

# Meeting Minutes Planning Commission

## City of Medicine Lake Meeting held virtual via Zoom and in person at City Hall January 20, 2022 6:00 pm

1. Call to order and roll call
  - The meeting was called to order at 6:05 pm.
  - Members present include – Jesse Swanson, Brad Beisel, Bill Enright, (in person) and Debbi Stafne, Glen Skajewski, and Laura Ferenci (via zoom). Shuan Kennedy arrived in person at approximately 6:30.
2. Approval of Agenda
  - Brad Beisel moved approval of the agenda and Bill Enright second with all present voting in favor. Motion to approve passed.
3. Approval of Minutes from December 16<sup>th</sup>, 2021.
  - Bill Enright moved to approve the December 16<sup>th</sup> 2021 meeting minutes and Brad Beisel second the motion. All members present voted in favor of the motion. Motion to approve passed.
4. Public Hearings: no new public hearings were held.
5. New Business: no new business was discussed.
6. Old Business:
  - The Planning Commission continued discussion regarding the property at 238 Peninsula Road and an application for a variance to allow construction of a retaining wall and sand beach area within 20 feet of the ordinary high water line on an area containing steep slopes.
  - Consulting Planner Scheib provided an overview of the project stating that this is a continuation of consideration of the variance for 238 Peninsula Road. Commissioners were advised that the public hearing was open and closed at the December 16<sup>th</sup> public hearing and that reopening the public hearing was at the discretion of the Planning Commission. Scheib indicated that additional materials sent to the Planning Commission were prepared by the applicant in response and follow up to the December meeting. In addition, new materials from Ted Hoshal (236 Peninsula Road) were forward to the Planning Commission generally in opposition to the variance request. These materials included a PowerPoint presentation

demonstrating the opinion of Mr. Hoshal that the lakeside area of the property is impacted by a bluff and a bluff impact zone as outlined in Mn State Rules. In addition a photo of the project area was taken from the lake and imposed over supplemental graphics provided by the applicant. The reason for the photo from Mr. Hoshal is to better show the undistorted condition of the slope/bluff area. Scheib reviewed the materials submitted by the applicant including a revised plan sheet that shows the retaining wall pulled back from the side yard to meet a four foot side yard setback, a narrative that describes the construction approach/process, narrative that provides background information on the contractor qualifications to complete the work, and computer renderings/illustrations that are intending to demonstrate character of the retaining wall as viewed from the lake with leaf on landscaping and leaf off conditions.

- Illustrations were presented to demonstrate the character. It was noted that the graphics are distorted due how they were prepared. This was expressed as a concern by Hoshal in his written correspondence. It was noted that the purpose of the graphic was to illustrate what the wall would look like from the lake to help understand the impact on the character of the shoreland and how the retaining wall could blend in with the shoreland.
- Construction methods include grading pads at the bottom of the hill to place the stones and bottom stairs and a pad mid point of hill to place the middle section of stairs. Restoration would occur as each section of stairs are placed to reduce the amount of time the area is disturbed. The upper stairs will be placed from the top of the hill.
- Staff discussed the bluff and bluff impact area definitions and the implications of determining if the proposed improvements are on a bluff or within a bluff impact zone. Scheib indicated that the city zoning code is triggering the variance need. If the property were in a bluff impact zone, similar variance findings would need to be made. In staff's initial review it was determined that, using the statutory rule of bluff as spelled out in 6120.2500 Subp. 1b Bluff, that the property was partially within a bluff and thus bluff impact zone; however, at a point where the 914 elevation turns away from the water, the determination of bluff becomes less clear. The applicant modified the design and reduced the footprint of improvements to be located outside of areas that are clearly bluff areas. Further, in reviewing the grading plan, staff applied the best practices to the plans for managing shoreland alterations in a responsible way following shoreland rules and DNR guidance (see Mn Statute 6120.3300 Subp. 4 B.). It was noted Mr. Hoshal's presentation presented a more impacting interpretation of the bluff area.

