive Plan. The motion passed unanimously.**

**TOBACCO PRODUCTS SALES LICENSE, SCANDIA GROCERY STORE**

Scandia Grocery and Deli, 14875 Oakhill Road, will change ownership in August. New owners Jim and Margie Dreher (K & B, LLC), have applied for a change in ownership for the tobacco products sales license. The application conforms to Ordinance No. 92 regulating the sale and use

of tobacco products. **Councilmember Peterson, seconded by Councilmember Crum, moved to approve the tobacco license for the Scandia Grocery Store and Deli under new owners James and Margie Dreher (K & B, LLC).**

**GRADING PERMIT FOR R & J EXCAVATION, 19005 AND 18997 LAYTON AVENUE, RESOLUTION 08-05-08-02**

R & J Excavation has applied for grading permits to replace rip rap along the shoreline of Big Marine Lake at two residences, 19005 and 18997 Layton Avenue. The project is exempt from a DNR Waters work permit but must conform to DNR guidelines. **Councilmember Peterson, seconded by Mayor Seefeldt, moved to adopt Resolution 08-05-08-02 Issuing a Grading Permit for 19005 and 18997 Layton Avenue North. The motion passed unanimously.**

*The Planning Commission meeting was called to order at 7:32 p.m. The following were present: Commission Chair Chris Ness, Commissioners Tom Krinke, Susan Rodsjo, Peter Schwarz, Building Official Steve Thorp and TKDA Planner Berry Farrington. Absent: Commissioner Christine Maefsky.*

**TOM AND LISA STANEK : VARIANCES TO CONSTRUCT A NEW HOME AT 19107 LAYTON AVENUE**

Tom and Lisa Stanek are requesting variances to allow for construction of a new home located at 19107 Layton Avenue. The property is currently a vacant lot within the Shoreland Management District of Big Marine Lake. The property is less than a ¼-acre in size and approximately 75 feet wide. The submitted house plans propose a two-story walkout which measures 32 feet in height. The applicant provided a letter from Washington County Department of Public Health stating that the 201 wastewater treatment system has capacity to serve the home.

TKDA Planner Berry Farrington presented the planner's report. In order to develop the lot as proposed, variances are needed for lot size, lot width, setback from the Ordinary High Water level (OHW), right of way setback and lot coverage exceeding 25%. A recommendation to relocate the proposed deck to the north side allows for a 47 foot OHW setback established by the house. The applicant proposes to use pervious paver systems to build the driveway, path and two patios, for a total of 12% of the site. The planner recommends that this area should not be fully excluded from the calculation of lot coverage. As the proposed house, deck and entrance pad cover 25% of the lot, a variance for excess lot coverage was also included in the request. Ms. Farrington presented findings to support conditional approval of the request.

Chairman Ness opened the hearing to the public.

*Doug Salmela, 19091 Layton Avenue:* Mr. Salmela expressed his view that the lot was classified as unbuildable and a sufficient hardship does not exist to grant this variance request. Mr. Salmela felt this would set a precedence for future variance requests.

*Brad Bergo, 19123 Layton Avenue:* Mr. Bergo presented a petition signed by 62 neighborhood residents opposing the variance request. Among their concerns is the capacity of the 201 septic system to handle another connection. Mr. Bergo brought forth his concern about the effect a developed lot would have on the natural drainage of stormwater onto his adjacent property, possibly resulting in flooding onto his lot. Mr. Bergo concluded by stating his opposition due to lack of an existing hardship.

*Ann Myre, 19111 Larkspur Avenue:* Ms. Myre expressed her opposition, stating that the scale of the house is excessive and not consistent with the neighborhood. She felt the building of this house would detract from scenic views the residents currently have.

*Mike White, 13310 188<sup>th</sup> Street:* Mr. White stated his view that the lot is too small to allow for a house of this size; the scale of the house is too large for the neighborhood; and the structure is too close to the lake.

*Jim Shaver, Carnelian-Marine-St. Croix Watershed Administrator:* Mr. Shaver felt this would be a risky variance to approve as it appears to have a detrimental effect on water quality due to the high impervious surface of the proposed plans and the insufficient setback from the OHW. Commissioner Rodsjo asked Mr. Shaver for his view on pervious pavers. Mr. Shaver replied that if the paver system is not maintained, failure will occur.

*Jeff Dahlberg, 19151 Layton Avenue:* Mr. Dahlberg felt this variance request should be denied based on the 100 foot lake setback being the requirement. Mr. Dahlberg was concerned how this structure would contribute to additional run-off into Big Marine Lake.

