

City of Marine on St. Croix  
Planning Commission Meeting  
Tuesday, January 29, 2008

Commission Members Present: Chairman Willenbring, Brenner, Goldner, Fernstrum, Zajac, Krahn, Dochniak, Warren (7:40pm)

Citizens Present: Win Miller, Tom Wendt, Juli Hagstrom, Glen Mills, David Denn

**Agenda:**

- 1) Call to Order
- 2) Harold Teasdale Jackson Meadow Request
- 3) Public Hearing Win Miller – Subdivision for Jackie Miller’s Property
- 3) Approval of November 27, 2008 Minutes
- 4) Old/New Business
- 5) Adjournment

Meeting was called to order by Chairman Willenbring at 7:35 pm.

Harold Teasdale would like to modify some lots at Jackson Meadow.

Goldner recused him self due to his involvement.

Originally the plat was set up for 64 lots and Mr. Teasdale would like reduce to 60 lots. Almost all the lots are in the second phase of the development. The first proposal in the grid area is to divide and recombine 3 lots to create 2 larger lots, and combine 2 smaller lots to create 1 larger lot. The second proposal is in the outer ring, and would be dividing 1 lot in half and combining those halves with the adjacent lots.

Willenbring will review the Jackson Meadow development agreement and City ordinances to see what the process is for amending a PUD.

**Public Hearing – Miller Subdivision**

Chairman Willenbring called the Public Hearing order at 7:45pm.

Win Miller, who is representing Jacquelyn Miller, was in attendance to discuss the proposed subdivision for the property at 550 Chestnut Street. This proposed subdivision has been discussed before the Planning Commission in the past. During that time the property was found to be part Torrens and part Abstract which made it impossible to subdivide at that time. Win has since been to court for Quiet Title action to create a single Torrens property certificate. Win has received preliminary approval and is waiting for the final court order approval, which he expects this week. He would like to move forward with the subdivision; however the approval of the application would be contingent on receiving final approval from the county. The proposal is to divide the property into three separate parcels. Jackie’s current home is located on parcel B, and she is proposing to create parcels A and C and might include a public trail easement. Currently

Jackie uses Chestnut St. off of TH 95 to 6<sup>th</sup> Street as her access drive, and it's proposed that parcel A also have access off of Sixth Street. Parcel C would be accessed from the highway although MNDOT has sent a letter to the City which states that they would prefer that the property be accessed through an easement from the existing driveway from the neighbors to the North. Win is suggesting that 6<sup>th</sup> Street can support access from both parcels A and B. Soil borings have been completed for parcel A and C showing they can support septic systems. Win also referenced the subdivision ordinance sections 703 and 703.1 (street plans) suggesting the provisions for no dead end streets and a cul-de-sac may not be applicable.

Ms. Hagstrom stated that they were the owners of property to the North and they were interested in having the option to subdivide in the future. They would like to be able to access any future parcel by Sixth Street which would require the street to be extended. Any street extension beyond the current plat would require a portion of Jackie's property to be condemned by the City. Looking at the option to access the property from the compost site would be too steep. Access from the East was also not a good option.

Discussion was held regarding the proposed trail easement, which intersect the NW corner of 6<sup>th</sup> Street by 28 ft length and then parallel Jackie's driveway. This route is proposed so that the trail does not follow the curve of her driveway, to prevent any collisions on her driveway that could cause injury to pedestrians because of the curve. There have been issues with trespassing in the past even with the signs that have been posted.

Mr. Miller responded to the Wendts regarding access or easement that would allow access to the Wendt's property in the future if they were to subdivide.

Warren and Brenner summarized their suggested findings in great detail. The Planning Commission reviewed, modified or deleted each finding. The approved findings and conditions of the Jackie Miller subdivision will follow as part of the motion.

