

**PLANNING COMMISSION
MINUTES
JUNE 26, 2007
839th Meeting**

The meeting was called to order by Chairman Wilmet in the Council Chambers of the Municipal Building at 4:00 p.m.

Members present: Wilmet, Behrens, Camplin, Rybicke, Vincent and Woods

Members absent: Brown

Others present: Brian Juarez, Christopher Rogers, Connie Casey, Jim Woodman, Greg Greenhalgh, Erin Hyman and Rodney Hetts

Item #1: Review and Approve Preliminary Subdivision Plat for Lange Meadows on Endl Boulevard.

Jeff Woods said this 12-lot Subdivision Plat is being resubmitted to the Commission after the Council rejected the previous submittal. The Plat connects Radloff Street to Endl Boulevard and creates a new street, Lange Lane. Lot 12 will require new laterals, and Lange Lane will require new main connections. Both will require tearing up Endl Boulevard. All of the lots meet the Code requirements of 8,250 square feet for R-1 lots. Lots 1, 5, 6, 7, 11 and 12 can be built on now, with the remaining lots requiring extensions of the street and utilities. The only issue with the Plat is that with only three lots on Lange Lane, there will not be enough draws off the main, which will result in water quality issues. The Water Department is recommending the main be looped to Radloff Street. This would allow water to flow through the main, so the Water Department would not have to flush the dead end main to prevent problems.

When asked by Jim Woodman, Jeff Woods said it would be about 290-feet of additional main plus an additional valve, which would amount to \$9,000 to \$10,000 extra. This recommendation from the Water Department would be handled during the approval of the construction plans, but the easements need to be added to the Plat at this time.

John Wilmet asked if this has been done on other cul-de-sacs? Jeff Woods said it has not been done, but those cul-de-sacs have 12 to 14 homes on them, so more water is drawn from the main and there isn't a problem. Three houses will not draw enough water.

Connie Casey, representing the developer, said this layout has added \$50,000 in costs over the original; what is another \$9,000 to \$10,000 in cost.

Motion by Bill Camplin, seconded by Bob Vincent, to recommend to the Council to approve the Preliminary Subdivision Plat for Lange Meadows, with the water main easements on Lots 3 and 8, and the developer being responsible for the cost of looping the water main to Radloff Street. The motion passed by a 6-0 voice vote.

Item #2: Review and Approve Site Plan for Building Addition at 22 North Third Street (Lapse of Original Approval).

Jeff Woods said this property is located in the southwest corner of North Third Street and Edward Street and is zoned C-2, Central Business. The site plan was previously submitted and approved on October 25, 2005. The plan calls for an 1,140 square foot building addition after the removal of the existing garage. The plan meets the Code requirements for lot coverage, setbacks and landscaping. Two concerns were presented at the previous meeting: water and sanitary service for the addition, and stormwater drainage. The determination still needs to be made if the existing laterals can service the addition or if new laterals will need to be run-in. The stormwater will be directed out to North Third Street or Edward Street, and not onto adjacent properties.

Motion by Cwmn. Behrens, seconded by Dennis Rybicke, to approve the site plan for the building addition at 22 North Third Street, contingent on addressing the stormwater issues. The motion passed by a 6-0 voice vote.

Item #3: Review and Approve Preliminary Certified Survey Map Creating Two (2) Lots and One (1) Outlot at Madison Avenue and Reena Avenue.

Jeff Woods said the proposed parcels are located in the southwest corner of Madison Avenue and Reena Avenue and are zoned C-1, Highway Business. The Survey will create two lots and one outlot that meet the requirements of C-1 lots. Lot 1 has sewer and water laterals stubbed in from Reena Avenue. Lot 2 has access to the water main on the north side of Madison Avenue, but does not have any sewer access. The outlot has no access to either sewer or water. The Commission should look at shifting the future street on the south side of these properties so that 30-feet is on this property and 30-feet is on Ramesh Shah's property. This new street would provide sewer and water access to Lot 2 and street access to Lots 1 and 2. The street access will be needed because when the street is built, the Department of Transportation will eliminate the Madison Avenue access for Lots 1 and 2. The new street will also provide street and utility access for the CBF Investment development located to the west of these lots.

John Wilmet said that one of the issues with this is the street has never been platted or dedicated, it is just shown on the maps. This street would be the connection for the extension of Commonwealth Drive and Reena Avenue.

Jim Woodman, representing the property owner, said that he is not sure of the origins of the location of the street. It has been shown on the plans for the CBF Investment property.

