

**Excerpt from the  
CITY PLANNING COMMISSION MINUTES  
Minneapolis Community Planning & Economic Development (CPED)  
Planning Division**

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**MEMORANDUM**

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DATE: September 9, 2010

TO: Steve Poor, Planning Supervisor – Zoning Administrator, Community Planning & Economic Development - Planning Division

FROM: Jason Wittenberg, Supervisor, Community Planning & Economic Development - Planning Division, Development Services

CC: Barbara Sporlein, Director, Community Planning & Economic Development Planning Division

SUBJECT: Planning Commission decisions of September 7, 2010

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The following actions were taken by the Planning Commission on September 7, 2010. As you know, the Planning Commission's decisions on items other than rezonings, text amendments, vacations, 40 Acre studies and comprehensive plan amendments are final subject to a ten calendar day appeal period before permits can be issued.

Commissioners present: President Motzenbecker, Cohen, Gorecki, Huynh, Luepke-Pier and Tucker – 6

Not present: Bates (excused), Bourn, Carter (excused) and Schiff (excused)

Committee Clerk: Lisa Baldwin (612) 673-3710

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**3. Jeff and Peggy Watson (Vac-1572, Ward: 11), 1008 51st St E ([Janelle Widmeier](#)).**

**A. Vacation:** Application by Jeff and Peggy Watson to vacate a triangular piece of the public right-of-way to the west of the alley on the block bound by 50th St E, 11th Ave S and 51st St E for the purpose of establishing a driveway with access to 50th St leading to a new garage located at the property of 1008 51st St E.

**Action:** The City Planning Commission continued the alley vacation of that triangular part of the alley as dedicated in Block 2 of the plat of Chicago Avenue Highlands, Hennepin County, Minnesota, described as lying west of the northerly extension of the east lot line of Lot 22 of said Block 2, and southeasterly of the northeasterly extension of the northwesterly lot line of Lots 25 and 26 of said Block 2 to the October 4, 2010 Planning Commission meeting.

Staff Widmeier presented the staff report.

President Motzenbecker opened the public hearing.

**John Taylor (10434 Spyglass, Eden Prairie):** As a point of information, qualification and background, I'd like to say that I've known my friends on 11<sup>th</sup> Ave since 1994 and been a frequent visitor to their homes, their backyards and the gardens in the area in question and have frequently parked back there. The majority of the neighbors have been there for some 18 years and have done so in harmony. There have been many occasions where I've used the public right-of-way across the triangular piece of land in question. I have seen the residents in the area use it as well as the neighbors and all have done so in the past in perfect harmony. The area is significantly enhanced by the presence of the flowers, the flowering vegetables and plants. I've never seen the area in ill repair, it has always been tilled following growing seasons and perfectly maintained, never an eyesore in any way and, in fact, quite the opposite. I have, in the past, made several attempts to park in the area and my attempts to do so, especially in the Besser's garage, I believe that's 5028, have not been able to do so. Access across the triangular area is the only way in which I could get in and out of the garage. There's simply no room to maneuver, even in a subcompact, into their garage without access across that area. To limit access the area in question would essentially make their garage inaccessible. This is not the case for those who would have you change the current configuration and access guidelines because they already have access and it appears they just want ownership and not mutual use and access. They would have to modify the area for their enhanced use and personal gain at the expense of the neighbors. I have walked the area recently and did note the expanded garage that was built seemingly without forethought as to the impact of the neighbors. It blocks the creek views and has torn dirt and sod out of what was well greened and pristine area. I believe the actions of a few neighbors wishing to modify the landscape to their personal benefit which has served the collective neighborhood so well for so long is preposterous. Those who recently moved in to acquire the property for enhancement all knew the lay of the land and willingly moved in. They have done so without fully knowing the history of the triangular area and its limits as to the access should not be the foundation for modification. It was their responsibility to know what they were buying and the realtor's obligation to make it known. To limit access this area and to assign it to any one person would not be in the best interest of the neighborhood and would penalize those who have used it for over 20 years, actually I think the history of its configuration goes back quite a bit longer. It would truly block access to some garages. It seems to me that the land has been used most effectively by a number of people in the area. It has been exceptionally well maintained and its sectioning for the enhancement of a few newcomers to the expense of those who have lived there for so long is completely unfair and unwarranted. I recognize some change in things over time is good but some are not and should be weighed based on the merit and mutual benefit of those affected. This is not a good change and it merits are sorely lacking. I think you for listening to my position and hope, in this case, that you will see that change here is not the best interest of those who have worked so long and hard to enhance our community and its beauty, a driveway does not.