Warren ran down the list of findings. (See attachment for complete findings)

- #1 No concerns from Planning Commission
- #2 No concerns from Planning Commission
- #3 No concerns from Planning Commission
- #4 Review of survey shows no wetlands, water courses, slopes exceeding 12% or other critical environmental areas, historic sites, or previous easements on the new parcels A and C.
- #5 No concerns from Planning Commission
- #6 Review of lot sizes for Lot A, B and C. showed that lots A and B exceed the 30,000 sq ft lot size. Lot C was questioned, as the plat showed the total sq footage at 30,069 sq ft. However Win clarified this by stating that this area does not include the area dedicated as a

highway easement and therefore meets the 30,000 sq ft requirement (Landmark Surveying Co email). Therefore, a variance for lot area is not needed.

- #7 Reviewed lots A and C for lot width and depth requirements. Lot B is unlike the generally rectangular lot shapes contemplated by ordinance, making the evaluation of lot width subject to interpretations which do not comply with lot width requirements of Zoning Ordinance ZO 506.6 (1). Defining the lot width for this specific lot to be the width at the building line meets an intent similar to the ordinance and provides a lot width exceeding the 100' width prescribed in ZO 506.6 (1). Therefore a variance will be required.
- #8 No concerns from Planning Commission
- #9 Reviewed the proposed access to Lots A and B via Sixth Street, a right of way defined by the 1856 Marine plat and designed per the requirements of an access drive (ZO406.2 (3)). Lots A and B are proposed to have 28 ft and 25 ft frontage on Sixth St., limited by the boundaries of adjoining properties. These frontages are less than the 30 ft prescribed by SD 712(6). No other accesses from public rights of way exist to these lots. Variances will be required.
- #10 No concerns from Planning Commission
- #11 No concerns from Planning Commission
- #12 Regarding the North extremity of Sixth St., as defined by the plat, a dead end forms at the parcel to be subdivided. Subdivision Ordinance 704 requires a cul-de-sac at a dead end. With detailed conversation, examination of the property boundaries, and input from the Public Safety Director the need for the cul-de-sac can be served with appropriate locations of passing lanes and turnarounds placed within each newly developed lot. Therefore a variance is required.
- #13 This northernmost block of Sixth Street services one existing home on proposed Lot B, with the potential servicing of one home on Lot A. Mr. Wendt and Ms. Hagstrom requested that the Miller subdivision provide an access for the potential subdivision of their property. Thus, this block of Sixth Street may serve 3 houses.
- #14 Warren note Public Safety Directory Chief Denn comments about inadequacy of streets leading to the Sixth Street access to Lots A and B, using some combination of Fifth, Sixth and Chestnut Streets. Subdivision 502 (10) (f) requires denial of subdivision if streets are found to be inadequate. Discussion resulted in a recommendation for providing upgrades for these streets to the City Council.
- #15 No concerns from Planning Commission
- #16 The SD 703 requires provisions for access to properties that may be subdivided beyond the current proposed subdivision. These provisions generally require that access be provided to

potentially developable parcels beyond the present subdivision. Ms. Hagstrom and Mr. Wendt indicated they are interested in subdivision of one lot at the west end of their parcel. Ms. Hagstrom questioned whether the SD 703 street plan required extending Sixth Street. Brenner explained that SD 703 doesn't mean a street must be there, but that provisions be there to accommodate access in the future. Win believes this section of the subdivision is about new proposed streets where you are setting up blocks. Brenner believes the intent of 703 is to not land lock an adjacent property. For the purposes of servicing the one lot a narrow (25') extension of Sixth St. or a shared driveway generally coincident with and extending the existing driveway on Lot B were found to be adequate solutions. The extension would be limited to 25' in width because the adjacent Jordon parcel wraps around the end of Sixth St. After a long discussion the Planning Commission elected to recommend access via a shared driveway.

#17 Lot C is proposed to be accessed from TH 95. Permission for such access from MNDOT is not in hand but has been requested. MNDOT has denied the access from the adjacent property to the north using a roadway parallel to TH95, but suggested other options. The commission suggests a condition requiring verification of access to lot C pursuant to easement with construction and maintenance agreements from property to the north and eventually to Highway 95.

