

**GREENWOOD PLANNING COMMISSION  
WEDNESDAY, JANUARY 20, 2016  
7:00 P.M.**

**1. CALL TO ORDER/ROLL CALL**

Chairman Lucking called the meeting to order at 7:00 p.m.

Members Present: Chairman Pat Lucking, Commissioners Kristi Conrad, David Paeper, Douglas Reeder, and Fiona Sayer

Absent: Commissioners Lake Bechtell and Rick Sundberg

Others Present: Council Liaison Bill Cook, City Attorney Mark Kelly, and Zoning Administrator Dale Cooney.

**2. MINUTES – December 16, 2015**

Commissioner Conrad requested two changes to the minutes. Conrad said that she wanted to include her response to Old Log Theater owner Greg Frankenfield in the second paragraph from the bottom of page 1. In that response she said that “No solution should be immediately taken off the table.”

Conrad also wanted to point out that in her statement at the bottom of page 3, it reads that “She said that she feels that these problems could be solved.” Conrad said that this does not capture what she was trying to say and that the statement should be reworded to say, “She said that she feels that these problems could be solved, but not within the constraints of this Conditional Use Permit request.”

Commissioner Conrad moved to approve the minutes of November 18, 2015 as amended. Commissioner Reeder seconded the motion. Motion carried 5-0.

**3. PUBLIC HEARINGS**

**3a. Consider Variance Request and Conditional Use Permit Request of Mark D. Williams Custom Homes for PID No. 26-117-23-24-0030 (address unassigned, in the vicinity of 216XX Fairview)**

Chairman Lucking introduced the agenda item. Lucking said that Mark Williams, of Mark D. Williams Custom Homes, is working with Nora Rottier to build a new house at 216XX Fairview and that the property is an existing lot of record within the R-1A zoning district.

Lucking said that Section 1140:19(5) of the Zoning Ordinance states that any elevation increase or decrease of more than 2 feet in any area greater than 300 square feet requires a variance and that Section 1140:19(2) of the Zoning Ordinance requires a conditional use permit for grading that impacts more than 200 square feet of surface area, and more than 20 cubic yards of soil volume.

Chairman Lucking opened the public hearing.

Mark Williams, applicant, said that he is the builder for the owners and that he wanted to introduce himself and make himself available for questions. He said that the Rottier family, who are building the house, are also here and available to answer any questions. He said that since the property has never had a house on it before, any house that they would build would require some kind of variance simply because of the topography and the shape of the lot. He said that he was trying to alter the property as little as possible to make the site work.

Councilmember Cook asked a question about the rear elevation. Williams said that it was originally going to be a walkout lower level, but that to minimize the grade change, they made it a lookout instead.

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Chairman Lucking asked about the regrading for the driveway in the front. Williams said that the driveway had a 2% slope, which was as flat as possible to allow water to run off the driveway, versus 6% to 8% of a more typical driveway.

Commissioner Conrad asked about the 3,184 square feet of land disturbance. Cooney said that that number came from the hardcover footprint of the property, and that is the area that will be disturbed. Williams said that they are bringing very little dirt onto the site.

Conrad asked about the drainage, and said that that area of the trail behind the property is the worst part of the trail in terms of drainage. Williams said that they can take a look at that area with his landscape contractor. He said he was proposing to plant trees and provide other landscaping in that area that might help. Conrad said that in the spring, the whole trail is usually under water.

Commissioner Paeper asked if any underground storage was planned. Williams said that none was planned.

Kimball Anderson of 21580 Pineview Court, said that he has been a resident of Greenwood for 25 years and that he lives just across the trail from the property. He said that this is a very unique area, and serves as a passageway for a diverse array of migrating birds. He said that as the city grows, we need to be cognizant on the impacts on the wildlife in the area. Lucking said that the tree removal remains under what is allowed by city code and will be confined to the area immediately impacted by the house. Lucking said that the berm area on the lot will remain as wooded as it is today.

Chairman Lucking closed the public hearing.

Councilmember Cook said that he has two concerns about the proposal, but that he thought that both concerns were solvable. He said that his first concern was with the retaining wall near the west edge of the property near the driveway. He said that the retaining wall blocks the drainageway and that he wants to ensure that blockage doesn't restrict the natural drainage or cause the water to move onto an adjacent property. Cook said that his other issue is related to the low spot in the rear at 952'. He said it could possibly drain to the next property to the west, and he wants to ensure that it continues to towards the rear of the house. He said that he did not want to change the existing path of the stormwater. Cook said that with the 2 foot contours is it unclear what is happening between the contours.

Mark Williams said that the 953.5 elevation that is circled is the top of block at the rear of the house, and not a new elevation for the rear of the property. Councilmember Paeper asked what the difference was between finished grade and finished floor in the back of the house. Williams said that the lowest floor elevation is 950.7. Paeper said that there will be about three feet of soil at the back of the house above the lowest floor elevation.

Councilmember Paeper asked about the retaining wall at the berm. Williams said that the goal is to touch the berm as little as possible. Paeper said that the top of the wall looks to be below the grade of the berm, and that the wall will likely need to be a little bit higher than what is shown.

Councilmember Paeper asked about tree removal, and what the number shown on the tree survey meant. Zoning Administrator Cooney said that number represented non-noxious trees proposed to be removed. Councilmember Conrad asked if there was a plan to replace any of the trees removed. Williams said that they will do screening and evergreens to the west and the trail side, but that the landscape plan is not complete. Conrad said to be mindful of the species when replanting, since the area has been undisturbed for so long.