**Peggy Watson (1008 E 51<sup>st</sup> St):** This exhibit that I have is the current use of the triangle behind our home. There is an airstream trailer and then there's two gardens and five homemade driveways over grassy area and my main point in this is that the city has designated this as an alley and it's not being used that way, it's being used as an extension of other people's properties. All I want to do is get access to my garage. I don't want this commercial vehicle driving over my driveway and I don't want people parking on my driveway. I did try an encroachment permit but I was told that it had to be on hold because the people on 11<sup>th</sup> Ave were considering filing a petition to vacate. When I have emails with Keith Peters on behalf of the 11<sup>th</sup> Ave neighbors, they said in the emails that they would respect my right and they would allow me access to my garage via my driveway, but I said that I don't want people driving on my driveway so I proceeded with a petition to vacate. My Exhibit E or Exhibit F that I had filed after I got the response from them also is the same as the right-of-way folks widening the alley would solve the problems for the 11<sup>th</sup> Ave folks. I also have another drawing that would even give them a wider alley with potentially a use for a community garden that would be this configuration. The driving across the greenspace is not safe and not good for the environment. I submitted pictures of cars parked on that greenspace. There's a trailer parked there and has been there since we moved in in January. I want to point out that there's a property at 1004 that has a driveway that faces East 50<sup>th</sup> and that property is not an eyesore. I'm improving my property by building a garage, there was a shed there that was falling down and we're also adding an addition and I don't have any intent to make this an eyesore. Thank you.

**Commissioner Luepke-Pier:** When did you build your garage?

**Peggy Watson:** The permit was pulled on April 27<sup>th</sup> and it was just finished last week.

**Commissioner Luepke-Pier:** To get access to your garage, how do you drive there now?

**Peggy Watson:** We don't use it right now because it didn't have overhead doors or...there's lumber in it from our addition.

**Commissioner Luepke-Pier:** Ok so it's not meant to be for vehicles.

**Peggy Watson:** It will be. When I purchased the property, I talked to someone at the city, I have his name but I don't have it with me, and they said that I would have no problem. I work for a law firm and one of our lawyers helped me call someone and we were sure that we would have a driveway to our garage.

**Commissioner Luepke-Pier:** Ok so you built it anticipating that you would have a driveway to use, not that you would just use the existing triangular alleyway to get there.

**Peggy Watson:** I wasn't aware of how that would all look and I started with the emails. I started with trying that approach, but once I learned that my driveway would be used by five other people, that wasn't ok.

**Lisa Olson (1012 E 51<sup>st</sup> St):** I'm a property that is closely affected by this. There was a lot of information that came to us from our neighbors on 11<sup>th</sup> Street who live in a perpendicular direction to where our property faces. A large proportion of the land that has been requested for release is directly behind our home. One of the recommendations by the Department of Public Works was then to have that become a portion of our yard. That portion is currently being used to access driveways on the 11<sup>th</sup> Street properties and we've obviously heard a lot about that. With respect to the staff response in two of the main issues, we do question to some extent, whether or not it's possible to look at the Department of Public Works' alternative option which is to release a portion of that but part of that alley would remain available for the neighbors on 11<sup>th</sup> Street to access their garages. That would solve one of the main problems in terms of the staff response which was maneuverability into those garages. As the residents at 1012, we feel that there would be no issue with that whatsoever and it's our recommendation that that be strongly considered. We do feel that the property should be considered to be released in part because the current use of the property, although it has its drawbacks and its definite positive aspects, is illegal in some respects and that's