#18 Planning Commission requested clearance along the trail where there is a clump of trees that occupy the proposed easement.

#19 Discussion was held regarding where the proposed subdivision would be considered a major subdivision or a minor subdivision. Findings 7, 9, and 12 indicate needed variances. The Planning Commission found that it could not be handled as a minor subdivision. A minor subdivision allows some leniencies on the data requests as noted in finding number 2.

#20 No concerns from Planning Commission

#21 No concerns from Planning Commission

Warren explained that the Planning Commission should consider two recommendations. The first is to accept or deny a recommendation to go ahead with the subdivision. Warren stated that there are variances included and they are really prerequisites for approving the subdivision. The second recommendation is to accept or reject the 7 conditions to be placed on any acceptance of the subdivision. Those plus the CUP for an access drive would be wrapped together to form a recommendation package to the Council.

Krahn questioned the access to Parcel C discussed in finding # 17. He referenced the Highway 95 letter regarding the proposed parcel C access. There are concerns that Parcel C will require an additional access off of TH 95. This could put additional pressure on the city to close access to TH 95 off of Chestnut.

Zajac recommended that the City take a step back and allow the property owners the opportunity to try come to an agreement to access each others' properties to the north and west.

Willenbring also added that an additional driveway access on to Hwy 95 is not in accordance with the City's Comprehensive Plan.

Win questioned if the driveway access could be made an additional condition rather than delaying action.

Conditions:

1. The granting of a Conditional Use Permit for an access drive on the right of way Sixth St. North of Chestnut St.
2. Approval of the abstract or other descriptions of ownership by the City Attorney.
3. Approval of the design of two passing lanes, one on Sixth St. and one on Lot B by the City's Public Safety Director and City Engineer.
4. Verification of access to lot C pursuant to easement with construction and maintenance agreements, from property to the north and eventually to TH 95,
5. Attachment of a requirement to the City files on Lots A and C that provisions be made before or at the time a building permit is considered for: street addresses, design for handling of storm water and other drainage per ZO 405, noting that most potential building site options are below street level, a plan for identifying and maintain significant vegetation and, approval of the appropriate turn around on each developed parcel approved by Public Safety Director.
6. Formalized agreement between the City and the applicant concerning the location and use of a trail easement.
7. Verification of access between the North end of Sixth St. and the South boundary of the property to the North via an easement and appropriate agreement covering construction and maintenance.

*Goldner moved Zajac seconded to recommend the proposed subdivision subject to the conditions outlined in conditions 1 thru 7. Motion passed unanimously.*

The Marine Planning Commission recommends the granting of a subdivision per application number 012908-01 of Jacquelyn Miller dated January 10, 2008, comprising land generally north of Blocks 37 and 38 with the current address of 550 Chestnut St. and described by survey "Proposed Subdivision" by Landmark Survey dated January 4, 2008.

Findings:

1. The intended use of the property is single family residential. This use is in accord with the City's Comprehensive Plan and the zoning of the parcel, Single Family Urban (SFU).
2. The Planning Commission received for its evaluation the data required by SD Ordinance 601 with the following exceptions:
  - Name of subdivision

- Street layout
- Lot numbers
- Setback lines
- Provisions for drainage
- Soil erosion and sediment control plan
- Water feasibility certificate
- Homeowners' association data
- Abstract
- Vegetation protection plan
- Occasions of power lines.

The Planning Commission considers the listed exceptions unneeded or irrelevant to considering this subdivision, or more properly handled when a building permit is considered.

