

**DRAFT MINUTES**

**CALL TO ORDER**

Chair Maddy called the meeting to order at 7:00 P.M.

**ROLL CALL**

Present: Chair Maddy; Commissioners Eggenberger, Riedel, Huskins and Holker; Planning Technician Carlson; and, Council Liaison Gorham

Absent: None

**1. APPROVAL OF AGENDA**

Riedel moved, Huskins seconded, approving the agenda for October 4, 2022, as presented. Motion passed 5/0.

**2. APPROVAL OF MINUTES**

- **September 20, 2022**

Eggenberger moved, Holker seconded, approving the Planning Commission Meeting Minutes of September 20, 2022, as presented. Motion passed 5/0.

**3. MATTERS FROM THE FLOOR**

There were no comments.

**4. PUBLIC HEARINGS - NONE**

Chair Maddy explained the Planning Commission is comprised of residents of the City of Shorewood who are serving as volunteers on the Commission. The Commissioners are appointed by the City Council. The Commission's role is to help the City Council in determining zoning and planning issues. One of the Commission's responsibilities is to hold public hearings and to help develop the factual record for an application and to make a non-binding recommendation to the City Council. The recommendation is advisory only.

**A. PUBLIC HEARING – CONDITIONAL USE PERMIT FOR COLLOCATION OF ANTENNAS ON EXISTING TOWER**

**Applicant: SMJ International, LLC**

**Location: 24283 Smithtown Road**

**Request for continuance to November 1, 2022**

Planning Technician Carlson stated that this application is from T-Mobile and explained that Planning Director Darling had asked the Commission to continue the public hearing to November 1, 2022 because some revisions to the application were necessary. He clarified that the staff presentation will take place at the November 1, 2022 meeting.

Chair Maddy opened the Public Hearing at 7:04 P.M. Being there was no public comment, he closed the Public Hearing at 7:04 P.M.

**Riedel moved, Huskins seconded, to Continue the Public Hearing for the Conditional Use Permit for Collocation of Antennas on Existing Tower for SMJ International, LLC located at 24283 Smithtown Road to the November 1, 2022 Planning Commission meeting. Motion passed 5/0.**

**5. NEW BUSINESS**

**A. Variance for Grading in the Shore Impact Zone**

**Applicant: Karen Kinzie**

**Location: 27190 Edgewood**

Planning Technician Carlson gave an overview of the variance application to allow for grading in the shore impact zone. He gave an overview of what a shore impact zone is and explained that for this property, it is 25 feet from the ordinary high-water level of the lake. He noted that the existing home was built by the previous property owner in 1986 and shortly after it was built, City staff started receiving complaints that they were filling the shore impact area and within the floodplain and were creating berms and raising grades on the site. He explained that by the time City staff discovered the violations, the grading was extensive and the City Council, in 1987, approved a variance to allow for the fill to remain on the property. He stated that the current applicant is proposing to grade within 20 feet or closer to the original high-water line and are proposing to regrade and remove the berms that would allow for water to flow away from the home in a more natural way. He stated that this situation is unique because the berms were constructed by the previous property owner. Staff has requested that the applicant revise their plans to be consistent with their narrative and also for revised plans based on elevations that show all topographical changes, placement, and type of erosion control as well as dimensions between the locations of the proposed activity and the shore impact zone, the original high-water line, and the floodplain. He noted that the applicant has submitted a revision, however it was too close to the meeting, so a full staff review of the information was not possible. He noted that this full staff review would be done prior to the City Council meeting. Staff recommends approval subject to the conditions listed in the staff report.

Commissioner Riedel stated that from the applicant's narrative, correcting drainage sounds reasonable but creation of a more level lawn did not necessarily sound reasonable. He stated that the drainage problems were not really discussed in the narrative nor were they very apparent from looking at the topographical maps. He asked if staff or the City Engineer had weighed in on the drainage problems.

Planning Technician Carlson reviewed the aerial photos and explained that drainage issues that have been reported by the applicant.

Commissioner Riedel stated that in 1986 it appears as though there was a code infringement, an after the fact complaint, and then an after the fact variance granted. He stated that he understands that it was a previous owner and asked if staff had any other information on that situation.

Planning Technician Carlson explained that Planning Director Darling handled much of the research on this application but can find this information prior to the Council meeting.

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Commissioner Holker stated that she is trying to figure out if the proposed changes get it back to what would be considered within Code. She asked if this plan had been done initially, in 1986, if there would have been a need for a variance.

Commissioner Huskins stated that he believed that it would, at least for the setback, because it is only 20 feet rather than the 25 feet that it should be.

Commissioner Holker asked if this proposal would improve the situation near the lake, even if it was not within Code.

Planning Technician Carlson stated that he would say because an artificial obstruction was created in 1986, that the recent proposal would improve the situation.

Commissioner Riedel stated that he did not think that was at all the situation in this case and comes down to you were not allowed to do grading in 1986 without a permit and you are not allowed to do grading in 2022 without a permit. He stated that it is the activity and not the fact that something is in or out of Code.

Commissioner Holker stated that makes perfect sense to her, but with the staff recommendation to allow this variance request, she would like to have an understanding of whether things would be in better shape after the work is done.

