

**CITY OF SHOREVIEW
MINUTES
REGULAR CITY COUNCIL MEETING
April 5, 2010**

CALL TO ORDER

Pursuant to due call and notice thereof, a regular meeting of the Shoreview City Council was called to order by Mayor Martin on April 5, 2010, at 7:00 p.m.

PLEDGE OF ALLEGIANCE

The meeting opened with the Pledge of Allegiance to the flag.

ROLL CALL

The following members were present: Mayor Martin; Councilmembers Huffman, Quigley, Wickstrom and Withhart.

APPROVAL OF AGENDA

MOTION: by Councilmember Huffman, seconded by Councilmember Wickstrom to approve the April 5, 2010 agenda as submitted.

VOTE: Ayes - 5 Nays - 0

PROCLAMATIONS AND RECOGNITIONS

Mayor Martin stated that Holy Hammers is being recognized for their partnering work with Twin Cities Habitat for Humanity. She read the following proclamation and presented them with a plaque:

WHEREAS, the Holy Hammers is an ecumenical coalition of churches that was formed in 1999 and partnered with Twin Cities Habitat for Humanity as an important partner in its affordable housing initiative; and

WHEREAS, from 1999-2009, the Holy Hammers have built 15 homes and assisted with eight other homes in the east metro area; and

WHEREAS, the Holy Hammers have provided a total of 8,745 onsite construction days, including hundreds of volunteers who have supplied food and other behind-the-scenes support; and

WHEREAS, the Holy Hammers have donated \$705,406 since 1999 to support and sponsor its home construction projects. These donated funds have been used for land acquisition, building materials, and site supervision; and

WHEREAS, the Holy Hammers are sponsoring and building the 1st Twin Cities Habitat for Humanity home in Shoreview.

NOW, THEREFORE, BE IT RESOLVED, that I, Mayor Sandra C. Martin, on behalf of the Shoreview City Council and the entire City of Shoreview, hereby present this proclamation to the Holy Hammers on this 5th day of April 2010 in recognition of their outstanding volunteerism throughout the community and the metropolitan area.

Ms. Judy Murakami introduced members of Holy Hammers in attendance with her: Jim Fruehling, Dave and Barb Yarusso, Craig Carlson-Stevermer, and Dallas Humphrey. Holy Hammers is a group of nine churches working together to be involved in affordable housing. The group shares Habitat's goal to eliminate poverty housing and provide shelter for everyone in the Twin Cities. There is a lot of misinformation about how people receive Habitat houses. Habitat works closely with them so they can learn how to be successful homeowners. Candidates for Habitat houses are required to take 10 classes on how to become homeowners. They are also required to provide 300 to 500 hours of sweat equity on their own home or another one. The homes are sold, not given, and Habitat provides mentoring for a year after move in.

Because of the economy, Holy Hammers is doing more fundraising. On May 14, 2010, there will be a benefit spaghetti dinner at Presbyterian Church of the Way. Entertainment will include the Cedar Lake 7 Gospel Choir, a silent auction, and a free-will offering. She thanked the Council and showed a picture of the house to be built at 159 Owasso Lane East. The coalition has an ecumenical service to bless the project and land. If the family is known at that time, they are introduced.

Mr. Stevermer stated that in the current economy more fundraising is necessary. He showed a sample dollhouse to the Council that he made as a fundraising effort. Plans are being made to sell the dollhouse through Ebay. He is pleased to participate in building a house in Shoreview. Construction is scheduled to begin May 3, and it will be completed by the end of July.

CITIZEN COMMENTS

Mr. Todd Sharkey stated that he contacted the Ramsey County Sheriff's Department to request their attendance. Mr. Sharkey brief discussed State Statute 484.353 – Fees to an Administrative Agency, 609.054 – False Report by a Public Official, and 609.505, Filing a False Police Report. He indicated that he intended to discuss these issues in greater detail but since the City Planner is not at the meeting, he will discuss Mr. Lang's property situation. The City's Stormwater Management Plan indicates that the pond on Mr. Lang's property is being used as a storm water detention pond. Earth Sciences Engineering Report states that a beehive structure at the north end of the pond regulates the water level and is likely used for storm water retention. This report would have been given to Rice Creek Watershed District, to the City of Shoreview and to the DNR. It was known that Mr. Lang's land was being used for storm water retention, but Mr. Lang's Certificate of Title nowhere states that there are easement rights for the City. Everyone is receiving benefit from Mr. Lang's property and he has not been compensated.