- Staff indicated that the public hearing was opened and closed at the December Meeting. However, it is the PC's discretion to allow for additional public input. A motion was made by Bill Enright and second by Brad Beisel to re-open the public hearing. Ted Hoshal (236 Peninsula Road) reviewed the materials that he had submitted with the packet. Mr. Hoshal indicated that as proposed the improvements of the retaining wall and beach area would threaten the quality and character of the shoreland, are within a bluff and bluff impact zone and are thus not in compliance with State Shoreland Rules, and are not in keeping with the spirit and intent of the zoning code. For these reasons and others as documented by Mr. Hoshal, he urged the planning commission to recommend denial of the proposed variance request. Mr. Hoshal indicated he wishes to work with the Juetten's and be friendly neighbors and that his lack of support is not a personal issue but he is passionate about preserving the integrity of the shorelands and thus cannot support the retaining wall and beach area as proposed.
- The applicant, Patric Juetten (238 Peninsula Road) indicated that the improvements were to create a small area near the water where his family could safely enjoy the lake front proximity. He indicated he has worked with staff to reduce the footprint while still providing for the desired improvements. He indicated that he is working with qualified professionals (engineers and contractors) in order to do the work and minimize the impact on the hill. His contractor has extensive experience working with steep slopes and riparian areas. He discussed erosion control approaches and techniques that he will put in place and that the city has advised on. He also spoke to the photo and rendering intending to demonstrate the landscape character of the retaining wall to try and show commissioners what it might look like in leaf on and leaf off conditions.
- Discussion ensued with regards to the retaining wall structural components and desire to have seen a cross section drawing of the retaining wall and slope. Staff indicated that they have a supplemental submittal from a qualified engineer to advise on the structural integrity of the retaining wall. This was submitted and reviewed by the city engineer. Staff showed the exhibit at the meeting and indicated that because the wall is over 4 feet it will also need a building permit review.
- Further discussion ensued regarding the bluff and state shoreland rules, prior vegetation removal on the site, DNR permitting relating to rip-rap work and work below the OHW, and volume of grading work (cut/fill/grading estimated to be around 100 cubic yards). It was noted the amount of grading on the site does not trigger the more extensive storm water pollution control plan but is significant enough that it does trigger engineering review and a grading permit. Construction oversight and management could be managed through the construction management plan process. This could be a condition of approval.

- The public hearing was closed on a motion by Brad Beisel and second by Jesse Swanson and all voted in the affirmative.
- Further discussion by the planning commission ensued.
- Brad Beisel moved to recommend to the City Council approval of the variance with the conditions and findings as noted in the staff report dated 12/09/2021 and with the conditions added from the Planning Commission discussion including: 4) Any work that is performed below the ordinary high water line requires review and permitting approvals from the DNR; 5) A building permit be obtained prior to construction of the retaining wall. 6) Applicant shall follow the City's construction management plan process which will provide for construction oversight and observation. Bill Enright second the motion to recommend approval. Further discussion ensued. Ferenci expressed frustration with not being able to hear the full discussion due to technology related matters and not feeling comfortable with considerations relative to bluff and bluff impact areas. Ferenci further expressed concerns about erosion and sediment controls, drainage, and safety concerns with children next to the lake and boat traffic. Skajewski expressed disappointment that additional exhibit materials (an elevation/cross section drawing) with regard to the retaining wall and steep slope was not provided and was asked for at the December meeting. Skajewski indicated he had no issue with the stairs or landing area as part of the stairs but felt that the proposed improvement could be smaller and was not in keeping with the spirit and intent of the zoning ordinance due to its impact on the bluff area. Further discussion was also had regarding the applicant's engineer's memo on the retaining wall. Kennedy inquired if additional elevations or cross sections could be provided with the recommendation to the City Council. Scheib said yes and it would be to the applicant's advantage to provide such information. Following the discussion a roll call vote was made on the motion. The following voted in favor of the motion: Beisel, Enright, Swanson, Kennedy, and Stafne. The following voted in opposition to the motion: Skajewski and Ferenci.
- On a vote of five members in favor of the motion and two members opposed, the motion to recommend approval with noted conditions and findings was approved.

## 7. Adjournment

- Brad Beisel moved to adjourn the meeting at 9:10 pm. Bill Enright second the motion and all voted in the affirmative.

Respectfully Submitted  
 Brad Scheib  
 Planning Consultant/Zoning Administrator  
 Approved February 17, 2022