Planning Technician Carlson stated that the recent proposal would improve the drainage.

Commissioner Huskins stated that staff's recommendation stated that this represents the minimum required to alleviate the issue but it sounds like it may be more work than what is actually necessary. He stated that his question would be what if the only thing that was done was removal of the berms.

Planning Technician Carlson stated that once the staff examines the revised survey, in the narrative they will be able to see the contour lines more accurately.

Chair Maddy stated that he thinks the Commission can generally conclude, with the recent proposal, that the slope towards the lake will be reduced which will slow down the run-off.

Commissioner Huskins stated that he does not know that to be true.

Planning Technician Carlson stated that, in his opinion, the run-off would be slowed down with the proposed regrading.

Kevin Kinzie, 27190 Edgewood Road, stated that if the berms had not been created by the previous owner, he would not be here before the Commission. He explained that the only thing they are trying to accomplish is to get natural drainage and noted that their neighbors have said the same thing. He stated that they are just trying to get water to drain away from the house. He reviewed photos of the area and explained where the drainage problems have been located and reiterated that he was just trying to go back to what nature had in place prior to the work by the previous owners.

Chair Maddy asked that the photos just reviewed by Mr. Kinzie be added to the record because they show, much more clearly, the situation related to the application.

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Mr. Kinzie explained that if this work is not allowed by the City it will not be the end of the world, but they are just trying to find a solution that works better for them as well as the City.

Commissioner Riedel confirmed with Mr. Kinzie that the fill would be removed from the property.

Commissioner Huskins asked if he had read the information correctly that Mr. Kinzie was planning to do some grading near his home on the east and south side.

Mr. Kinzie explained that they had been approved for a building permit to do external work on the home. He stated that there will not be grading, but they will be re-sodding that area.

Commissioner Eggenberger asked if Mr. Kinzie had looked at all of the recommendations from staff.

Mr. Kinzie stated that he has seen all of them and believes his landscaper has also seen them and was fine with them all.

Commissioner Riedel asked if Mr. Kinzie was planning to complete this work before frost.

Mr. Kinzie explained that it would depend on the City but is hopeful that they will be able to lay sod this year.

Chair Maddy asked if there was anyone present who would like to speak to this application. There being no comment, Chair closed the public input portion of the meeting at 7:25 p.m.

Commissioner Riedel stated that he has been reassured by the statements made by the applicant and feels this request seems imminently reasonable. He stated that from a Planning Commission perspective, he does not like the sequence of events of there being a wrong, a variance being granted, and then another variance granted to correct the wrong.

Commissioner Eggenberger stated that he does not see anything wrong with recommending approval of this request, subject to the staff recommendations. He stated that there are no neighbors present that are in opposition to this request and staff is also recommending approval.

Commissioner Huskins stated that he agrees but is concerned that the Commission does not know what the City Council will ultimately see since the recently submitted information was not received in time for full review. He stated that he cannot give a strong 'yes' unless there is a statement within the conditions that says that there will be information that the Council sees that the Commission had not.

Commissioner Riedel clarified that he was referring to the proper engineering and grading plans.

Commissioner Holker stated that based on what the Commission has seen thus far, she would approve what is being presented.

Chair Maddy suggested that they could add some language to the motion that as long as there are not any large differences from what has been presented.

Commissioner Huskins asked if the Planning Commission could request that it come back to them if it should turn out that there is something more.

Chair Maddy noted that the Council can choose to send it back to the Commission.

Commissioner Eggenberger noted that the Council has the ultimate decision either way and they will have the updated information by their meeting.

**Eggenberger moved, Riedel seconded, to recommend approval of the variance request to grade in the shore impact zone for property located at 27190 Edgewood Road, assuming that there will be no material differences in what was presented to the Commission, and subject to the conditions as listed in the staff report. Motion passed 5/0.**

**6. OTHER BUSINESS**

**7. REPORTS**

- **Council Meeting Report**

Council Liaison Gorham reported on matters considered and actions taken during the Council's recent meetings.

- **Draft Next Meeting Agenda**

Planning Technician Carlson gave an overview of the draft meeting agenda to revisit the CUP for collocation of antennas on the existing tower at 24283 Smithtown Road. He noted that the City has received a lot of incomplete applications, so he was not sure how many would be completed by the next meeting.

Council Liaison Gorham asked if the Commission had set their work plan goals for 2023 yet.

Chair Maddy stated that they had not and noted that it usually happens over the winter months.

The Commission briefly discussed some items to include in their work plan for 2023, including: code clean up; signage; and fencing.

Chair Maddy suggested that if the Commission thinks of other items to include on the work plan to let Planning Director Darling know.

Commissioner Riedel noted that he is thinking of retiring when his term ends and explained that he will let Planning Director Darling know so she is aware of the possibility that he may be leaving. He gave a suggestion for a change in how the Planning Commissioners give their update to the City Council that he felt would be a bit more efficient.

Council Liaison Gorham stated that he will bring this idea up to the Council and City staff.

**8. ADJOURNMENT**

**Riedel moved, Huskins seconded, adjourning the Planning Commission Meeting of October 4, 2022, at 7:45 P.M. Motion passed 5/0.**