something that hasn't been addressed very much but I feel it's very important for everyone to understand. One of the issues that we've had as property owners...I should mention that for some reason, our property was the only one that didn't receive the notice of the hearing so we were very late in knowing what had been presented and we've had some information as well ourselves. I'm not sure if you all have access to this information but I just wanted to show this and that is one of the main difficulties we've had is that that area is being used for parking quite a lot and parking is not legal in that area. Traversing the area to access is garages is one thing, but in our opinion parking is another thing entirely. We've requested from the neighbors that parking cease, but as you can see from some of these pictures...we've had a couple of other issues with work trucks and even in one case there was a boat trailer that was parked there with a boat and a full sized pickup truck. This isn't an area where there's plenty of legal on-street parking available and we feel very strongly with this being our backyard view that this isn't the best use of this. We have no objection to the gardens and the gardens were presented to the community as something to save and we agree that the gardens are beautiful. We appreciate the fact that these residents have taken so much care in maintaining those gardens, but parking in between those gardens is a safety issue, it's an eyesore and it's also a safety issue for people at the back of our property because it doesn't look like an alley, it looks like a grassy garden and then there are cars driving through it. Likewise, if you travel down the alley in the northern direction it's possible that cars could come out from the left side perpendicular to the traffic in the alley and you may not expect them to be there. In light of that unusual situation, we feel that it is very justified to consider releasing the property but making sure that a buildable space is there for the 11<sup>th</sup> St people to access their garages. Some suggestions have been made that would enable that. This would eliminate the illegal parking and having that traversal area in the grassy driveways it seems inevitable that parking is going to continue. We've made our best effort to have that stop and it hasn't stopped yet. With respect to the gardens, we have no intention if the property were released to eliminate the gardens. We feel very strongly that it could be worked out in a neighborly fashion and we would be happy to pursue that with the neighbors that currently use that. The concept that the garden is a community garden is not entirely accurate. It is true that anyone who walks by has the ability to enjoy the garden, but the garden area has not been made available to everyone in the past until more recently when some of these things came to light. Because there's no permit from the city, they're still liable for the gardening situation in that area and we feel strongly that if the property isn't released to the public right-of-way, the fact that there is parking occurring there and also to some extent the plantings that the city's still going to have to deal with those issues. We believe that some of the proposals that have gone forth in terms of releasing and allowing enough maneuverability address some of those issues just as well. The concept that there's an obligation to know what you're buying when you purchase your property, this is a property that we haven't lived in for very long. We moved in December of last year and we were observing the parking situation through the winter and we were quite surprised because when we were looking at the property we actually lived nearby and we never saw anyone parking in that area while we were looking at the property considering purchasing it. We found out later that it was specifically requested by our previous homeowner that while that property was on the market that nobody park in that area. That suggests that other people are aware that this is an eyesore and a situation that would actually bring down a property value and not something that should be occurring in the back of a lot. Yes it is very true and we looked into what the legal ramifications were for that property and we knew that it was not legal to park there. We were under the impression then that there would be no parking there and there has been. Thank you.

**Mark Vesser (5028 11<sup>th</sup> Ave):** I'm probably the one most affected by the change in access and the change in this alley. Thanks to all the city staff who have been tremendously helpful in answering all of our questions and fielding all of our calls. We're not attorneys, we're not real estate experts, we're not employees and the city has been very gracious in fielding our calls and answering questions on the process. I'd like to thank Janelle Widmeier for coming out and taking a look at the property. The aerial photos and plat drawings do not necessarily do justice to the issues at hand. I also realize that this little piece of property may seem insignificant to the city in the grand scheme of things, but it's a big deal to all of us. I'd also like to point out that the four families you see here represent 75 plus years of living in that neighborhood. Our concern has been access. The four garages that face the alley face directly and require all of us to make a 90 degree turn to enter and exit. It's not the traditional 14 feet, we have 12 feet of paved alley. We have all consistently used that piece of property to drive straight on, straight across and into our

