



MINUTES
CITY COUNCIL
CITY OF WOODLAND

MONDAY, JULY 11, 2016

1. CALL TO ORDER AND PLEDGE OF ALLEGIANCE

Mayor Doak called the meeting to order at 7:00 p.m.

2. ROLL CALL

Present: Mayor Doak, Council Members Carlson, Massie, Newberry, and Weiner

Staff present: Zoning Administrator Dale Cooney, City Clerk Kathy McCullum, and City Attorney Andrea Poehler

Residents present: Robert and Deborah Johnson and Mark Anderson

Others present: Heidi Libera from Streeter & Associates and Kurt Larson, Woodland Septic Inspector

3. CONSENT AGENDA

A. Authorization for the Mayor and City Clerk to execute an agreement between the City of Woodland and the City Assessor, Daniel R. Distel.

B. Resolution No. 16-2016 approving requests of Alexander Design Group for the property at 2830 Breezy Heights Road for variances from the minimum required side yard setbacks, and to exceed the maximum permitted impervious surface area.

C. Authorization from the City Council to approve the use of funds from the Lake Minnetonka Communications Commission for new audio/video equipment in the Deephaven City Hall Council Chambers.

Carlson moved, seconded by Weiner to approve the Consent Agenda as presented. Motion carried 5-0.

4. APPROVAL OF MINUTES

A. Approval of the June 13, 2016 minutes.

Carlson moved, seconded by Newberry to approve the minutes as presented.
Motion carried 5-0.

5. PUBLIC COMMENT - NONE

6. PUBLIC HEARINGS

A. Public Hearing pertaining to 2800 Woolsey Lane for Robert and Deborah Johnson:

1. Consideration of variance requests from minimum required lot size and minimum required lot width
2. Consideration of a Preliminary Plat – “Johnson Woolsey Addition”

Mayor Doak explained that he owns property in the immediate neighborhood of the subject property and therefore, there may be a potential conflict with him participating in the discussion and decision. For this reason, Mayor Doak said that he would recuse himself. Mayor Doak requested that Council Member Carlson lead the discussion as Acting Mayor.

Acting Mayor Carlson requested the staff report from Zoning Coordinator Dale Cooney.

Mr. Cooney presented the staff report and noted that he recommended denial of the variance requests based on the following findings:

- a. The variance will not be in harmony and keeping with the spirit and intent of the zoning ordinance:

Section 900.01 outlines the purpose and intent of the ordinance as the principal means of attaining the goals and standards set forth in Woodland’s Comprehensive Plan, including preservation of open space, scenic views, natural topography and habitat, wetlands, lakes, indigenous vegetation and trees, and rehabilitation of existing housing units on their present location.

Varying from the required lot size is not in harmony and keeping with the spirit and intent of the zoning ordinance in that it does not help with the preservation of open space, scenic views, or natural topography.

- b. The variance request is not consistent with the comprehensive plan:

The request is not consistent with the Comprehensive Plan in that it does not maintain the required 2 acre minimum lot size.

- c. The proposal puts the property to use in a reasonable manner:

The proposal puts the property to a reasonable use. A single family home on the proposed lots is a reasonable use and would not be inconsistent with other substandard lots within the city.

- d. There are not circumstances unique to the property not created by the landowner:

There are not circumstances unique to the property not created by the homeowner that would justify the variance request. Allowing such a request would set a precedent for a number of similarly sized parcels within the city.

- e. The variance(s) will alter the essential character of the locality:

Taken individually, the variance would not alter the essential character of the locality since there are a number of substandard parcels in the city of a similar size. However, the precedent set by making such an allowance could impact the long-term character of the locality by allowing substandard lots to further proliferate.

Mr. Cooney also stated that he recommended denial of the subdivision request based on the following findings:

- a. Compliance of the subdivision with Section 800.09 and the zoning provisions of this code.
 - a. Every subdivision must comply with all applicable provisions of State law, including without limitation the provisions of Minn. Rules 6120.3500, as from time to time revised and this code.
 - b. Every subdivision which requires the dedication of a new street or a change in an existing street, must also show the grade of all streets and the mean grade of the front and rear lines of each lot.
 - c. Every subdivision must provide for dedication of public streets and easement for drainage and public utilities as is determined by the Council to be desirable or necessary.

The proposal would not comply with the zoning provisions of the code. In staff's opinion, the application would comply with Section 800.09 of the code.

