

CITY OF MEDINA
Planning Commission Meeting

*September 26, 2017
6:00 p.m.*

*Medina City Hall Council Chambers
501 Evergreen Point Road*

CALL TO ORDER

The Planning Commission meeting of September 26, 2017, was called to order at 6:00 PM by Chair Schubring.

ROLL CALL

Present: Jeanne Carlson, Jen Garone, Mark Nelson, Jessica Rossman, Randy Reeves and Shawn Schubring.

Absent: Laurel Preston (excused)

Staff Present: Robert Grumbach, Development Services Director
Kristin McKenna, Development Services Coordinator
Leilani Fisher, Assistant City Attorney
Cristina Haworth, City Planning Consultant

ANNOUNCEMENTS (6:01 PM)

Grumbach made the following announcements:

- The Council budget discussion has been rescheduled to Monday, October 2nd at 5:30 PM.
- The 84th/24th street project open house is scheduled for Thursday, October 12th at 5:30 PM.

AUDIENCE PARTICIPATION (6:03 PM)

Drew Blazey commented on signage options to announce upcoming Park Board events.

Randy Bannecker commented on the sign code asking to preserve the language for real estate signs and supporting the allowance of construction signs.

APPROVAL OF MINUTES (6:08 PM)

MOTION NELSON / SECOND CARLSON TO APPROVE THE MINUTES OF THE AUGUST 22, 2017 PLANNING COMMISSION MEETING. APPROVED 5-0. (GARONE ABSTAINED) (6:08 PM)

PUBLIC HEARINGS (6:09 PM)

QUASI-JUDICIAL:

1) Level 2 Tailored CMP. File No. CMP 16-027

Site Address: 1641 Evergreen Point Road

Applicant: Brad Smith, MZA Architects (agent)

Proposal: Redevelop a residential lot by demolishing the existing home and constructing a new home with attached garage, decks and patios. Work includes up to 1,200 cubic yards of earth movement and the removal of eight significant trees.

Chair Schubring asked if Planning Commission members had any disclosures related to the Appearance of Fairness Doctrine.

- Commissioner Nelson stated he knows two neighbors that live across the street from the subject property. Commissioner Nelson confirmed he would be fair and impartial.

Chair Schubring asked if there were any challenges to any Planning Commission members participating in the hearing. There were no challenges.

Chair Schubring explained how the hearing would be conducted.

Grumbach gave the oath to Cristina Haworth, City Planning Consultant. She presented a summary of the staff report including explanation of the site plan. Haworth recommended approving the Construction Mitigation Plan subject to the conditions proposed in the staff report.

Haworth responded to questions about the project from the Commissioners.

The Commissioners noted some corrections to the application dates.

Grumbach gave the oath to Brad Smith, agent for the applicant. Smith responded to questions from the Commissioners concerning parking, dumpster and portable toilet locations, road restoration, erosion control and construction time lines.

Chair Schubring opened the hearing to public testimony.

There was no public testimony.

After the Commissioners discussed the proposal, a motion was made.

<p>MOTION NELSON / SECOND REEVES TO APPROVE CONSTRUCTION MITIGATION PLAN CMP-16-027 WITH THE CONDITIONS IN THE STAFF REPORT. APPROVED 5 – 1. (GARONE OPPOSED) (7:03 PM)</p>
--

LEGISLATIVE

2) View and Sunlight Obstruction – Planning Commission Recommendation

Grumbach made a presentation outlining the proposed changes to the View and Sunlight ordinance. He said that the proposal creates a local Hearing Examiner process to potentially resolve neighbor disputes regarding trees and vegetation obstructing view and sunlight. Included in the presentation was a comparison of the current code with the proposed code.

Grumbach and Fisher responded to questions from the Commissioners including questions on obligations of the respondent participating in the process, establishing view rights, cost allocations, legacy trees, and trees in the City right of way.

Chair Schubring opened the hearing to public testimony.

Mariette Patterson commented on the view and sunlight by asking about height limitations on trees and hedges.

Grumbach responded saying there is limits on heights to structures and buildings, but not on living vegetation.

Charlotte Stern commented on the view and sunlight by saying she moved to Medina in 1972 and had a magnificent view of Lake Washington. In 1999 the view was the same, but included a house below. She said by 2006 her view was blocked by a wall of Leyland Cypress trees. Stern said she reach out to the neighbor, but was ignored and now her property value has taken a financial hit. She said it has been very emotional for her and she is grateful the topic is up for discussion and hopes a decision can be made to enforce the proposed ordinance. Stern provided photographs of her current view.

Drew Blazey commented on the view and sunlight by saying he lives next door to Stern and has been working with the view issue for about 11 years. He says he supports the new ordinance and having the Hearing Examiner will help. Blazey said he feels having a view can sometimes be more of a quality of life issue then a property value issue and thinks the proposed ordinance will support a better process.