3. The Planning Commission received a preliminary copy of a survey dated October 30, 2007, supported by an Interlocutory Order Determining Boundaries dated August 20, 2007.
4. The survey shows no wetlands, watercourses, a slope exceeding 12% or other critical environmental areas, historic sites, or previous easements on parcels A&C.
5. The size and shape of the total parcel pre-dates the present owner.
6. The desired subdivision comprises three lots: A, 80,700; B, 73,500; and C, 30,000 square feet. Areas of Lots A and B exceed the 30,000 square foot lot size requirements of the SFU District. The area of Lot C as proposed appears to depend in part on use of an area of about 3000 square feet within a highway right of way easement. The area of Lot C without the easement area is 30,069 sq ft. No variance is required.
7. Lots A and C comply with lot width and depth requirements. The shape of the space between street and house of Lot B is unlike the generally rectangular lot shapes contemplated by ordinance, making the evaluation of lot width subject to interpretations, which do not comply with lot width requirements of Ordinance. Defining lot width for this specific lot to be the width at the building line meets an intent similar to the ordinance and provides a lot width exceeding the 100' width prescribed in ZO 506.6 (1). Therefore a variance is required.
8. Lot B is presently occupied by a home and accessory buildings. Its use is and has been residential for over 50 years, before the tenure of the present owner.
9. Access to Lots A and B is proposed via Sixth St., a right of way defined by the 1856 Marine plat and designed per the requirements of an access drive (ZO 406.2 (3)). Lots A and B are proposed to have 28 ft and 25 ft frontage on Sixth St., limited by the boundaries of adjoining properties. These frontages are less than the 30 ft prescribed by SD 712 (6). No other access from public rights of way exists to these lots. Therefore variances are required.
10. The street frontage of 28' for Lot A (and also 25' for Lot B) is greater than contemplated in the Zoning Ordinance for the width of a driveway plus setbacks, is found to provide access

comparable to neighborhood lots, and is found to be adequate when considered with the additional width of the lot.

11. The street frontage of 25' for Lot B pre-existed the present owner and services an already occupied lot.
12. The north extremity (termination) of Sixth St., as defined by the plat, forms a dead end at the parcel to be subdivided. Subdivision Ordinance 704 requires a cul-de-sac at a dead end, a feature not provided for in the plat that created the right of way. An extension of the Sixth St. right of way would require use of land proposed for the subdivision and/or part of an adjoining property (Jordan). The application proposes, as a substitute, a turnaround 150' before the end of Sixth St. This location and size are considered inadequate (Denn letter of 1/9/08). The need for the cul-de-sac can be served with appropriate locations of passing lanes and turnarounds placed within each newly developed lot. Therefore a variance is required.
13. This northernmost block of Sixth St. services one existing home on proposed Lot B, with the potential servicing of one home on Lot A (and a home further to the north – per Finding 16 below) for a total of 3 homes. There are no known plans for development of the one block on each side of this section of Sixth St.
14. The Sixth St. access to Lots A and B in turn is accessed by some combination of Fifth, Sixth and Chestnut Streets. Two blocks of this combination and the northernmost block of Sixth Street have inadequate width, surfacing and passing lanes when compared with either the street or access drive requirements of the Zoning Ordinance. All parts of this access lie within the 66' rights of way defined by the Marine plat and thus have sufficient area for streets constructed per the requirements of SD 705.
15. The present traffic loading of this combination includes one existing home with those of Finding 16 for a total of 4. Development of adjacent undeveloped properties might add an estimated 8 additional homes at the 30,000 sq ft per home lot size requirement. The future traffic load on these streets may be described as a) an eventual total of 12 houses; and b) an incremental load created by the proposed subdivision of 2 homes.
16. An adjacent owner contemplates one additional lot to the north of Lots A and B. At its closest, this lot would be located about 130 ft north of the north extremity of Sixth St. Thus Sixth St. could provide an access from the south, an access that would be facilitated by an existing driveway used by the occupants of Lot B. Alternate accesses to the contemplated lot include from the north via the City's compost site road plus new construction totaling about 820 ft., or from the east via a similarly long driveway. Placement of an east access would be constrained by the existence of a home and accessory buildings. A north access would involve a road grade in excess of 8% and a long drive and would involve the loss of use of some city land. Land to the west is not developed and may eventually be parkland, thus providing no opportunity for access.

