



MAYOR & COUNCIL COMMUNICATION

DATE: July 1, 2014

CONSENT

ITEM # 10

AGENDA ITEM: Hammes Shoreland Variance – 34.029.21.13.0001

SUBMITTED BY: Nick M. Johnson, City Planner

THROUGH: Dean Zuleger, City Administrator

REVIEWED BY: Planning Commission
Kyle Klatt, Community Development Director

SUGGESTED ORDER OF BUSINESS (if removed from the Consent Agenda):

- Introduction of ItemCommunity Development Director
- Report/Presentation.....Community Development Director
- Questions from Council to Staff..... Mayor Facilitates
- Call for Motion Mayor & City Council
- Discussion..... Mayor & City Council
- Action on Motion..... Mayor Facilitates

POLICY RECCOMENDER: The Planning Commission considered an application for a shoreland variance in connection with the proposed Hammes Estates Preliminary Plat at its June 23, 2014 meeting. The Commission is recommending denial of the variance with the draft findings as specified in Resolution 2014-52.

FISCAL IMPACT: None – The variance request would allow for the platting of 13 single family lots with a reduced riparian dedication area around the southern channel of Goose Lake. However, the applicant should be able to restore the natural shoreline, closing off the southern channel from Goose Lake through a DNR permitting process, thereby being able to proceed with the platting of the impact lots. The ned result, either through the variance request or the DNR permitting process, should remain the same from a fiscal standpoint.

SUMMARY AND ACTION REQUESTED: The City Council is being asked to consider a request from Hammes West, LLC for a variance from the City’s Shoreland Ordinance to allow for a reduced riparian dedication around the southern channel of Goose Lake. The variance also includes a request for a reduced structure setback to the Ordinary High Water Level (OHWL) to the southern channel for 13 residential lots (Lots 1-6, Block 10 and Lots 1-5 and 11-12, Block 9) within the proposed Hammes Estates residential subdivision.

If removed from the Consent Agenda, the suggested motion to adopt the Planning Commission recommendation is as follows:

“Move to adopt Resolution No. 2014-52, denying a Variance to allow reduced riparian dedication and reduced structure setbacks for 13 lots around the southern channel of Goose Lake within the proposed Hammes Estates residential subdivision.”

LEGISLATIVE HISTORY/PLANNING COMMISSION REPORT: The attached staff report to the Planning Commission provides an overview of the request. It should be noted that Staff recommended approval of the variance request and provided draft findings to the Planning Commission in the attached Staff Report. However, after significant testimony and discussion, the Planning Commission determined that the proposed variance did not meet the practical difficulties and unique circumstances required findings, therefore recommending denial. To receive public testimony, the Planning Commission conducted a public hearing concerning the variance at its June 23, 2014 meeting and received the following comments from neighboring property owners:

- Wayne Prowse, 697 Julep Avenue North, stated his opposition to the variance request. In addition, he asked that the Planning Commission consider alternatives to incorporate additional parkland dedication within the proposed residential subdivision, Hammes Estates. Finally, he stated that the requested variance would likely have negative impacts on water quality of Goose Lake.
- Michael Doyle, 723 Jewel Avenue North, noted that the riparian lots in the Stonegate Subdivision have a significant wooded barrier between the homes/lawns and the lakeshore. In addition, he expressed concern over the individual homeowners located near the southern channel to be good stewards of the lake as opposed to requiring the riparian dedication.
- Lori Heinrichs, 781 Jewel Avenue North, stated that the proposed variance would not be in keeping with the stated purpose and intent of the City’s shoreland ordinance. She reviewed the proposed findings of fact and found that the variance did not meet the statutory thresholds to warrant a variance. More specifically, she did not feel that the situation represented a practical difficulty, and that the application did not meet the threshold for a unique circumstance as the property owners created the southern channel due to mining activity.
- Mike Anderson, 655 Jewel Avenue North, shares some concerns over the recent construction activity that has occurred related to the reclamation of the Hammes site. He also requested that the Planning Commission enforce the 150-foot riparian dedication around the entirety of the southern channel, noting that he is opposed to closing the channel off from the lake via a berm or fill.

- Fred Pomeroy, 687 Jewel Avenue North, stated that he supports closing off the channel as opposed to granting the variance.

The Planning Commission generally discussed the feedback gathered during the public hearing. After discussing the required findings for a variance, the members of the Planning Commission were in agreement that the proposed variance did not meet the thresholds for practical difficulties and unique circumstances as required under State Statute. In addition, they noted that the DNR is recommending denial of the variance, and they have identified an alternative path of closing the channel off that would allow the proposed subdivision to remain as currently configured or designed.

The Planning Commission adopted a motion to recommend denial of the variance request with the findings as noted in the attached Resolution 2014-52. The motion passed unanimously (Vote: 7-0).

BACKGROUND INFORMATION (SWOT):

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| Strengths | <ul style="list-style-type: none">• The Planning Commission presented clear findings that the applicants did not demonstrate meeting the thresholds for the required findings of practical difficulties and unique circumstances.• Denying the variance ensures conformance to the City's shoreland ordinance. |
| Weaknesses | <ul style="list-style-type: none">• None |
| Opportunities | <ul style="list-style-type: none">• In following the alternative path presented by the DNR to close off the southern channel of Goose Lake with fill, the applicant will be able to bring forward the Hammes Estates Preliminary Plat application as it is currently designed.• Closing off the southern channel from Goose Lake should maximize the efforts to maintain the highest water quality possible. |
| Threats | <ul style="list-style-type: none">• None |

RECOMMENDATION: The Planning Commission is recommending that the City Council deny the request from Hammes West, LLC for a variance to allow for reduced riparian dedication and structure setbacks around the southern channel of Goose Lake. If removed from the Consent Agenda, the suggested motion to adopt the Planning Commission recommendation is as follows:

“Move to adopt Resolution No. 2014-52, denying a Variance to allow reduced riparian dedication and reduced structure setbacks for 13 lots around the southern channel of Goose Lake within the proposed Hammes Estates residential subdivision.”

ATTACHMENTS:

1. Resolution No. 2014-52
2. Planning Commission Staff Report – 6/23/14
3. Location Map
4. Application and Project Narrative
5. Wetland Delineation Report
6. Historical Aerial Photography
7. Riparian Dedication Sketch
8. Applicant Email Correspondence w/DNR
9. Hammes Estates Preliminary Plat and Preliminary Wetland Buffer Plan
10. Site Visit Photos, 6/18/14
11. Landscape Architect Review Memorandum
12. DNR Review Letter and Email