

CITY OF HAM LAKE
PLANNING COMMISSION MINUTES
MONDAY, SEPTEMBER 23, 2024

The Ham Lake Planning Commission met for its regular meeting on Monday, September 23, 2024, in the Council Chambers at Ham Lake City Hall located at 15544 Central Avenue NE in Ham Lake, Minnesota.

MEMBERS PRESENT: Commissioners Brian Pogalz, David Ross, Jonathan Fisher and Erin Dixson

MEMBERS ABSENT: Commissioners Dave Ringler, Kyle Lejonvarn and Jeff Entsminger

OTHERS PRESENT: City Engineer Dave Krugler and Building and Zoning Official Mark Jones and Building and Zoning Clerk Jennifer Bohr

CALL TO ORDER: Chair Pogalz called the meeting to order at 6:00 p.m.

PLEDGE OF ALLEGIANCE:

The pledge of allegiance was recited by all in attendance.

APPROVAL OF MINUTES:

Motion by Dixson, seconded by Ross, to approve the minutes of the September 9, 2024, Planning Commission meeting as written. All present in favor, motion carried.

PUBLIC HEARING: None

NEW BUSINESS:

Jeff Stalberger, MN Developments LLC, requesting Final Plat approval of the plat of Swedish Chapel Estates located at 2506 Swedish Drive NE (47 Single Family Residential lots and 3 outlots) in Section 4

Mr. Jeff Stalberger, Mr. Jeff Stalberger, Jr. and Mr. Ryan Stalberger were present. Mr. Jeff Stalberger spoke on behalf of the project. Mr. Stalberger stated the development is currently under construction. Mr. Stalberger stated he has concerns about some requirements noted in the City Engineer's memo. Mr. Stalberger stated the City Engineer is requiring all FEMA Letters of Map Amendment (LOMA) be received before building permits can be issued for any of the lots within the plat. Mr. Stalberger asked the Commissioners to consider allowing building permits to be issued on lots that do not require FEMA LOMAs once the plat is approved as FEMA's response time to requests for LOMAs can be anywhere from a couple of weeks to a couple of months. Mr.

Stalberger asked if the Commissioners would also consider allowing him to maintain ownership of Outlot A, without having to combine it with an adjacent property, for up to nine-months as he would like to try to purchase the large parcel to the east to combine with Outlot A. Mr. Stalberger stated if he can purchase the large parcel to the east, and combine it with Outlot A, it would be good for the city as he could create access to a parcel that is currently landlocked. Mr. Stalberger stated he will combine Outlots B and C with adjacent properties once the plat has been filed. Chair Pogalz asked Engineer Krugler to comment. Engineer Krugler stated the Coon Creek Watershed District (CCWD) has approved the project. Engineer Krugler stated the DNR approved the report that found several state endangered plants and Blanding turtles in the vicinity of the proposed project site. Engineer Krugler stated the Blanding turtles can be picked up and moved if they are encountered and the plants found within the project area are not shown to be disturbed so no taking permit will be required. Engineer Krugler stated there is an inactive eagle's nest on Lot 4, Block 1; the US Fish and Wildlife Service recommends that a permit be requested if there will be any disturbance within 100-feet of the nest. Engineer Krugler stated Swedish Drive NE will be relocated to the north of the current alignment; the Swedish Drive NE roadway easement vacation public hearing will be held at the October 7th City Council meeting. Engineer Krugler stated the Lot 3, Block 3 septic area was disturbed during construction, but Tradewell Soil Testing has evaluated the site and certified that it can support two standard septic system sites. Engineer Krugler stated the recertification meets the approval of the Building Official. Engineer Krugler stated a 15-foot trail easement will be dedicated along the west side of Xylite Street NE. Engineer Krugler stated the original trail easement requirement for this plat was for a 20-foot-wide trail but that has been reduced to 15-feet after discussion with the developer and to match other developments. Engineer Krugler stated parkland dedication fees will be required for this plat with credit being given for the land dedicated for the trail easement. Engineer Krugler stated no building permits will be issued on any lots until proof that deeds for the trail easement have been recorded and copies have been provided to the City. Engineer Krugler stated 21 lots will require FEMA Letters of Map Amendment (LOMAs). Engineer Krugler stated Outlots A, B and C are to be deeded to adjacent landowners; Mr. Stalberger's request for Outlot A will need to be discussed by the Commission. Chair Pogalz asked Engineer Krugler what type of disturbance occurred in the septic area on Lot 3, Block 3. Engineer Krugler stated a utility company drove a vehicle over the fenced-off septic area. Engineer Krugler stated Mark Tradewell, from Tradewell Soil Testing, has evaluated the site and has determined the area where the vehicle drove did not compromise the proposed septic area. Chair Pogalz asked Building and Zoning Clerk Bohr to comment on how the parcels requiring FEMA LOMAs could be identified with the tools available in the Building Department. Building and Zoning Clerk Bohr stated a note could be entered into the permit application for each parcel requiring a LOMA once parcel identification numbers and addresses have been assigned to the parcels within the plat. Chair Pogalz asked Building Official Jones to comment. Building Official Jones stated a note can be put on the parcels to prevent permits from being issued on lots requiring action by the developer as mentioned by Building and Zoning Clerk Bohr, but the notification would come up when a permit is being entered into the permit application, after plan review has been completed. Building Official Jones stated various issues have arisen when that has happened in the past. Building Official Jones stated his position is that no permits be issued on any parcels until all required LOMA's, deeds and easements,