When asked by Cwmn. Behrens why the reason for the shift of the road, Jeff Woods said the reason is that both Greenhalgh's and Shah's properties will benefit from the street and utility access, so both should equally donate the right-of-way.

Greg Greenhalgh, property owner, said that he did a land exchange with Ramesh Shah seven years ago to allow Mr. Shah to connect Reena Avenue with Madison Avenue. There was no money involved in the deal, only the exchange of property. This squared up their properties. Mr. Shah told him that the future street would be located south of his property, all on his property. He resents that Mr. Shah told him where the street would go. All his calculations and decisions were based on this, and he would be angry if he has to give back part of the land that Mr. Shah paid him for, so that Mr. Shah could connect Reena Avenue for a street that Mr. Shah now wants back on his property. Jeff Woods said it isn't Mr.

Shah that proposed the idea, it was City staff. When asked by City Attorney Rogers, Greg Greenhalgh said there is nothing in writing between he and Mr. Shah concerning the location of the future street, or with issues on Reena Avenue.

John Wilmet said this street needs to get put in and the issue is how does that get done? The street would be a benefit to owners on both sides and it isn't fair that Mr. Shah has to donate all of the right-of-way. The only option the City has is to condemn the property and buy it and take it. Another option is to have one or both of these property owners donate the land when they come with Surveys for a property split. This issue has been discussed with Mr. Shah, his attorney, Greg Greenhalgh, and CBF Investment representatives to try to come to a resolution on the street. Mr. Shah's attorney said Mr. Shah is not going to donate 60-feet of his property for the street, because his property isn't the only one who benefits from it.

Mr. Erin Hyman, representing Greg Greenhalgh, said that M&I Bank holds a lien on this property for the business loans and they would not be in favor of the dedication. The land being requested for donation represents about 1/6 of his total property. There is a potential sale on one of the lots, and it would reduce the size of the lot. Also, this land is priced much higher than Mr. Shah's property.

When asked by Cmwn. Behrens, Erin Hyman said the properties currently have access to Madison Avenue, but when the future street goes in, that access will disappear and people will have to come in the back, but that is of no benefit to them.

Rodney Hetts, representing CBF Investments, said that he has nothing against what Mr. Greenhalgh is doing. The issue of the street has gone on long enough. Their property can be developed as high-end tax base, or its not going to be if the street doesn't go in. The water can't be looped and there isn't easy street access without this street. This issue needs to be looked at very hard because it has been a problem for the last seven years.

John Wilmet said the City has no way of enforce the road going in at the south location without condemnation. The City would have to buy the property and put the street in. Attorney Rogers said the only other way is to get the right-of-way donated as a condition of a Survey Map. John Wilmet said the way to do that and not effect the Greenhalgh property is to wait until Mr. Shah brings in a Survey and deal with the right-of-way/road issue at that time. If he never brings in a Survey, then the road never gets put in unless it is condemned.

Rodney Hetts said if the road is moved 30-feet north, they will pay for their fair share, but they need the road. It has to be put in for them to develop their property.

Cwmn. Behrens asked what would be the impact of approving the Survey Map without the dedication of the right-of-way? John Wilmet said then the only way the street can move forward is to get Mr. Shah to donate the 60-feet of right-of-way or the City condemn the land. Getting the 30-feet from the Greenhalgh property only gets the City a starting point – half of the right-of-way. Nothing would happen until Mr. Shah brings in a Survey, the City could then get him to donate the right-of-way. This dedication from Mr. Greenhalgh is a step forward in getting this road put in; a road that is important to all of the property owners. The street issue must get resolved.

Jeff Woods said if the City would condemn the 60-feet of Mr. Shah's property, that cost and the cost of the street and utilities could be assessed back to the adjacent property owners. Attorney Rogers said the City would need to prove that the benefit is more than the assessment.

John Wilmet said there is a Preliminary Certified Survey Map before the Commission. Is there a motion for some type of action?

Motion by Cwmn. Behrens, seconded by Bob Vincent, to recommend to the Council to approve the Preliminary Certified Survey Map as presented. The motion passed by a 4-2 roll call vote, with Rybicke and Wilmet voting against.

Item #4: Approval of Minutes and Adjournment

A motion to approve the Minutes of the June 12, 2007 meeting was made by Bill Camplin, seconded by Dennis Rybicke, and passed by a 6-0 voice vote. A motion to adjourn was made by Bob Vincent, seconded by Bill Camplin, and passed by a 6-0 voice vote. The meeting adjourned at 4:50 p.m.

Respectfully submitted,

Jeffrey L. Woods, P.E.
Secretary