- b. The suitability of the subdivision from the standpoint of community planning.

The subdivision is not suitable from the standpoint of community planning. The proposal would set a precedent that would run directly counter to the large lot, estate properties found throughout the R-1 zoning district. There are numerous properties that could be subdivided within the city based upon having a minimum of 1.38 acres of upland area.

The proposal is also counter to the stated land use goals of the comprehensive plan which are a) To preserve and maintain open space,

natural features such as lakes, ponds, wetlands, slopes, woodlands, natural drainage courses and other environmental features which serve vital functions in the city; and b) Maintain the current 2 acre zoning and minimum structure setbacks which will continue to enhance the natural wooded feature and quiet residential neighborhood.

- c. The adequacy of streets and conformity with existing and planned streets in surrounding areas.

The existing streets are adequate for the proposed subdivision.

- d. The suitability of street grades in relation to the grades of lots.

The existing streets are appropriate for the grades of the lots.

- e. The estimated cost (including engineering and inspection expenses) of grading, graveling and permanently surfacing streets, installing street signs, and construction of curb and gutter and any storm sewers which may be necessary.

Not applicable.

- f. Compliance with the requirements of Minnesota Statutes, Chapter 505.

Final approval would be required to meet the requirements of Minnesota Statutes, Chapter 505 related to Plats.

- g. The suitability and adequacy of the subdivision from the standpoint of flooding, drainage, water supply or sewage treatment facilities.

The proposal is suitable from the standpoint of flooding, drainage, water supply. Sewage treatment facilities encroach into the setbacks and will be subject to additional state regulations. Additional relevant and necessary conditions may be put on the application prior to final approval or prior to the issuance of a building permit to further ensure the suitability of the properties to support the proposed development.

Acting Mayor Carlson asked Mr. Johnson to speak to his proposal.

Mr. Johnson presented a handout to the City Council that contained maps and a listing of properties. He stated that he disagreed with many points within the staff report. Mr. Johnson said that he did not agree with the two acre minimum lot size where the entire two acres must not include lake or wetland. He thought that his property should be "grandfathered in" because he purchased the property prior to adoption of the zoning ordinance that limits property sizes to two acres.

Referring to the maps and list that he provided to the Council, Mr. Johnson said that there are many lots in the City that are under two acres. He said that his property contains 3.97 acres and if he is allowed to divide the property, the size

of each resulting lot would be consistent with those on the list. Mr. Johnson discussed the characteristics of some of the properties on the list.

Acting Mayor Carlson opened the public hearing.

Acting Mayor Carlson indicated that the Council received several written comments from residents. She read them into the record as follows:

“We are not in favor of granting a variance. There is not adequate land and it would have a negative effect on Woolsey Lane.” – J. and J. Glover

“We are opposed to a variance from Ordinance Section 900.07 at 2800 Woolsey Lane. Although the lot is 3.95 acres, the “high and dry” area of the property is significantly less. We request the City Council deny the request from the Johnsons for a variance from Ordinance Section 900.07.

We moved to Woodland for the larger lot sizes and lack of overbuilding found in nearby communities. We are also concerned of the impact of the proposal to the other homes on the street with larger lots and structures.” – Marianne and James Gruver

“The property at 2800 Woolsey Lane does not meet the City of Woodland’s requirements necessary to divide the property. Should an exemption be granted to this property, a precedent will be set for those next in line making similar requests. This will subject Woolsey Pond to a “slow creep” of loosening standards that will negatively impact the pond and surrounding neighborhoods.

The unique and narrow shape of the property at 2800 suggests that new homes would be very challenging to build in any sort of aesthetically appealing manner. It may well require a building very different in style from all of its neighbors (i.e. “sore thumb”).

As it currently exists, Woolsey Pond is one of the few, if not the only, remaining uncluttered ponds on Lake Minnetonka. This pristine environment requires protection from individual property owners seeking to exploit its unique beauty to their advantage. Granting an exemption in this instance benefits exactly one individual property owner (2800) while negatively impacting the pond itself and other property owners in the vicinity with boat clutter and overpopulation.

The City should act to protect this little gem of a pond and uphold its current standards by not granting an exemption to subdivide at 2800 Woolsey Lane.”
– **Christine and Mike Tattersfield**

“The proposed property is narrow and deep. We are challenged to see how one could get two buildable “two acre” lots on the property without negatively affecting property values of their neighbors. “ – **Denny and Mary Newell**

There were no other comments from the floor.