etc. have been received by the City and/or recorded with the county. Building Official Jones suggested parcels requiring FEMA LOMAs not be sold until LOMAs have been received for those parcels if the Commission did not feel all building permits should be withheld. Chair Pogalz stated he understands the concerns of Mr. Stalberger and of Building Official Jones. Mr. Stalberger stated he feels the city's requirement, or rule, to combine outlots with adjacent parcels is well intended but has flaws. Mr. Stalberger stated he feels the intent of the rule is to prevent the creation of small outlots throughout the city and should not apply to outlots that can stand alone. Mr. Stalberger continued to explain to the Commissioners why he felt they should consider allowing him to maintain ownership of Outlot A while he attempts to negotiate the purchase of an adjacent parcel. There was discussion about parcel identification number assignment and the process of combining parcels. Chair Pogalz asked if Outlot A could be separated from the plat. Engineer Krugler stated the 2506 Swedish Drive NE parcel was likely divided when Xylite Street NE was constructed. Engineer Krugler stated the County likely purchased right-of-way for Xylite Street NE and caused the division of the parcel. Engineer Krugler understands Jeff Stalberger's goal of providing a driveway through Outlot A to access the east parcel; this would not be an access for a future development due to rules related to offset intersections with the realignment of Swedish Drive NE. Engineer Krugler stated that access to the landlocked parcel to the east would be a result of the combination with Outlot A. Chair Pogalz asked Engineer Krugler to comment on challenges that could arise by allowing Mr. Stalberger to maintain ownership of Outlot A for 90 days. Engineer Krugler stated he spoke with the City Attorney to determine how this situation could be addressed. Engineer Krugler stated nothing was formally decided but there was discussion about adding a condition to the Short Form Development Agreement stating Outlot A was not a buildable lot and could not be sold independently as a buildable lot if Mr. Stalberger is allowed to maintain ownership of Outlot A for up to nine-months. Chair Pogalz asked Building Official Jones to comment. Building Official Jones stated he has concerns about access to the parcel east of proposed Outlot A being through East Bethel. Building Official Jones stated there is one other parcel in Ham Lake that is accessed via East Bethel; that parcel has two addresses; one address is for Wyoming for mail delivery and the other address is for Ham Lake for tax address. Building Official Jones stated dealing with the confusion related to postal delivery and the issues that created for the homeowners was very difficult. Building Official Jones stated a comment was made about addressing Mr. Stalberger's request for Outlot A in the covenants for the development. Building Official Jones stated the city does not enforce anything written into covenants for a development. Engineer Krugler stated a condition that Outlot A cannot be built on until it is combined with an adjacent property could be noted in the Short Form Development Agreement filed with the county. Chair Pogalz asked how access would be provided to a parcel created by combining Outlot A with the parcel to the east. Engineer Krugler stated that there appears to be sufficient room for a driveway between the property line and the wetland to access the parcel to the east. Chair Pogalz asked Engineer Krugler if his concern is how to legally address allowing Mr. Stalberger to have a nine-month grace period for maintaining ownership of Outlot A. Engineer Krugler stated that was correct, and asked what needed to be done to ensure Outlot A is a non-buildable parcel. Mr. Stalberger stated he is going to follow through with his plan and if he cannot do anything with Outlot A within nine-months, he will deed the parcel to an adjoining landowner. Commissioner Fisher stated lots requiring FEMA LOMA's should