Conrad asked about the mailboxes on the rear of the berm. Williams said that is a detail that has not been determined yet.

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Councilmember Paeper said that the hardcover calculations on the survey do not include the driveway and the steps. Williams said that he would revise that for the City Council. Paeper asked about the topographic information that was not certified by the surveyor. Williams said that the topography was provided by the seller from a survey that was done a month earlier, and those survey contours were used. He said that was the same survey that the tree inventory came from. Paeper said that the other survey should be included as an attachment for the City Council packet.

Councilmember Paeper made a motion to approve the grading conditional use permit request of Mark D. Williams Custom Homes for PID No. 26-117-23-24-0030 (address unassigned, in the vicinity of 216XX Fairview) as presented. The motion was conditioned that a) the hardcover calculations shall be updated to include the driveway and steps, b) applicant shall make revisions to the area near the retaining wall on the west side of the property to allow for the drainageway to function properly, and c) applicant shall verify with grading or drainage details that there will be no additional water existing on the west side of the property in the vicinity of the 952' contour on the southwest corner of the house. Motion seconded by Conrad. Motion carried 5-0.

Councilmember Paeper made a motion to approve the variance request of Mark D. Williams Custom Homes to increase or decrease the existing elevations on the property by more than 2 feet in an area greater than 300 square feet for PID No. 26-117-23-24-0030 (address unassigned, in the vicinity of 216XX Fairview) as presented. The motion was conditioned that a) the hardcover calculations shall be updated to include the driveway and steps, b) applicant shall make revisions to the area near the retaining wall on the west side of the property to allow the drainageway to function properly, and c) applicant shall verify via grading or drainage details that there will be no additional water existing on the west side of the property in the vicinity of the 952' contour on the southwest corner of the house. Motion seconded by Conrad. Motion carried 5-0.

#### **4. NEW BUSINESS**

##### **Discuss: Variance Practical Difficulty Standards**

Councilmember Cook said that a conversation related to variance practical difficulty standards item was on the January City Council agenda, but that it was tabled. Cook said that if the Planning Commission members have any thoughts or concerns about the practical difficulty standard they should e-mail him.

Commissioner Conrad said that she did have concerns with the 21795 Minnetonka Boulevard variance at the time because she felt like they could have built a garage within the setbacks. Cook said that he felt, in that case, there was a difference between doing something and doing it to modern standards.

Cook said that he wanted to have a high-level conversation about it. Chairman Lucking said that he believes the Planning Commission has been good about the requests being about the idiosyncrasies of the property and not the desires of the land owner.

Lucking said, back to the difference between doing something and doing it to modern standards, that there had been a request for an additional one-car garage on Greenwood Circle. At the time, it was suggested to the owner that they remove the one car garage on the bottom of the hill and build a two-car garage, instead of having two separate one-car garages. Conrad asked if the city was allowed to require tradeoffs. Lucking said that the city cannot require tradeoffs, but that the city can make recommendations about proposals that it believes would be successful.

City Attorney Mark Kelly said that the biggest challenge in the practical difficulty standard is that the situation is due to circumstances unique to the property not caused by the landowner. Kelly

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said that sometimes the voting body needs to be comfortable denying variances in the pressure of the moment.

Zoning Administrator Cooney said that he wants to be cognizant of precedent when approving variances, and that, all things being equal, similar applications would have similar findings and outcomes.

City Attorney Mark Kelly said that, while the city can't have time-limited variances, he is working on a memo regarding time-limited Conditional Use Permits. He said that something like this could work well for reasonable accommodations regarding ADA type of issues. Commissioner Reeder said that it would be difficult to have something like this removed.

**Discuss: Draft Ordinance for Stormwater Management**

Councilmember Cook introduced an item that was not on the agenda. Zoning Administrator Cooney circulated a draft ordinance related to stormwater management.

Cook said that currently the city requires contractors to submit their stormwater plan before they start construction, which he believes is too late. Cook said he would like the stormwater management plan to take place at the building permit application phase so that the city has time for adequate review.

Cook said that the proposed ordinance would require mitigation of stormwater to preexisting conditions. He said that the variance application reviewed earlier in the meeting had no existing hardcover, therefore, that property would be required to mitigate the change from 0% hardcover. He said that the requirement to mitigate would be for any expansion of hardcover, even if it was still below the current 30% hardcover restriction in the city. Cook said the draft ordinance would require either volume or rate mitigation for the expanded hardcover for a 2-inch rainfall event.

Cook noted that volume mitigation was relatively simple to calculate. He said that rate control requires more sophisticated calculations and will likely be beyond the means of most projects.

Cooney asked if Cook would consider an exemption for small reductions in hardcover. Cook said that he would be open to that idea if the exemption was for a very small area such as 10 square feet. He said that he would not want to see someone using the exemption to incrementally increase their hardcover.

**5. LIAISON REPORT**

Council Liaison Cook said that he did not have a liaison report beyond that which had already been discussed.

**6. ADJOURN**

Motion by Commissioner Paeper to adjourn the meeting. Commissioner Conrad seconded the motion. Motion carried 5-0. The meeting was adjourned at 8:13 p.m.

Respectively Submitted,  
Dale Cooney - Zoning Administrator