The contemplated lot plus the reasonableness of access from Sixth St. make SD 703 (3), (4), (5), and (12) applicable. These provisions generally require that access be provided to potentially developable parcels beyond the present subdivision. For purposes of severing one

lot the Planning Commission finds that a shared driveway on Lot B will provide adequate access.

17. Lot C is proposed to be accessed from TH 95. Permission for such access from MNDOT is not in hand but has been requested. MNDOT has denied the access from the adjacent property to the north using a roadway parallel to TH95, but suggested other options. The commission finds that access from property to the north and eventually to Highway 95 will provide adequate access.
18. City designs for recreational trails, a community amenity described in the Marine Comprehensive Plan, have shown a route linking the neighborhood of Pine and Fifth Streets with the city owned compost site. This route would be facilitated by use of the Sixth St. right of way plus a prospective easement running north across the parcel to be subdivided, leaving one privately owned property between the trail system and the compost site. The proposed plat shows an easement of 10' width on the east side of Lot A. The Planning Commission finds this adequate if additional clearance is provided around trees.
19. Applicant requested this subdivision be handled under SD 1004 as a minor subdivision. Paragraph 1004 notes that minor subdivisions are not allowed when variances are required. Findings 7, 9, 12 indicate need for variances, making a minor subdivision inappropriate.
20. Test results and a letter of opinion from Eklin Soil Testing and Inspections indicate that all three lots will support or do support on site sewage disposal systems.
21. Lot B, one of the three lots to be created, plus adjacent occupied lots, exhibit adequate private water supplies, suggesting that Lots A and C will have adequate capability. Further documentation is considered unnecessary.

Recommendation First Part:

The Planning Commission evaluated reasons for denial as defined by SD Ordinance Section 502 (10) and finds no reason for denial of this subdivision:

(The subparagraphs of 502 (10) are noted below. The general subject of the subparagraph is included for convenience only; the definitive text being in the Ordinance itself. The findings most relevant to that subject are listed.)

Sub-paragraph	General subject	findings
(a)	Conflict with plans	1
(b)	Conflict with Comp Plan	1, 18
(c)	Physical characteristics	4
(d)	Environmental conflicts	4
(e)	Conflict with easements	3
(f)	Access	3, 9, 12, 13, 14, 15, 16, 17, Condition 4
(g)	Drainage	4, Condition 5



4. Verification of access to lot C pursuant to easement with construction and maintenance agreements, from property to the north and eventually to TH 95,
5. Attachment of a requirement to the City files on Lots A and C that provisions be made before or at the time a building permit is considered for: street addresses, design for handling of storm water and other drainage per ZO 405, noting that most potential building site options are below street level, a plan for identifying and maintain significant vegetation and, approval of the appropriate turn around on each developed parcel approved by Public Safety Director.
6. Formalized agreement between the City and the applicant concerning the location and use of a trail easement.
7. Verification of access between the North end of Sixth St. and the South boundary of the property to the North via an easement and appropriate agreement covering construction and maintenance.

**Conditional Use Permit – Access Drive** - *Goldner moved and Warren seconded to approve the Conditional Use Permit as drafted. Motion passed unanimously.*

**Public Hearing Adjournment** - *Goldner moved and Warren seconded to adjourn Public Hearing. Motion passed unanimously Public Hearing adjourned at 9:45 pm.*

**Approval of Minutes:** *Warren moved and Krahn seconded the approval of the November 27, 2007 meeting. Motion passed unanimously.*

**Old/New Business** –

Warren was concerned about the conditions of our feeder streets per the discussion above. After listening to Chief Denn there is a concern that emergency vehicles are not able to access and maneuver around each other in case of an emergency. The Planning Commission proposes a Council/Commission task force to recommend action to solve this transportation problem before it gets any worse. Willenbring will talk to the City Council in regards to this matter.

**Adjournment** – *Goldner moved and Fernstrum seconded to adjourn. Motion past unanimously. Meeting adjourned at 9:55 pm.*

Minutes were taken by: Mary Tomnitz, Assistant City Clerk