COUNCIL COMMENTS

Mayor Martin:

Spring Cleanup Day is May 1, 2010. Because of the construction at the Maintenance Center, the cleanup site will be at Ramsey County Public Works site at the intersection of Highway 96 and Hamline Avenue.

The Run and Romp event will take place on Saturday, April 24, 2010. It is a fundraiser to provide service dogs to people with disabilities and youth scholarships. It is sponsored by the Shoreview/Arden Hills Rotary Club.

Councilmember Huffman:

It is great to see that Councilmember Quigley has recovered and is back at Council meetings.

Councilmember Withhart:

The Shoreview Northern Lights Variety Band will hold its annual Spring Concert on April 17, 2010, at 7:00 p.m., at Bethel Great Hall at Bethel University.

Councilmember Wickstrom:

Noted that the band will add a pre-concert social with hors d'oeuvres and music. Tickets can be ordered on line.

The next monthly environmental speaker series will be Wednesday evening, April 21, 2010. The planned speaker is unable to come. The session will be about personal sustainability and simplifications to lessen impact on the environment and health. Everyone is encouraged to attend.

CONSENT AGENDA

Item No. 1, March 8, 2010 City Council Workshop Meeting Minutes, was pulled for separate consideration, as Councilmember Quigley was absent.

Councilmember Wickstrom noted a correction on page 5 in the second sentence of the next-to-the-last paragraph, the reference should be North Suburban Communications Commission.

MOTION: by Councilmember Huffman, seconded by Councilmember Withhart to approve item No. 1, the March 8, 2010 City Council Workshop Meeting minutes as amended.

Discussion:

Councilmember Wickstrom noted that Councilmember Quigley was not at the March 15th meetings and offered an amendment that the motion include item Nos. 1, 2 and 3. Councilmembers Huffman and Withhart accepted the amendment to include Item No. 2, March 15, 2010, City Council Meeting Minutes and Item No. 3, March 15, 2010 City Council Workshop Meeting Minutes.

VOTE: Ayes - 4 Nays - 0 Abstain - 1 (Quigley)

MOTION: by Councilmember Huffman, seconded by Councilmember Withhart to adopt Item Nos. 4 through 10 of the consent agenda of April 5, 2010 approving the necessary motions and resolutions:

- 4. Receipt of Committee/Commission Minutes
 - Planning Commission, January 26, 2010
 - Bikeways and Trails Committee, February 4, 2010
 - Economic Development Commission, February 16, 2010
 - Planning Commission, February 23, 2010
 - Bikeways and Trails Committee, March 4, 2010
 - Public Safety Committee, March 18, 2010
 - Environmental Quality Committee, March 22, 2010
- 5. Verified Claims in the Amount of \$628,451.40
- 6. Purchases
- 7. Approve Final 2009 Inter-Fund Transfers and Loans
- 8. Authorize Replacement Purchase Unit 601
- 9. Minor Subdivision - Masterpiece Homes, 4161 Rice Street
- 10. Appreciation and Acceptance of Gifts - Taste of Slice

VOTE: Ayes - 5 Nays - 0

PUBLIC HEARING

ORDER PLANS AND SPECIFICATIONS--HAWES/DEMAR NEIGHBORHOOD

Presentation by Public Works Director Mark Maloney

The Council has previously received the feasibility study for this project in February, and notices have been sent to the neighborhood. This project is located in the east central part of Shoreview between Highway 49 and Rice Street. The feasibility study included a summary of existing conditions, proposed improvements, cost estimates and recommendations. Funding sources include special assessments in accordance with state statutes.

The existing conditions are well known--a rural section of road in poor conditions with no curb and gutter. The water main consists of old brittle cast iron, and the sanitary sewer is clay pipe in relatively good condition. There is minimal storm sewer in this area. One inlet drains a portion of Hawes to a low area on private property. One inlet drains a portion of Demar to Snail Lake Regional Park. The existing street lighting is owned by Xcel and is in poor shape.

The proposed improvements include:

- Removal of the old road and install a new road section;
- Replace water main within the right-of-way and curb stops;
- Install storm sewer and infiltration system, including a limited number of boulevard rain gardens;
- Repair/replace existing sanitary sewer where necessary;
- New aggregate base course;
- New concrete curb and gutter;
- New pavement road surface;
- Replace Xcel streetlights with City streetlights.