not be sold until the LOMAs are obtained and, if Mr. Stalberger cannot obtain the parcel to the east to combine with Outlot A within nine-months, the City should have a deed allowing Outlot A to be combined with an adjacent parcel. Commissioner Dixon asked Engineer Krugler for more information on his discussion with the City Attorney. Engineer Krugler stated his discussion with the attorney was that the city could have Mr. Stalberger sign a deed that is kept at the city along with some form of security so that in nine-months after the plat was filed, Outlot A has not been combined with an adjoining parcel, the city could record the deed and lot combination form to combine Outlot A with a parcel the developer chooses to comply with the requirement. Mr. Stalberger stated he would not have an issue signing a deed for the city to have on file. Commissioner Dixon stated she feels that would be acceptable. Commissioner Dixon stated she agrees that the lots requiring FEMA LOMAs should not be sold until a FEMA LOMA is on record for the lots. Chair Pogalz asked Building Official Jones if what is proposed is acceptable. Building Official Jones stated that it was. Commissioner Ross stated he agrees with what Commissioners Fisher and Dixon proposed. **Motion by Pogalz, seconded by Fisher, to recommend Final Plat approval of the plat of Swedish Chapel Estates located at 2506 Swedish Drive NE (47 Single Family Residential lots and 3 outlots) in Section 4 contingent on the vacation of Swedish Drive NE roadway easement and subject to meeting the requirements of the City Engineer as noted in his September 19, 2024 memo with the following modifications related to FEMA LOMAs and Outlot A:**

- any lot that requires a FEMA LOMA cannot be sold until a LOMA has been obtained and is on file at the City;
- ownership of Outlot A is to be maintained by Mr. Stalberger, per an appropriate legal remedy provided to the City, to ensure Outlot A will be combined with an adjacent parcel within nine-months of the plat being recorded. Outlots B and C are to be combined with adjacent parcels upon recording of the plat;

no building permits will be issued on any lots until proof of outlot conveyance is received, no building permits are to be issued for any lots within the development until proof of recording of the deeds for the trail easement have been received by the city, meeting the requirements of the Coon Creek Watershed District and meeting all City, County and State requirements. All present in favor, motion carried. *This application will be placed on the City Council's Monday, October 7, 2024, agenda.*

COMMISSION BUSINESS:

City Council Update

Chair Pogalz stated the City Council concurred with the Planning Commission's recommendations to approve the final plat of Enchanted Estates 4th Addition and the denial of the Sketch Plan of Magnuson Estates. A planning commissioner will not be present at the October 7, 2024 City Council meeting.

ADJOURNMENT:

Motion by Dixon, seconded by Fisher, to adjourn the Planning Commission meeting at 6:49 p.m. All present in favor, motion carried.

Jennifer Bohr
Building and Zoning Clerk