

SUBDIVISION STAFF REPORT

FILE # 11-292-148

1. **FILE NAME:** Wellington Management (180 S. Grotto) **HEARING DATE:** January 18, 2012
 2. **TYPE OF APPLICATION:** Preliminary and Final Plat
 3. **LOCATION:** 180 S. Grotto between Fairmount and Osceola
 4. **PIN AND LEGAL DESCRIPTION:** See subdivision documents for existing and proposed legal descriptions.
 5. **PLANNING DISTRICT:** 16 **PRESENT ZONING:** R4
 6. **ZONING CODE REFERENCE:** § 69.301; § 69.406; § 69.511; § 69.703
 7. **STAFF REPORT DATE:** January 9, 2012 **BY:** Kate Reilly
 8. **DATE RECEIVED:** Oct. 20, 2011; Dec. 14, 2011 **DEADLINE FOR ACTION:** Feb. 14, 2012
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- A. **PURPOSE:** Combined plat for Wilder Addition to Summit Park to create 6 lots
- B. **PARCEL SIZE:** Irregular parcel 320 ft x 340 ft x 185 ft x 43 ft x 133 ft x 380 ft; 2.6 acres
- C. **EXISTING LAND USE:** Institutional – Community Residential Facility
- D. **SURROUNDING LAND USE:**
North: Residential (R4)
East: Residential (R4)
South: Residential (R2)
West: Residential (R4)
- E. **ZONING CODE CITATION:** § 69.301 states that platting is required when a subdivision (1) creates five or more lots or parcels each of which is 2½ acres or less in size; or (2) requires paved streets, alleys and other public improvements; or (3) is previously unplatted land. § 69.406 provides criteria for review of subdivision applications. These criteria are covered below under “Required Findings for Subdivision Approval.” § 69.511 provides parkland dedication requirements for subdivisions. § 69.703 provides for variances to the subdivision regulations.
- F. **HISTORY/DISCUSSION:** The Amherst H. Wilder Foundation closed its Bush residential facility at 180 S. Grotto in March 2010. Wilder marketed the property for sale and has signed a purchase agreement with Wellington Management. Wellington intends to lease the existing facility to the Emily Program, an eating disorder program. The Emily Program community residential facility will be located in the existing structure on Lot 1 of the plat. In addition, five new residential lots for development of new single-family homes will be created with this plat.
- G. **DISTRICT COUNCIL RECOMMENDATION:** District 16 recommends approval.
- H. **REQUIRED FINDINGS FOR SUBDIVISION APPROVAL:** § 69.406 of the Subdivision Regulations requires that all of the following findings shall be made prior to approval of a subdivision:
 1. *All the applicable provisions of the Legislative Code are complied with.* Affected city departments have reviewed the proposed plat and determined that all applicable provisions of the city code are met.
 2. *The proposed subdivision will not be detrimental to the present and potential surrounding land uses.* The proposed plat is consistent with the surrounding land uses, and will not be detrimental to present and future use of surrounding land.

3. *The area surrounding the subdivision can be planned and developed in coordination and compatibility with the proposed subdivision.* The area surrounding the proposed plat is already developed and compatible with the proposed plat.
4. *The subdivision is in conformance with the comprehensive plan.* The subdivision is in conformance with the Housing chapter of the comprehensive plan, which seeks to “preserve and promote established neighborhoods.”
5. *The subdivision preserves and incorporates the site's important existing natural features whenever possible.* The site is in a fully developed part of St. Paul and has no important existing natural features.
6. *All land intended for building sites can be used safely without endangering residents by peril from floods, erosion, continuously high water table, severe soil conditions or other menace.* The site is a relatively flat, fully developed area with no flooding, erosion, high water table or soil condition problems.
7. *The subdivision can be economically served with public facilities and services.* The subdivision is served by existing public facilities and services in surrounding streets.

- I. **PARKLAND DEDICATION:** § 69.511(b) requires dedication of two (2) percent of the total land area of the plat for public use, for parks, playgrounds, trails, open space, or conservation purposes. § 69.511(c) provides that, at the discretion of the City Council, a cash dedication in lieu of land may be paid prior to the city clerk’s signing of the final plat. The Department of Parks and Recreation recommends a cash dedication in lieu of land in this case. Based on the county assessor’s estimated market value of the total acreage of the plat as provided in § 69.511(c), the amount of the cash dedication in lieu of land would be \$7,628.67.