An alternate bid for concrete is recommended because oil (used in bituminous) prices are now close to the cost of concrete. A barrier style of curb and gutter is recommended.

This project is supported by a majority of the neighborhood. The new road will be the same width as the existing road--28 feet. Pervious concrete is not recommended for the roadway because of the type of drainage issues and size of the roadway. It would not be cost-effective in this project. The cost would be approximately 25% higher. A storm water pond would require purchase of property and is not being recommended.

The estimated cost for the entire project is \$1,585,000. Approximately 10% of that cost is proposed to be paid by special assessment, which amounts to approximately \$160,000 for the new concrete curb and gutter. The average assessment per unit is \$1,724. The maximum storm sewer assessment possible is \$1,120 per unit. The maximum assessment could be \$2,844 per unit. The assessment would be paid over 10 years. In addition to assessments, the Street Renewal Fund and utility funds (surface water, water, sewer, and street lighting) would finance the project.

The project schedule is anticipated as follows:

Approve plans and specifications	April 19, 2010
Bid Opening	May 11, 2010
Council Award Contract	May 17, 2010
Construction Starts	June 2010
Construction Complete	October 2010
Assessment Hearing	October 2011

City Attorney stated that he examined the affidavits, which indicate the public hearing is in order at this time.

Mayor Martin opened the public hearing at 7:38 p.m.

Ms. Patty Hoff, 4120 Rustic Place, asked if the assessment is for all homeowners. She asked if anyone is exempt because they have lived in their home for a number of years and previously paid for improvements.

Geri and John Olson, 4147 Rustic Place, expressed concerns about street lighting on their front lawn in the middle of Rustic Place. They and their neighbors feel street lighting is unnecessary and will not improve the quality of life. Three of the four neighbors in the middle of the block who would be most impacted do not want these lights. It is dark, but they enjoy stargazing. Streetlights do not deter crime. There have been several instances where street lighting has not helped. The residents who live at the intersection of Rustic Place and Demar have streetlights in their yard and have been vandalized a number of times. This is not something they want to be forced to have.

Mr. Bob Prust, 4162 Rustic Place, stated that he was told by engineers that Hawes, the longest street in this project, is proposed to have five street lights. Demar is the shortest street and is proposed to have four streetlights. Rustic Place is about 1/6 of a mile and the proposal is to have streetlights at both ends with one in the middle. It is very dark and he would like to see two streetlights put in on Rustic Place. His concern is the number of older people and their safety. The neighborhood could change in the next few years with a group home, rental properties and a couple of properties are for sale.

Ms. Monica Keyport, 163 Demar, asked if residents will have access to their driveways during construction.

Mr. Ryan Olson, 4141 Rustic Place, also spoke against streetlights. He does not want the proposed light in front of his house. It is not proven that lights prevent crime. There are six 150-watt floodlights behind his house.

Mr. Kevin Weston, 217 Hawes Avenue, stated that he completely approves and supports the project as proposed.

MOTION: by Councilmember Quigley, seconded by Councilmember Huffman to close the public hearing at 7:50 p.m.

VOTE: Ayes – 5 Nays – 0

In response to residents' questions, Mr. Maloney stated that there is no precedent for exempting assessments based on longevity. It is the City's policy to assess one time for this type of infrastructure.

Mayor Martin added that no property is assessed a second time for a street that was paid for on a previous project. Mr. Schwerm noted that certain assessment deferrals are available, although interest continues to accrue during the deferment. Residents have already paid for the water main and are not being assessed for water service. If the total assessment is paid within 30 days, there is no interest.

Councilmember Withhart emphasized that residents are paying for only 10% of the cost. The rest is being paid by the Street Renewal Fund and utility funds. Some cities assess the entire cost back to the neighborhood. Shoreview keeps its fund balances in good shape and does not have to do that.

Councilmember Wickstrom added that some cities charge for the project before the project is done. Shoreview waits until one year after the project is complete.

Mayor Martin stated that the assessment hearing one year after the end of the project is when residents are informed of the specific dollar amount to be assessed.

City Attorney Filla stated that the City has to disclose pending assessments, which he believes occur when the City awards the contract for the project.