The public hearing was closed.

City Attorney Andrea Poehler addressed the comment from Mr. Johnson regarding the potential exclusion of the subject property from provisions of the Zoning Code because Mr. Johnson had purchased the property before adoption of the current Code. She explained that the property owner is bound by the new Code, unless specifically exempted by the provisions of the Code, even if the property was purchased before the ordinance change.

Acting Mayor Carlson explained that the Comprehensive Plan for the City was first adopted in 1980. She said that the Comprehensive Plan is a guide for the City that includes goals and policies relating to preservation of the City characteristics, preservation of open space, and a two acre minimum lot size, among other items. She said that one of the reasons the City is not required to connect to municipal sewer is because of the large lots in the City and the proper separation of the septic systems and the wells on each property.

Council Member Newberry said that one of the ways he gauges his decisions regarding variances is how close the request comes to the existing ordinance requirements. He noted that in this case, the square footage for each lot is 31% short of what is required. He said that the lot width is 25% short of the ordinance requirements.

Council Member Weiner stated concern about the risk of setting a precedent if the request was approved.

Council Member Massie explained that many of the lots on the list that Mr. Johnson provided are smaller than two acres; however, many of those lots are combined with others to make a larger lot that is occupied by a single home. He stated concern about setting a precedent and the potential for other residents or developers to make requests to seek division of large properties into undersized lots or lots that do not contain enough high ground.

Council Member Carlson also stated concern regarding setting a precedent. She said that subdividing the remaining large lots could significantly change the character of the City and that would be inconsistent with the Comprehensive Plan.

In response to a question from Council Member Massie, Mr. Johnson stated that he has talked with his neighbors about purchasing additional property and adding that to his property to gain additional square footage, but he was not successful.

Newberry moved, seconded by Weiner to deny the variance requests based on the written findings found in the staff report dated July 11, 2016:

- a. The variance will not be in harmony and keeping with the spirit and intent of the zoning ordinance:

Section 900.01 outlines the purpose and intent of the ordinance as the principal means of attaining the goals and standards set forth in Woodland's Comprehensive Plan, including preservation of open space,

scenic views, natural topography and habitat, wetlands, lakes, indigenous vegetation and trees, and rehabilitation of existing housing units on their present location.

Varying from the required lot size is not in harmony and keeping with the spirit and intent of the zoning ordinance in that it does not help with the preservation of open space, scenic views, or natural topography.

- b. The variance request is not consistent with the comprehensive plan:

The request is not consistent with the Comprehensive Plan in that it does not maintain the required 2 acre minimum lot size.

- c. The proposal puts the property to use in a reasonable manner:

The proposal puts the property to a reasonable use. A single family home on the proposed lots is a reasonable use and would not be inconsistent with other substandard lots within the city.

- d. There are not circumstances unique to the property not created by the landowner:

There are not circumstances unique to the property not created by the homeowner that would justify the variance request. Allowing such a request would set a precedent for a number of similarly sized parcels within the city.

- e. The variance(s) will alter the essential character of the locality:

Taken individually, the variance would not alter the essential character of the locality since there are a number of substandard parcels in the city of a similar size. However, the precedent set by making such an allowance could impact the long-term character of the locality by allowing substandard lots to further proliferate.

Motion carried 4-0.

Newberry moved, seconded by Massie to deny the subdivision request based on the written findings found in the staff report dated July 11, 2016:

- a. Compliance of the subdivision with Section 800.09 and the zoning provisions of this code.
1. Every subdivision must comply with all applicable provisions of State law, including without limitation the provisions of Minn. Rules 6120.3500, as from time to time revised and this code.
 2. Every subdivision which requires the dedication of a new street or a change in an existing street, must also show the grade of all streets and the mean grade of the front and rear lines of each lot.

3. Every subdivision must provide for dedication of public streets and easement for drainage and public utilities as is determined by the Council to be desirable or necessary.

The proposal would not comply with the zoning provisions of the code. The application would comply with Section 800.09 of the code.

- b. The suitability of the subdivision from the standpoint of community planning.

The subdivision is not suitable from the standpoint of community planning. The proposal would set a precedent that would run directly counter to the large lot, estate properties found throughout the R-1 zoning district. There are numerous properties that could be subdivided within the city based upon having a minimum of 1.38 acres of upland area.