The applicant has requested a variance to base the amount of parkland dedication at the time of platting just on the total acreage of the five new lots (Lots 2-6) being created for new residential development that would create a need for additional parkland, and not on the area of the lot (Lot 1) for which the use would be unchanged and therefore would not create a need for additional parkland. Based on the area of the five new lots for new residential development, the amount of the cash dedication in lieu of land at the time of platting would be \$2,911.70.

§ 69.511 has a two-part parkland dedication requirement: § 69.511(b), *parkland dedication at the time of platting*, plus § 69.511(d), *parkland dedication at the time of building permits*, in response to the requirement in Minn. Stat. 462.358, Subd. 2c (part of the state enabling legislation for municipal parkland dedication requirements), that required parkland “dedication must bear a rough proportionality to the need created by the proposed subdivision or development.” This depends on the type, intensity and density of the use of the land, which not only may not be known at the time of platting, but also may change over time. For the planned new houses on Lots 2-6, the required parkland dedication at the time of building permits will be an additional \$10,216.96.

- J. **FINDINGS FOR VARIANCE OF SUBDIVISION REGULATIONS:** § 69.703 makes the following provisions for variances to the subdivision regulations:

(a) *Required findings. The city council may grant a variance to the subdivision regulations when compliance would create an unusual hardship to the development of the land, based on findings that:*

- (1) *The intent of this chapter is met.* This finding is satisfied. The parkland dedication requirements are intended to provide adequate public park facilities through dedication of land for public use for parks, playgrounds, trails, open space, or conservation purposes (or a fee in lieu of land to be used for the acquisition and development or improvement of such land), on a one time basis, with the amount of the fee or dedication roughly proportionate to

the need for parkland created by the proposed subdivision or development itself, based on the enabling legislation for municipal parkland dedication requirements in Minnesota Statutes 462.358, Subd. 2b, that gives municipalities authority to require dedication of land (or cash in lieu of land) for public parks only to the extent that the subdivision itself creates a need for new public parks to serve the subdivision. If use of new lots created by a subdivision is unchanged or the new use does not create a need for additional parkland, then the city does not have the authority to require dedication of parkland. There are constitutional requirements for payment of just compensation for taking private property for public use.

The use of Lot 1 will be unchanged and therefore would not create a need for additional parkland. A parkland dedication fee-in-lieu of land would be paid for Lots 2-6 that are being created for new residential development that will create a need for additional parkland.

- (2) *The granting of the variance will not be detrimental to the public safety, health or welfare or injurious to other property or improvements in the neighborhood in which the property is located.* This finding is satisfied. The fee-in-lieu of land for Lots 2-6 would provide for public park facilities proportionate to the need created by the proposed subdivision, and would not be injurious to other property or improvements in the area.
- (3) *The conditions upon which the request for a variance is based are unique to the property for which the variance is sought and are generally not applicable to other property.* This finding is satisfied. Use of Lot 1 will be unchanged.
- (4) *The literal interpretation of the provisions of this chapter would deprive the applicant of rights commonly enjoyed by other properties in the same zoning district.* This finding is satisfied. Other developed lots for which the use is not changing are not subject to parkland dedication requirements.
- (5) *The special conditions and circumstances do not result from the actions of the applicant.* This finding is satisfied. The special conditions and circumstances relating to the existing open space and development on this site that will remained unchanged by the proposed subdivision and development do not result from the actions of the applicant.
- (6) *Because of the particular natural surroundings, shape or topographical conditions of the specific property involved, unusual hardship to the owner would result, as distinguished from a mere inconvenience, if the strict letter of these regulations were carried out.* In previous similar parkland dedication variance cases, the City Council found that this finding does not apply.

K. **STAFF RECOMMENDATION:** Based on the findings above, staff recommends approval of the final plat and variance request for Wilder Addition to Summt Park subject to the following conditions:

1. A \$2,911.70 parkland dedication fee-in-lieu of land shall be paid prior to the city clerk signing the final plat.
2. The applicant shall file a copy of the Council Resolution approving the plat with the Ramsey County Recorder's Office.

Attachments: Application, Preliminary Plat, Final Plat (reduction), Site Location Maps