Ed Freedman commented on the view and sunlight saying he is also a neighbor of Stern and was here to support her and the proposed ordinance. He says he hopes the ordinance has "the teeth" in it to make something happen for someone who is in a situation like Stern.

Gerard Kern commented on the view and sunlight by saying he is here to make sure his view is protected. He is concerned about vegetation and trees on City property obstructing his view and the lack of language in the proposed ordinance to protect his view. He said he would like to see language identifying the City as a neighbor and provided a photograph of his current view.

Fred Pneuman commented on the view and sunlight by saying his neighbor has rows and rows of Leyland Cypress trees and although the neighbor gave him permission to trim the trees, he is not allowed to climb the trees. He said he has lost many trees and vegetation on his property due to the lack of sunlight. He is hoping the new ordinance supports the complaining citizens not having to pay outrageously for a legitimate complaint.

Mary Pneuman commented on the view and sunlight by asking about potential conflicts with the current tree ordinance and additional costs to the complainant if the respondent chooses not to comply.

Grumbach and Fisher responded by clarifying the code language regarding civil fines for not complying are the respondent's responsibility. Other costs must be allocated to the complainant to pass legal muster.

James McMillen commented on the view and sunlight by saying he supports what is trying to be done and likes the concept, but feels it is missing "teeth". He feels the City should take more of a role as an advocate for the complainant and suggested the City consider a legal way of using nuisance law to support the complainant.

Grumbach and Fisher responded by saying making this a nuisance action would take away the ability of the Hearing Examiner to hear these types of cases. Fisher confirmed that the proposed ordinance does not prohibit someone from filing actions in state court.

Rush Riese commented on the view and sunlight by saying he supports the ordinance, but noticed the intent is to preserve historical views when the property was acquired or purchased. He is concerned there could be different interpretations where someone could acquire their property by purchase in 1970, but decide in 2017 to put the property in a Trust or LLC. He was concerned this would "re-set the clock" and deny that person the ability to enforce their historical view. He suggested amending language to read something along the lines of *evidence that the view or access to sunlight was enjoyed after ownership of the property was last acquired by purchase*.

Grumbach and Leilani said they would review the concerns and clean up the discrepancy in the code language.

Paul Saad commented on the view and sunlight by saying he likes how the new ordinance is put together and that it is great for conflict resolution. He loves the definitions about *under reasonable view obstruction* and really likes the use of the Hearing Examiner. However, Saad also expressed concerns on the requirement for providing documentation of an existing view from years gone past and would like to see the City more involved with establishing vegetation height restrictions. Saad also commented on the permitting process and fees associated with removing a tree in the City right of way. He wants it simpler.

Vincent Fernandes commented on the view and sunlight by saying his neighbor's trees were blocking his view and when he reached out to them, they were very understanding and let him trim the trees. He asked what standards are in place regarding tree trimming and removal saying there needs to be process.

Grumbach responded by saying a tree on private property can be removed if you have a permit. He said a permit is not needed for trimming, but you must follow ANSI standards. Grumbach also said that a permit can be required for trimming if the tree is in the City right-of-way and ANSI standards still must be followed.

Joe Meisenheimer commented on the view and sunlight by saying he likes what he has heard so far and would like to see it "having teeth" to help the complainant obtain their view and suggested looking at ways to shorten the arbitration time lines as the outcome can affect the property value. He also suggested looking at old historical pictures to help establish what view a property had.

Stuart Mandel commented on the view and sunlight by saying he is concerned for the rights and security of land owners and is concerned that if he trims trees or bushes on his property he will have somehow created a view right for his neighbor if he then decides to let it grow back. He expressed concerns with some of the language regarding ownership saying there is a big difference between *views after the ownership was acquired* and *at the point when property was acquired*. He suggested limiting the language to views that existed at the time the property was purchased.

Martyna Mandel commented on the view and sunlight by thanking the Commissioners and saying it is very apparent that they put a lot of time into this ordinance and she also thanked them for preserving the legacy trees.

Chair Schubring closed the public hearing.

The Commission discussed and clarified sections of the public testimony and had suggestions and provided comments throughout the discussion regarding minor alterations to the code language.

Fisher and Grumbach responded to questions from the Commissioners including questions on determining an eagle perch, tree management plan timelines, protecting the complainant regarding respondent's arborist fees and the Hearing Examiner's authority when it comes to establishing damages.

Grumbach will make the suggested updates to the propose ordinance and bring it back to the next regular meeting.

OTHER BUSINESS

1) Real Estate and Event/ Illumination of Signs

Due to the hour, the Planning Commission agreed to table the discussion on the Real Estate and Event/Illumination of Signs to a future meeting.

ADJOURNMENT

MOTION GARONE / SECOND CARLSON TO ADJOURN THE SEPTEMBER 26, 2017 PLANNING COMMISSION MEETING. APPROVED 6-0 (9:40 PM)

The next Planning Commission meeting is scheduled for Tuesday, October 24, 2017 at 6:00 PM.

Minutes taken by:



Kristin McKenna
Development Services Coordinator