The proposal is also counter to the stated land use goals of the comprehensive plan which are a) To preserve and maintain open space, natural features such as lakes, ponds, wetlands, slopes, woodlands, natural drainage courses and other environmental features which serve vital functions in the city; and b) Maintain the current 2 acre zoning and minimum structure setbacks which will continue to enhance the natural wooded feature and quiet residential neighborhood.

- c. The adequacy of streets and conformity with existing and planned streets in surrounding areas.

The existing streets are adequate for the proposed subdivision.

- d. The suitability of street grades in relation to the grades of lots.

The existing streets are appropriate for the grades of the lots.

- e. The estimated cost (including engineering and inspection expenses) of grading, graveling and permanently surfacing streets, installing street signs, and construction of curb and gutter and any storm sewers which may be necessary.

Not applicable.

- f. Compliance with the requirements of Minnesota Statutes, Chapter 505.

Final approval would be required to meet the requirements of Minnesota Statutes, Chapter 505 related to Plats.

- g. The suitability and adequacy of the subdivision from the standpoint of flooding, drainage, water supply or sewage treatment facilities.

The proposal is suitable from the standpoint of flooding, drainage, water supply. Sewage treatment facilities encroach into the setbacks and will be

subject to additional state regulations. Additional relevant and necessary conditions may be put on the application prior to final approval or prior to the issuance of a building permit to further ensure the suitability of the properties to support the proposed development.

Motion carried 4-0.

Mayor Doak reentered the meeting at this time.

B. Stormwater Pollution Prevention Program Annual Public Hearing

Mayor Doak presented an overview of the item, noting that the cities in the metropolitan area are required to submit a Stormwater Pollution Prevention Plan (SWPPP) that outlines the steps that would be taken to limit runoff into protected water bodies. Mayor Doak said that the City's individual application has been reauthorized by the Minnesota Pollution Control Agency and noted that the City must hold an annual public hearing to collect public input on the program and to document suggestions. Mayor Doak said that the City provides educational materials for residents on the website and encourages them to follow best practices to help keep the water clean.

Mayor Doak opened the public hearing.

No one present wished to speak.

The public hearing was closed.

Mayor Doak clarified that no further City Council action needed to be taken on this item at this time, as the annual public hearing was duly held.

C. Public Hearing and First Reading of an Ordinance No. O05-2016, amending Section 900.04 of the City Code regarding Temporary Family Health Care Dwellings

Mayor Doak opened the public hearing.

No one present wished to speak.

The public hearing was closed.

Mayor Doak explained that a new Minnesota law was passed that provided a rapid approval process for landowners who wished to place mobile residential dwellings on property to serve as temporary health care dwellings for relatives. The approval process preempted almost all local zoning restrictions. Mayor Doak thought that the intent of the new law was well meaning --caregivers could give care for mentally or physically impaired people on their own property on a temporary basis. He noted, however, that the law would supersede the City's zoning ordinance and the City would lose control of these temporary residences, if the Council did not act to "opt out." Mayor Doak said that the new law provides an "opt out" provision for cities.

Mayor Doak thought that if a resident had a valid need for a temporary healthcare dwelling, the City would most likely try to accommodate the request through the variance process. He thought that each request should be handled on a case by case basis. He recommended that the City opt out of the new law's requirements. He said this would preserve flexibility for the Council. The Council may wish to consider some type of temporary healthcare facility ordinance in the future.

Mayor Doak stated that the Council has three options:

1. The City Council waive the second reading and adopt ordinance O05-2016, an ordinance amending Chapter 9 of the Woodland Code, regarding Temporary Family Healthcare Dwellings, as written.
2. City Council waive the second reading and adopt ordinance O05-2016 an ordinance amending Chapter 9 of the Woodland Code, regarding Temporary Family Healthcare Dwellings, as amended.
3. The City Council maintains the current ordinance regulations.

Newberry moved, seconded by Carlson to adopt ordinance O05-2016 an ordinance amending Chapter 9 of the Woodland Code, regarding Temporary Family Healthcare Dwellings, waive the second reading, and direct staff to publish the ordinance as presented. Motion carried 5-0.