Mr. Maloney stated that all residents would have access to their properties throughout the project. The only time there may be restrictions would be a day or two when concrete is poured for the curb and gutter. Construction contracts are structured and sequenced so that all services continue to be carried out in the neighborhood, such as trash pickup. There are regular construction newsletters to update residents on construction schedules. If there is a question, residents are urged to talk to one of the construction managers. Mr. Schwerm noted that access might also be limited when excavation is done for utilities.

Mr. Maloney stated that this is an older neighborhood with electrical lines that come from back yards. The proposal is to replace a large part of the existing lighting with buried cable for traffic safety. Lights tend to be near intersections to improve traffic safety. When a street is being reconstructed, it is the City's opportunity to solve as many issues as possible. The lights will be focused downward. The lights proposed to be installed are similar to those on Harriet, Chandler and Cardigan Road, if residents want to see what they look like. Streetlights will be powered from a buried system rather than the backyard feeds that now occur.

Mayor Martin stated that it is difficult when neighbors do not agree. The City tries to act on policy and not individual opinions. The Council is not approving specific light locations but will leave the matter to staff to resolve. When residents see the light fixtures, she believes residents will be more accepting.

MOTION: by Councilmember Wickstrom, seconded by Councilmember Withhart to adopt Resolution No. 10-26 directing the preparation of plans and specifications

and ordering the improvements for the Hawes, Demar, Rustic Place
Neighborhood Road Reconstruction, City Project 10-10.

ROLL CALL: Ayes: Huffman, Quigley, Wickstrom Withhart, Martin
Nays: None

GENERAL BUSINESS

APPEAL OF VARIANCE APPROVAL FOR 400 HORSESHOE DRIVE - RICHARD AND DEIRDRE HAGSTROM, 376 OWASSO BLVD.

Mayor Martin stated that the public hearing was held on this matter by the Planning Commission, which approved the variance. That decision is final, unless there is an appeal. There is an appeal, which the Council will consider.

Presentation by Senior Planner Rob Warwick

The proposal is to tear down the existing house and rebuild a new house on a substandard lake lot. Two variances were approved with the application. The first is to increase the front setback from 55.75 feet to 119 feet. The second is to reduce the rear setback from the 30-foot minimum to 12 feet for living space and 7 feet for the attached garage. The appellant states that the Planning Commission erred, as the applicant did not substantially show undue hardship. Also, the approval is not in keeping with the spirit and intent of the ordinance.

The property is located in the R-1 Residential District and in a Shoreland District. The new home proposed is two stories with a 3-car garage with a 75-foot front setback. The foundation area of the new house and garage is 2,975 square feet. The existing house to be removed has two stories. Also to be removed is a shed of 855 square feet, a detached garage and driveway. The lot is L-shaped with an area of 27,593 square feet. The width at the Ordinary High Water (OHW) mark is 65 feet, less than 100 feet, which makes it a substandard riparian lot.

Due to the L shaped lot configuration, the front lot line is the west line and the rear lot line is the east lot line. The setbacks of the properties at 406 Horseshoe Drive and 398 Horseshoe Drive are used to calculate the setbacks for the front and OHW setbacks of the subject property plus or minus 10 feet. The minimum OHW setback is 57.5 feet; the maximum is 77.5 feet. The proposed OHW setback is 75.5 feet, which complies with the ordinance. The maximum front setback is calculated to be 55 feet. The Planning Commission granted a variance for a setback of 119 feet. Rear lot lines are not calculated but required to be 30 feet. The Planning Commission granted two variances, one for the house to be at a 12-foot setback and the garage to be at a 7-foot setback.

The proposed project is in compliance with the development standards. The Planning Commission discussed a number of points at their meeting. The height is not a uniform 35 feet. Drainage is controlled with swales and infiltration areas. The Planning Commission adopted

Resolution 10-18 approving the variances based on the hardship that the L-shape configuration would not allow a new house to conform to both the maximum front and OHW setbacks, which is not a reasonable use. Further, there are unique circumstances with the east/rear lot line functioning as a side lot line from the adjacent property. Lots in the neighborhood are of 50 to 75-foot widths. The proposed house location conforms to the OHW setback and follows the pattern for lakeshore lots in the neighborhood and does not change the character of the neighborhood.

