



Planning and Economic Development

Ed Anzek, AICP, Director

From: Ed Anzek, AICP
To: City Council, Mayor
Date: 7/26/2011
Re: Sidewalk Variance Request – Benchmark Homes – Hickory Woods

History

Hickory Woods is a 50-unit single family home development located on the east side of Livernois between South Blvd and Hazelton. The development was approved in May 2007. Shortly thereafter the construction of streets, utilities, wetland boulder wall, and some sidewalks commenced. Sales never materialized due to the recession and the majority of the development was taken back by the bank. The original developer maintained some level of interest as staff has been working with him to complete the outstanding items that were not finished; those being entry landscaping and a sidewalk along the eastern side of Donaldson. Donaldson is the easternmost street that runs north and south. We have been advised that Benchmark Homes has gained control of the development and they have inquired about not building the sidewalk on the eastern side of Donaldson.

Background

Article III. SUBDIVISIONS. Division 2. VARIANCES. Sec 122-91 through 94 does provide the procedures for the property owner as petitioner to seek a variance for relief from any requirement of the Land Division Act. The consideration of and approval or denial of a variance rests with the City Council. There is no procedural need or requirement for the Planning Commission to review and recommend in such matters.

Sec. 122-94. Findings: The basis for the City Council's consideration rests in 4 findings.

The 4 findings are:

- (1) There are special circumstances or conditions affecting the property such that the strict application of this article would deprive the applicant of the reasonable use of his land.
- (2) The variance is necessary for the preservation and enjoyment of a substantial property right of the petitioner.
- (3) The granting of the variance will not be detrimental to the public welfare or injurious to other property in the territory in which the property is situated.
- (4) The variance will further the written objectives and policies of this Code and the master use plan.

Attached as part of this agenda item is a letter from Mark Karim requesting that Benchmark Homes not be required to build the easternmost sidewalk along Donaldson Road. His request is based on his assertion that the sidewalk would not directly serve any single family home within the Hickory Ridge development. A second point is that the construction of this sidewalk would require a significant tree loss. Based on field observation and review of the site condominium plan staff would concur. The design of this development put the ROW line for the eastern edge contiguous with the property line. Any sidewalk built in this area will have a potentially damaging impact on both on and off-site trees; off-site trees meaning those that are on the adjacent neighbor's property.

Staff has conferred with Traffic Engineering regarding this question. One concern raised: should the development to the south be built how will the sidewalk be terminated before it gets to the Hickory Ridge development.

Summary

In the cases where a variance is requested whether it be a matter before the ZBA or the City Council staff does not offer a recommendation. It is up to the City Council to find that the "findings" are met.