7. NEW BUSINESS

A. Discussion relating to Chapter 10 – General Floodplain Ordinance

Mayor Doak explained that the Floodplain Ordinance protects the ability of residents in the City to purchase flood insurance. He said the City must have a Floodplain Ordinance in place for residents to be able to purchase the insurance from FEMA.

Mayor Doak said that staff provided an model ordinance that included both the required FEMA language and amplifying language provided by the Minnesota Department of Natural Resources (MnDNR). He thought the City Council should consider using language from both agencies because the DNR administers the program in the State of Minnesota.

Mayor Doak suggested that the item be placed on the September meeting for Council consideration. The Council agreed.

Item E. was considered at this time.

E. Consideration of a Showcase Event Permit for Streeter and Associates for 2400 Cedar Point Drive in connection with the Homes by Architects Tour

Mayor Doak presented the history of the Showcase Event Permit ordinance and policy, noting that the ordinance and policy outline the City's expectations of

showcase sponsors when it comes to parking and minimizing disruption to the immediate neighborhood.

Heidi Libera, representing the applicant, presented information relating to the specific event. She said that small shuttle busses will be used in addition to a charter boat to transport the attendees to the property.

Carlson moved, seconded by Newberry to approve the Showcase Event Permit for Streeter and Associates for 2400 Cedar Point Drive in connection with the Homes by Architects Tour. Motion carried 5-0.

B. Report from Kurt Larson regarding the City's even-year septic inspections

Mayor Doak welcomed Mr. Larsen to the Council meeting.

Mr. Larsen stated Woodland is heading in the right direction in providing on-site education to residents along with the inspections. He said most of the systems are in good condition and there are several new systems in the City. Mr. Larsen indicated most residents are positive about the inspections. He presented the drawings he used to explain the structure and operation of septic systems to homeowners.

The City Council members thanked Mr. Larsen for his work.

C. Discussion relating to a potential natural resources policy relating to geese management

Mayor Doak presented an overview of the item. He stated that the Department of Natural Resources is requiring cities to adopt management policies for the removal of geese by residents. In the past residents dealt directly with the DNR. He said that he supported the policy. Council members agreed.

Massie moved, seconded by Newberry to adopt Resolution No. 17-2016 approving a new policy – Natural Resources – Policy 4-3 Geese Management. Motion carried 5-0.

D. Discussion relating to the 2017 General Fund

Mayor Doak said that the proposed budget shows a modest increase from the 2016 final budget. He said there will be no elections in 2017 which provides for a significant reduction in expenses, holding overall outlays virtually at 2016 levels. Mayor Doak explained that projected building permit revenue has been reduced for 2017 as construction has slowed in the City. He said that the slight levy increase compensates for the shortfall in building permit revenue.

8. OLD BUSINESS – NONE

9. MAYOR'S REPORT

Mayor Doak reported that he will be providing a tour of the City for Metropolitan Council representatives. He said this will be a good opportunity to show the diversity of the City's

housing stock. relate the important history of the City, and emphasize the City's commitment to its natural assets.

10. COUNCIL REPORTS

A. Carlson – Enterprise Finance and Operations, Intergovernmental Relations, and MCWD

Council Member Carlson reported that the Enterprise Funds are in good financial condition.

She noted that she attended the Minnehaha Creek Watershed District Board meeting and she thought the District was running more smoothly than it had been in the past. She said that the Board Members have asked for more involvement by the District's Policy Committee and Citizens' Advisory Board members, she attends the CAB meetings whenever possible.

B. Massie – Road right-of-way maintenance, Trees, Deer Management

Council Member Massie said that tree removal after the storm seemed to have gone well. Mayor Doak explained that trees that fall into the right of way will be cleared to the side of the road as soon as possible. This debris will be removed by the City subsequently, but the portion of the trees that fall on private property are the responsibility of the property owners.

C. Newberry – Ordinances, Septic Ordinance, and Inspections – No report.

D. Weiner – Public Safety, Police and Fire, General Finance – No report.

11. ACCOUNTS PAYABLE

Carlson moved, seconded by Newberry to approve the Accounts Payable as presented. Motion carried 5-0.

12. TREASURER'S REPORT

Massie moved, seconded by Newberry to approve the Treasurer's Report as presented. Motion carried 5-0.

13. ADJOURNMENT

The meeting adjourned by consensus at 9:16 p.m.

ATTEST:

Kathryne A. McCullum, City Clerk

James S. Doak, Mayor