There is approximately 11,400 square feet of buildable area. In order to construct a house without a variance, the house would have to conform to both the required front setback and the OHW setback. The house would be L-shaped with a minimum length of 140 feet. The Planning Commission found that undue hardship is present.

Councilmember Huffman asked if the City has an obligation to the historical value of the existing house on the site. Mr. Warwick stated that the City does not have any preservation ordinances. Therefore, staff does not believe there is any reason to deny the application on that basis.

Mayor Martin noted the memo from the Assistant City Engineer regarding grading, which states the grading will not impact any adjacent properties.

Presentation by Appellant Richard Hagstrom

Section 203.070 (C) (1) of the City Code addresses the criteria for granting a variance. The north segment of this property is over 15,000 square feet. The south segment over 11,000 square feet. Referring to his diagram, he showed the buildable area in the north segment. The existing three-car garage was built with frost footings. Its alignment meets the front setback requirement. With frost footings, it is designed to be attached to a home. The rear lot line is the rear lot line from the lake extending north across the subject property and continues as a rear lot line for the properties north of the subject property. It seems that when talking about the northern portion of the subject property, the rear lot line is treated as a rear lot line in terms of setback. However, for the southern portion, it becomes a side lot line. That is an arbitrary position. This rear lot line has been a rear lot line for a long time and continues north of the subject property as a rear lot line for properties to the north.

The front setback is a range of 35 to 55 feet. The 30 feet for a rear setback and front setback would take up the entire width of the south portion of the property making it non-buildable. There are 7,150 square feet of buildable area in the north section. The layout of the proposed home has the rear of the house facing the front of his house. The Chaudhary house, immediately adjacent to the west, and his own house, immediately adjacent to the east, both are oriented east to west. The proposed house extends from the middle of his living room to his detached garage. In looking at the neighborhood all of the houses along the lake are uniform in alignment. The proposed home to be built in the southern portion of the property is contrary in alignment to his and Mr. Chaudhary's homes. Further, if built in the northern portion of buildable area, the home

would align with the rear setback and with the other homes along Horseshoe Drive. Staff reported that the primary goal of the code is street orientation. On this property, a new home cannot comply with the street and OHW setbacks. Since the street setback is primary, that is the setback that should be complied with, rather than the OHW. Subsection (1)A of Section 203.070 states, “That the property in question cannot be put to a reasonable use under conditions allowed by the development ordinance.” The existing house can be grandfathered in. The property can be put to reasonable use. If built in the northern buildable area, only a variance from the OHW would be needed.

The second requirement, Subsection (1)(B) states, “That the hardship is due to circumstances unique to the property and was not created by the landowner. Historically, this parcel included the Chaudhary property at 406 East Horseshoe Drive. Quite a number of years ago, the lot was split resulting in 406 with a width of 85 feet of lakeshore and 400 with a width of 65 feet of lakeshore. The lot split by a prior owner created the problem. The existing owner stated that he was aware of the setback problems when he bought it out of foreclosure on a short sale. Clearly, if they wanted a house near the lake, they could have bought a standard lot or an existing house near the lake and rebuilt on the same footprint.

The third part of this section of the ordinance states, “that the variance will not alter the essential character of existing neighborhoods.” The 35-foot tall and 109-foot long house structure will create a “wall” along his entire front yard. The wall effect will impact the Chaudhary property as well. The variance ordinance also states that, “A variance may be granted only... (b) when granting the variance would be in keeping with the spirit and intent of the Development Ordinance.” Section 209.080(B) suggests that with regard to structure placement, structures are to be placed to maintain property value, to maintain historic sites, to minimize impairment of views and to the extent possible maintain shoreland. This proposal violates each of these requirements and is contrary to the spirit and intent of the Development Code. The south end of the property is very soggy after a good rain. With impervious surface, there will be a significant amount of water toward the lake and seeping into that soil.

This parcel could be viewed as two lots. Everything is proposed to be built in the south portion of the parcel, which is 11,000 square feet. The ordinance requires 15,000 square feet, which exists in the northern portion. The proposal loads the south portion and is over 30% impervious surface limit and over the 18% foundation area limit.

The numbers used for the OHW setback for his property and Mr. Chaudhary’s property are in error. He enclosed copies of Mr. Chaudhary’s survey for an addition he did a few years ago and his own survey from the time he did his garage addition. His OHW setback is 62 feet. Mr. Chaudhary’s is 93 feet, not the lower number used in the staff report. That does affect the OHW setback.