garages. Specifically, my garage at 5028 is impacted by two major obstacles; the first being the prior owners of 1012 51<sup>st</sup> St E were cited a while back to repair a crumbling retaining wall, that retaining wall was repaired in a way where it was resurfaced with another existing retaining wall and actually encroaches on the alley right-of-way space, it abuts directly against the alley. Immediately opposing my garage is that five foot retaining wall so backing out into that direction or coming from the south side of the alley, that drastically limits our access. The utility pole that was installed on the opposite corner right outside of my garage also is a major impediment. For us to access from the north, that severely cuts down our turning radius coming from that direction as well. The access situation becomes ever more complicated during the winter. When the plows plow the alley, there becomes quite a significant snow heap that acquires over that course of time. The alley way that you see, which looks nice and lush and green in the summer usually has four or five foot piles of snow almost creating an alley wide retaining wall all the way through the length of that alley. It's for these reasons that we support the findings of the Planning Department in denying the vacation. The existing curb cut as it sits today provides access to all of us, including Peggy and Jeff. If nothing is done and that alley sits as it is today, we all have continuous access to all of our perspective garages, nothing has to be done, nothing has to be changed to allow that access to actually happen. This neighborhood has really been a marvelous and friendly place to live, we've all raised our families there together and been active and supportive residents, neighbors and voters in the community and the city. We've peacefully coexisted for over 20 years. We've worked very hard to make this a welcoming and aesthetically pleasing place to be. We've spent our own time keeping that alley lot up to shape. The grass is cut every week, the gardens are not unruly, we spend a tremendous amount of time to make it very pleasing to anyone who passes by which includes quite a bit of foot traffic on the other side of the street on the parkway. Our neighbors have shown a tremendous outpour of support. They've supported us in maintaining our current access to our garages as well as trying to keep the gardens in tact. In addition, reaching even beyond the immediate neighbors, we have a petition. The petition that you have shows about 50 signatures, this is now at 75 and counting.

**President Motzenbecker:** When you leave, please submit that to the clerk for the record.

**Mark Vesser:** I will. Thank you for hearing from us today. We respectfully ask of you to deny the vacation.

**Scott Eckhart (5024 11<sup>th</sup> Ave S):** There was a few things I've heard here today that inspired me to want to come up and say my peace. Where I come from, typically if you want to get something done that involves your neighbors you talk it over and communicate and work something out. Where we lived for nearly 20 years in south Minneapolis people have operated the same way. To the best of my knowledge, I have never been contacted by the Watson's. The way we found out about this was that a concerned neighbor of theirs, Keith Peters with the airstream back there, which by the way has not been parked there continually since January, it comes and goes depending on when they're camping, he had correspondence with Peggy Watson about the situation and he urged her to come talk to the residents on 11<sup>th</sup> Ave and try to work something out peaceably so she could get her driveway and we could still have our access and beautiful gardens back there and that was never done. I've never been contacted, many of us have never been contacted. Any talk about that there was an effort to try to work this out peaceably out is simply not true. Other than that, we love that space. Some of this stuff I feel has been taken out of context. The night time photo you saw of the boat, that was my bad. I went and picked it up the day before and we were going on vacation the next day, it's my father's boat and I parked it back there because I felt it was the safest place for it, I didn't want it on the back street there. There's people that drive that street very quickly and often drink back there and do other things and I felt it was safer on that lot that night than to park it on the street where someone could possibly rear end it or something. The other parking, that area is not a parking lot. Those photos were taken when there were cars back there, but I could take thousands of photos of when there aren't any cars back there. I was never approached and told that they didn't want anybody parking back there when the house was on the market. If there had been some communication up front, maybe things would be different. Thank you.

President Motzenbecker closed the public hearing.

**President Motzenbecker:** We've heard many issues regarding this project. I'd like to commend everyone on both sides of this issue for your thoughtful and well reasoned presentations. The piece that you sent into the Planning Commission was excellent. If we had neighbors that did that all the time we'd be a very happy Planning Commission so thank you for your well researched piece there. To that end, it's come to my attention that I think Council Member Quincy (tape ended)...think we would like to suggest continuing this for two cycles to allow that process to occur, working with the council member to maybe resolve some of these issues that we've outlined. I think Jason is checking the date that that would be, it would be October 4<sup>th</sup>. I think that might be the best route at this point because it sounds to me like you do want to come to an agreement and that there's just been some misunderstandings and you can possibly find a compromise that might work with the council members help. I'm going to move a postponement for two cycles to October 4<sup>th</sup>, 2010 (Tucker seconded). All those in favor? Opposed?

The motion carried 5-0.