*Darlene Schueller, 19203 Layton Avenue:* Ms. Schueller felt the city should strictly enforce the setbacks that are required.

*Liz Kramer, 19126 Layton Avenue:* Ms. Kramer is opposed to this variance request.

*Dick Bohrer, 18849 Layton Avenue:* Mr. Bohrer feels this is an unbuildable site and would have a negative effect on the capacity of the 201 septic system.

*Paula Marshall, 19130 Larkspur Avenue:* Ms. Marshall expressed opposition due to the greater than 50% variance requests and feels the proposed house does not fit the character of the neighborhood.

*Ken Kopka, 18420 Norell Avenue:* Mr. Kopka supports this variance request as he feels it would be an improvement to the neighborhood.

Chairman Ness closed the public comment portion of the hearing.

Tom Stanek, Applicant, addressed the commission with the history of lot. It was a “junk lot” when purchased five years ago and he has since cleaned it up and is requesting to further improve on it. The neighborhood currently supports a variety of homes and Mr. Stanek feels that this house should have no problem fitting in. Mr. Stanek stated that multiple variance requests have been approved for many lots in this area near the lake. Washington County Department of Public Health has confirmed that there is sufficient capacity for hook-up into the 201 collector system.

Commissioner Schwarz questioned who determined that this property is unbuildable? Attorney Hebert explained that ultimately the city can determine this when an application comes before it. Regulations change over time, allowing for changes in classification. A lot may be non-conforming, but still buildable once certain conditions are met. The property tax on a lot will adjust once a variance to allow for improvement is approved. Commissioner Rodsjo reiterated that an unbuildable classification is not concrete due to changes in rules over time.

Councilmember Peterson inquired if a paving assessment to the owner was made when the road was improved. Administrator Hurlburt will look into this.

Commissioner Schwarz expressed his view on variances that were approved in the past. Most were granted to lots that had existing structures on them and the improvements allowed for a better use of the property. Mr. Schwarz sees no hardship in this application as the proposed building does not meet the requirements of the lot. Consideration may be given if the lot coverage can be reduced as much as possible.

Tom Herman, builder for Mr. Stanek, explained that the natural drainage areas of the lot will not be disturbed, and improvements to the drainage are being considered. Maintenance plans are in place for the pervious paver system.

Commissioner Rodsjo stated that most houses along Big Marine Lake do not conform to established setbacks and are even closer in some instances. Commissioner Rodsjo recommended that the 25% lot coverage must be met in order to protect the water quality. This could be done by replacing the patio area and establishing rock gardens within the site.

Mayor Seefeldt would like to see the lot coverage lowered to at least 25% and increase the OHW setback as much as possible. The obtrusiveness from the lakeside should be minimized.

Councilmember Yehle felt the owner has a right to build within reason but could not support a variance to lot coverage over 25%. Yehle referenced DNR Specialist Molly Shodeen’s memo regarding the DNR’s concerns of the pervious paver maintenance schedule and that a small lot may not accommodate all the amenities that an owner desires. Yehle views this application as squeezing an oversized house on a small lot and that the structure should be made as conforming as possible.

The commissioners were in agreement that the two-story walkout does not fit the character of the neighborhood and would appear misplaced. Councilmember Peterson voiced her agreement.

Mayor Seefeldt suggested to the applicant that he work with the Watershed to develop a Best Management Practices plan in an effort to improve on the lake quality.

The applicants were advised to resubmit plans of a reduced scale.

The Planning Commission moved to continue the variance hearing to the September meeting.

**ROSS AND MARTA NELSON: VARIANCE TO CONSTRUCT AN ACCESSORY STRUCTURE CLOSER TO THE ROAD (RESOLUTION 08-05-08-03)**

Applicants Ross and Marta Nelson were present to request a variance to construct an accessory structure closer to the road right-of-way than the principal structure at 12445 235<sup>th</sup> Street. The property is 4.85 acres.

TKDA Planner Berry Farrington presented the planner's report which recommended approval as there are no alternative sites on the property to locate the 1,200 square foot structure. All other regulations are met.

Chairman Ness opened the hearing to the public. There were no comments and the hearing was closed.

Commissioner Schwarz stated that the property is adequately screened from the road and sees no problem in granting this variance.

The Planning Commission unanimously recommended approval of the variance request.