He does not want to prohibit development. There is plenty of buildable area. Mr. Chaudhary has joined in their appeal to ask the Council to reverse the Planning Commission resolution so the home can be built with, at most, one variance instead of two.

Mr. Mark Christopherson, Applicant, stated that their goal is to build a home that adds to the value and family home rather than a rental property which is there now. They want it to fit in with the neighborhood and have chosen an appealing roof structure and house design. He noted that the rear lot line of Mr. Chaudhary's property acts as a side lot line for his property. He obtained a variance to treat that property line as a side lot line. It is the same situation as on his lot. When the neighborhood was platted, the rear, side and front lot lines were not defined in the City's ordinance. His front door is toward the north portion of his property. There are many lake lots in the City that have the side lot lines abutting rear lot lines. The house is similar in size to other houses in the neighborhood, even somewhat shorter in length and consistent with the neighborhood design.

They have worked to divide roof lines to help Mr. Hagstrom's light. Only the mid section is two stories and 29.5 feet from his lot. That part of the house is 55 feet wide. There is a breezeway to the garage which is one story, is 16 feet in height and extends for 12 feet. The garage is one story, extends 42 feet and is 18 feet in height. Putting the house near the lake is a reasonable use. State statutes state that undue hardship is when a property owner would like to use his property in a reasonable use but is prohibited by unique circumstances. It is a reasonable use to put the house by the lake, similar to the other homes located near the lake.

Mayor Martin opened the discussion to public comments. There were none.

Planning Commission Chair Proud stated that he was not present at the meeting when this application was approved. The Planning Commission found that the proposed use is reasonable and consistent with the character of the neighborhood. The Commission took action consistent with the Development Ordinance.

Vice Chair Wenner stated that he chaired the meeting the night of the public hearing. Hardship is present with the L-shaped lot, which the owner did not create. Staff did an excellent job presenting how the proposal brings compliance and benefit to the neighborhood. This neighborhood is eclectic with varied house designs, and the proposal does not adversely impact the neighborhood.

Councilmember Withhart stated the Planning Commission made an excellent decision on a difficult proposal. His question relates to the two surveys presented by Mr. Hagstrom which are different from the OHW setbacks presented by staff and would impact the OHW setback for the subject property. That question needs to be clarified. Mr. Warwick stated he believes the discrepancy lies in that the City Code states that the OHW is measured from the principal structure and any attached structures. The minimum setback is measured to the deck of each of the adjacent homes. The survey was prepared by E.G. Rud. He believes the difference is the measurement of the decks.

Councilmember Huffman stated this does not change the character of the neighborhood. It would be difficult to build a house on this parcel without a variance. He concurs with the Planning Commission decision.

Councilmember Wickstrom stated that she has mixed feelings. It is reasonable to build closer to the lake. However, it is out of character with the neighborhood. Most of the houses have a separation between the house and garage for wind, light and air to move through. She does not have a problem with building near the lake, but not with the proposed configuration. The garage should be split off from the house. Otherwise the massive structure does change the character of the neighborhood. This problem was caused when the property was subdivided 45 years ago. There are few houses in the neighborhood that do not have a separation between the house and garage. She would also like to see the side setbacks more even. This seems like a reasonable use, but there are more reasonable uses with another design.

Councilmember Quigley stated that it is rare to see this degree of variances on a lot that is two-thirds of an acre. An effort is being made to allow variances on this large lot to force the house close to the lake. Looking at the lot as a whole with 27,000 square feet, there should not be a need for any variances. The circumstances of a flagpole lot was known when it was purchased. The proposed house is vertical to the other horizontal houses around that part of the lake. It affects the sunlight of the adjacent properties, especially the property to the east which becomes an atrium. These are excessive variances being forced on the 65-foot wide portion of the property. The drainage site to the lake is already a moist site. A rain garden was mentioned, but if the southern end of the lot is soggy, that will not work. There will not be much room for a swale on the sides of the house. Most of the public comments have been negative and not supportive, which speaks to the character of the neighborhood.