**Councilmember Peterson, seconded by Councilmember Crum, moved to accept the recommendation of the Planning Commission and adopt Resolution 08-05-08-03 Approving a Variance Request for 12445 235<sup>th</sup> Street. The motion passed unanimously.**

**MARK AND COLLEEN KAISER: VARIANCE TO CONSTRUCT AN ACCESSORY STRUCTURE CLOSER TO THE ROAD (RESOLUTION 08-05-08-04)**

Applicants Mark and Colleen Kaiser were present to request a variance to construct an accessory structure closer to the road right-of-way than the principal structure at 14440 Old Marine Trail. The property is 5.3 acres and lies within the Hay Lake Shoreland District.

TKDA Planner Berry Farrington presented the planner's report. A variance for location is required as the proposed 2,000 square foot structure does not meet Section 9.2 (2)(B) of the Zoning Ordinance that states a structure may be closer to the road than the house on lots greater

than 5 acres if it is at least 200 feet from the road right-of-way. Due to the nature of the lot, the structure will be built approximately 100 feet from the right-of-way. The planner recommends approval as no alternative sites exist on the lot for placement of the structure.

Chairman Ness opened the hearing to the public. There were no comments and the hearing was closed.

Councilmember Crum asked for clarification of the property on the north side of the house. Planner Farrington stated that the setback from a wetland could not be met on that site.

Mayor Seefeldt stated the lot is heavily wooded and the building would be adequately screened. Plans show the structure preferably placed further from the lakeside.

The Planning Commission unanimously recommended approval of the variance request. **Councilmember Peterson, seconded by Councilmember Yehle, moved to accept the recommendation of the Planning Commission to adopt Resolution 08-05-08-04 Approving a Variance Request for 14440 Old Marine Trail. The motion passed unanimously.**

**SCOT AND COURTNEY TAYLOR: AMENDED CONDITIONAL USE PERMIT AT MEISTERS BAR AND GRILL (RESOLUTION 08-05-08-05)**

Applicants Scot and Courtney Taylor were present to request an amended Conditional Use Permit to allow for a volleyball court/boot hockey rink at Meister's Bar and Grill, located at 14808 Oakhill Road North. The owners proposed operating the rink on Tuesday evenings from 6 to 9 p.m.

TKDA Planner Berry Farrington presented the planner's report. A draft resolution was prepared granting approval of the request. The resolution also included permit conditions for the existing operation so that all conditions which meet the commercial/retail CUP Ordinance are recorded into one document. The report recommends that the parking lot be striped and that grass be replanted around the disturbed area of the court/rink. A lighting plan must be submitted to conform to Ordinance standards.

Chairman Ness opened the hearing to the public.

*Mike White, 13310 188<sup>th</sup> Street:* Mr. White inquired as to the hours of operation of the City's ice rink. The Scandia rink is open to 10:00 pm during the winter season.

Discussion of the hours of operation followed. It was suggested that the condition regulating hours be modified to allow for an ending time of 9:00 pm on a daily basis.

There were no additional comments and the hearing was closed.

Councilmember Yehle asked for clarification of Condition #8 which requires Meisters to notify the City with a list and description of events. Administrator Hurlburt explained that this is designed to continue a system of communication to the City. The current owners have a good record of this, but it should be written into the CUP in the case of new ownership.

Councilmember Peterson asked if a limit will be put on outdoor music events. Mr. Taylor stated that bands end at 11 p.m. Mayor Seefeldt stated that the public can dictate this. A permit is not required, but if complaints are registered, limits could be put on events.

The Planning Commission unanimously recommended approval of the variance request.

**Councilmember Yehle, seconded by Councilmember Peterson, moved to accept the recommendation of the Planning Commission to adopt draft Resolution 08-05-08-05 (with an amendment to hours of operation for the volleyball/boot hockey rink) for an Amended Conditional Use Permit Request for Meister's Bar and Grill, 14808 Oakhill Road. The motion passed unanimously.**

**JIM AND NANCY HERMES: PROPOSED LOT DIVISION IN KIRKHILL ESTATES**

Jim and Nancy Hermes, 22577 Kirk Avenue, were present for an informal discussion of a proposed lot division in Kirkhill Estates. They would like to reclaim Lot 7 as a separate buildable lot, as they had combined Lots 6 and 7 in 1995 for tax purposes. Since the original subdivision in 1972, zoning regulations have changed. The maximum density has been exceeded so that no subdivision would be allowed without a variance. The Hermes' were seeking advice on whether the proposed lot division would meet the criteria for issuance of a variance. As no final determination can be made until all required information is reviewed (survey, topography maps, soil tests, wetland delineation, etc.), the commissioners were not opposed to this request.

**Councilmember Yehle, seconded by Councilmember Peterson, moved to adjourn.**

The meeting adjourned at 9:35 p.m.

Respectfully submitted,

Brenda Eklund  
Deputy Clerk