Mayor Martin stated that what influences her the most is the orientation of the house, whether it should be aligned with the north/south section of Horseshoe Drive or the east/west properties along the lake. If the house is required to align with the north/south properties, that would mean that the property at 406 should have used the platted street for its front setback and turned. There are many inconsistencies. That is the nature of lakeshore property that was intended to be used as cottages for St. Paul people on weekends. This lot is designed to be a riparian lot. That is why it has an odd configuration to be used as a riparian lot. There are instances all over the community configured like this one where the front is on a public street, but the house is built by the lake. The precedent is that rules can be changed in order to allow houses to be built by lakeshore. While she understands the impact to the Hagstrom property, she believes City Attorney Filla stated that there are at least three standards that need to be addressed. The burden is on the applicant to show reasonable use of the property; the variances are attributable to the circumstances.

He recommended that the registered land survey 194, approved in 1962 by the City, which creates the parcels on East Horseshoe Drive and the subject property of this application be made part of the public record. The survey of the Hagstrom neighborhood was approved in 1954 by Mounds View Township. Those two registered land surveys have been there a long time. Third,

the variances cannot alter the character of the neighborhood. The neighborhood must be defined. As discussed at this meeting, it is being defined as a peninsula with the Hagstrom registered survey, the City survey and the Chapman Addition. Lots in Chapman Addition have been referred to, which is larger than the surveyed area. If that is correct, it should be made clear. What neighborhood would be changed with the proposed variances? The motion sheet includes findings of fact, but the conclusions need to be tied to the findings of fact.

Councilmember Quigley stated that part of the neighborhood is the well established rear lot line from Lake Owasso to Owasso Boulevard. Mr. Filla stated that when the rear lot line was established, the L-shaped lot was created.

Mayor Martin stated that construction of a home on this property with homes on the lake, not the ones on Horseshoe Drive going north and south.

Councilmember Huffman stated that he sees the neighborhood as the peninsula--lake lots that are long and narrow with long, narrow homes that fit in.

Councilmember Quigley stated that they were inappropriately platted to try to be riparian with narrow lake front footage, which has caused all these problems.

Councilmember Withhart agreed with Mayor Martin and stated that the rear lot line for homes to the north makes sense because their front yard is clearly to the street. This one could have a front either way. The house on 406 was allowed to use the rear lot line as a side property line. Approval would be treating the applicant the same. He agreed that such a large lot should not need a variance, but this is an older lake neighborhood where the lots are oddly configured.

City Attorney Filla stated that there should not be concern about prior decisions. This application should stand on its own and not be bound by various decisions on other lots. The neighborhood needs to be defined. It seems that the Council is referring to Registered Land Survey 53 and 194 and the Chapman Addition, i.e., the whole peninsula. In that neighborhood, this lot compares as a riparian lot

Councilmember Wickstrom stated that the north portion of the property aligns with the houses on Horseshoe Drive. The south portion, the riparian part, aligns with the lake homes. Most have a garage to the north and the house closer to the lake. She would like to see the distance between the house and garage, which would be similar to most of the homes along the lake.

Councilmember Huffman noted that the Hagstrom property has both an attached and detached garage. He does not believe separating the garage would add any value to the neighborhood.

Councilmember Wickstrom stated that the garage and house runs the entire length of the Hagstrom front yard. There should be at least 20 feet between the house and garage or some configuration that would break up the wall effect. The solid wall will affect breezes and light.

There must be other ways to place the garage and center the house on the property to allow wind circulation.

Mayor Martin stated that to break up the long wall could be with windows or decoration. However, the Council needs to address the application as submitted and not redesign it. The ordinance protects lake views from the lakeside, but there is no accommodation for the street side view. To require this house to be moved north, his front yard would be the garage and house at 376 and a house on the other side and not a good view of the lake.

MOTION: by Councilmember Withhart, seconded by Councilmember Huffman to uphold the Planning Commission's decision granting variances to increase the front setback and to reduce the rear setback for a new house and attached garage at 400 Horseshoe Drive, based on the following findings:

1. The Planning Commission, acts as the Board of Appeals and Adjustment, and pursuant to due notice, held a hearing to consider the Residential Design Review and Variance applications submitted by Mark Christopherson for the subject property.
2. The Planning Commission considered the information submitted by the applicant, the report by City Staff, written comments submitted by residents, and testimony provided at the hearing.
3. The Planning Commission determined that the proposed house complied with adopted standards for residential construction on a substandard riparian lot located in the R-1 District, except for the front and rear setbacks.
4. The Planning Commission approved the requests to increase the front setback and reduce the rear setback based on the following findings:
 - The proposed house and attached garage complies with the adopted design standards for substandard riparian lots, with the approved variances for front and rear setback.
 - The proposed construction of a new house and attached garage oriented to the lakeshore represents a reasonable use of residential property in this lakeshore neighborhood.
 - Hardship exists due to the L-shaped configuration of the lot and that a house conforming to both the maximum front and OHW setbacks is not reasonable. The east/rear lot line functions as a side lot line for the adjacent property. These circumstances are unique to the property.
 - The proposed setback meets the spirit and intent of the ordinance and will not alter the character of the neighborhood, since other nearby dwellings on lakeshore lots are oriented towards Lake Owasso.

Councilmember Withhart added the following to the motion:

- This development would be in character with the neighborhood because this lot is a riparian lot, was always intended to be a riparian lot which would mean that the home would be positioned to align with the other lake homes on this peninsula. The character of the neighborhood is upheld with the long narrow home on a narrow lot. The footprint of the home proposed is very compatible with other homes in the neighborhood with a few larger and smaller homes.

Discussion:

Councilmember Quigley asked for clarification of the lot being riparian. Councilmember Withhart stated that when the property was subdivided in 1962, it was always intended to be a riparian lot and that is how it should be developed. That makes this proposal a reasonable use to a riparian lot.

Councilmember Quigley questioned what that means because of the variances that are critical to the lot being developed as a riparian lot.

Mayor Martin stated that the OHW variance would be a huge variance to align the house with properties to the north on Horseshoe Drive.

Councilmember Withhart stated that the intent of his motion is for this lot to be developed as a riparian lot which would be in character with all of the other riparian lots in this neighborhood. That was always the intent of this lot. When it was subdivided, it was always meant to be a riparian lot. Mr. Hagstrom's side yard also becomes a side lot line for this property, and a variance is needed. The riparian setback from the OHW would be a huge gap, and he does not believe it was ever the intent for the lot to be used in that fashion.

City Filla stated that if the motion passes, reasons are given for the conclusions. That has been done.

Mayor Martin stated that this is a unique lot. It is the only L-shaped lot in the neighborhood, which adds to its unique circumstances.

ROLL CALL: Ayes: Huffman, Withhart, Martin
 Nays: Quigley, Wickstrom

The City Attorney itemized the items that were reviewed by the City Council prior to making their decision.

Councilmember Withhart requested staff to be sure the City takes an active role to document the historic value of this site in the record.

TEXT AMENDMENT - CODE SECTION 709, PEDDLERS

Presentation by City Manager Terry Schwerm

The City was requested to amend its times that peddlers can work in the City. The current ordinance allows 7:00 a.m. to 9:00 p.m. The two cities adjacent to Shoreview, Vadnais Heights and Arden Hills, allow the hours of 9:00 a.m. to 7:00 p.m. Staff believes the hours of 9:00 a.m. to 7:00 p.m. set a better standard. Also, these two cities, along with Shoreview, contract with the Ramsey County Sheriff's Department. Shoreview's amendment would make the requirement consistent for enforcement.

MOTION: by Councilmember Withhart, seconded by Councilmember Huffman to approve Ordinance No. 865 amending Section 709, Peddlers, changing the hours allowed for peddling from 7:00 a.m. - 9:00 p.m. to 9:00 a.m. - 7:00 p.m.

Councilmember Wickstrom asked if this ordinance impacts candidates for office. She would suggest 9:00 a.m. to 8:00 p.m. Mr. Schwerm stated that they are exempt.

Mayor Martin asked if non-profits, such as Boy Scouts and other groups could be exempt. Mr. Schwerm stated that they would not be exempt, but staff does not receive complaints about local school and scout groups soliciting funds or selling products.

ROLL CALL: Ayes: Wickstrom, Withhart, Huffman, Quigley, Martin
Nays: None

ADJOURNMENT

MOTION: by Councilmember Huffman, seconded by Councilmember Withhart to adjourn the meeting at 10:00 p.m.

ROLL CALL: Ayes - 5 Nays - 0

Mayor Martin declared the meeting adjourned.

THESE MINUTES APPROVED BY COUNCIL ON THE 19th DAY OF APRIL 2010.

Terry C. Schwerm
City Manager