

**Department of Community Planning and Economic Development – Planning Division**  
Minor Subdivision Application  
MS-120

**Date:** October 13, 2004

**Applicants:** Chris Murphy & Martina Sagayam

**Address of Property:** 4004 Queen Avenue South

**Contact Person and Phone:** Chris Murphy 612-384-0098

**Planning Staff and Phone:** Jim Voll 612-673-3887

**Date Application Deemed Complete:** August 6, 2004

**End of 60-Day Decision Period:** October 5, 2004

**End of 120 Day Decision Period:** December 4, 2004

**Ward:** 13                    **Neighborhood Organization:** Linden Hills Neighborhood Council

**Existing Zoning:** R1 Single-family District

**Proposed Zoning:** Not applicable for this application.

**Zoning Plate Number:** 29

**Overlay District:** SH Shoreland Overlay District

**Comprehensive Plan:** Residential.

**Proposed Use:** Lot 2 is approximately 8,512 square feet and Parcel A (Lot 2 modified) will be 7,571 square feet. Lot 3 is approximately 8,512 square feet and Parcel B (Lot 3 modified) will be 9,392 square feet. The parcels will be suitable for single-family homes (one existing and one new).

**Concurrent Review:** Minor Subdivision.

**Applicable Code Provisions:** Chapter 598 Subdivisions.

**Development Plan:** The development plan shows a possible development scenario, but the final plan does not necessarily have to match this proposal. The zoning will only allow single-family homes. Any development is subject to zoning office approval and compliance with the shoreland regulations.

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**Background:** This item was continued from the September 13, 2004 meeting of the City Planning Commission to allow the applicant and the neighbors to discuss the access easement at the rear of their properties. They have come to an agreement on the access at the rear of the property (please see attached agreement). While the City will not enforce this agreement, it is satisfactory to allow the subdivision to proceed, as it provides assurances that access can be provided for the lot.

The subdivision consists of two platted lots. There is a single-family home on the south lot. The subdivision will move the common lot line between Lot 2 and Lot 3 approximately 6 feet to the north. None of the exterior lot lines around the perimeter of the two lots will be changed. The applicant proposes to construct a new single-family home on the northern lot (Lot 2). The parcel is in the SH Shoreland Overlay District. Any new development is required to comply with the standards of this overlay district.

The applicant will remove the porch on the north side of the house to comply with the required 6 foot setback on the north side. In addition, the deck at the rear of the site is required to be removed to comply with the required 6 foot setback.

**Required Findings:**

**1 Subdivision is in conformance with the land subdivision regulations and the applicable regulations of the Zoning Code, and policies of the Comprehensive Plan.**

Both lots will be in conformance with the requirements of the zoning ordinance if the porch and deck on the existing house are removed from the required 6 foot interior side yard on the north side of Lot 3. Both lots are in conformance with the standards of the subdivision regulations, with the exception of required lot width and lot size. The R1 zoning district requires a lot width of 50 feet. In addition to this zoning code requirement, Section 598.240(2)[a] of the subdivision regulations require that lot width be increased by 10 feet when an alley is not provided. The two lots do not have access to an alley, so the lot width is required to be increased from 50 to 60 feet. Lot 2 will have a width of 50.11 feet. Lot 3 will have a lot width of 56.11 feet.

The R1 District requires a minimum lot size of 6,000 square feet. However, Section 598.240(2)[a] of the subdivision regulations requires that lot width be increased in "large-lot districts." The section states that "lot area shall not be less than the greater of (1) the minimum requirements set forth by the zoning ordinance or (2) the average of the single-family and two-family zoning lots located in whole or in part within three hundred fifty (350) feet or the average of the single-family and two-family zoning lots located in whole or in part within three hundred fifty (350) feet, whichever is greater, where such average lot area exceeds the minimum zoning requirement by fifty (50) percent or more."

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The minimum lot area in the R1 District is 6,000 square feet. The average of the single-family and two-family lots within the same zoning district (the R1 zoning) within 350 feet is 9,133 square feet. This exceeds the minimum lot area of 6,000 square feet by 50 percent ( $6,000 \times 50\% = 3,000$  and  $3,000 + 6,000 = 9,000$ ). Since this average exceeds the minimum of the district by 50 percent, it (9,133) is the minimum lot area under the large lot provision of the subdivision ordinance. Parcel B will be 9,392 square feet. It will meet the large lot average and does not need a variance from the subdivision large lot provision. Parcel A will be 7,571 square feet and will be 1,562 square feet smaller than the large lot requirement and will require a variance from the large lot provision.

The lots meet the lot size and lot width requirements of the zoning code, but they do not meet the increased standards of the subdivision ordinance that are triggered by the subdivision application, or a splitting of a zoning lot subject to the large lot requirements. To grant a variance from the lot width and lot size requirement of the subdivision ordinance the following findings are required:

598.310. Variances. Where the planning commission finds that hardships or practical difficulties may result from strict compliance with these regulations, or that the purposes of these regulations may be served to a greater extent by an alternative proposal, it may approve variances to any or all of the provisions of this chapter. In approving variances, the planning commission may require such conditions as it deems reasonable and necessary to secure substantially the objectives of the standards or requirements of these regulations. No variance shall be granted unless the planning commission makes the following findings:

- (1) There are special circumstances or conditions affecting the specific property such that the strict application of the provisions of this chapter would deprive the applicant of the reasonable use of land.
- (2) The granting of the variance will not be detrimental to the public welfare or injurious to other property in the area in which the property is located.

The purpose of the lot width requirement is to provide room for driveways on lots where there is no alley access. Lot widths are required to be increased to allow for a driveway on the side of the house. While the lots do not have alley access, they do have access at the rear of the lots out to West 40<sup>th</sup> Street through a driveway access easement, so it would be unnecessary to run a driveway along the side of a house. Therefore, it is not necessary that both lots have 60 feet of frontage on Queen Avenue and it would be a hardship to require strict adherence to this standard.

The purpose of the lot area requirement is to set a minimum lot area for residential development. In large lot areas the purpose is to prevent large lots from being subdivided into smaller lots changing the unique character of an area. In this case the average of the large lots in the area is 9,133 square feet. Parcel B, with the existing home will meet the large lot average and Parcel A, that will have the new home, is 1,562 square feet short of the average, which is a relatively small amount. Denying the variance to reduce the lot area by approximately 17 percent could prevent the reasonable use of land, especially when the variance will not create a lot that is significantly smaller than the large lot standard, or the surrounding lots in the area. It should not be detrimental to property in the area.

**2. Subdivision will not be injurious to the use and enjoyment of other property in the immediate vicinity, nor be detrimental to present and potential surrounding land uses, nor add substantially to congestion in the public streets.**

The proposed subdivision will adjust the common lot line between the two lots to provide more area for the southern lot, but the large lot character of the area will be preserved. The area is zoned for single-family homes and eventually a new home will be built on the lot. A single-family home will not be out of character with the area and should not add significant congestion to the public streets.

**3. All land intended for building sites can be used safely without endangering the residents or uses of the subdivision and the surrounding area by peril from floods, erosion, high water table, severe soil conditions, improper drainage, steep slopes, utility easements, rock formations, or other hazard.**

The site has a grade change at the front of the lots, but it is not large enough to prevent building on the site. The site does not present the other noted hazards.

**4. The lot arrangement is such that there will be no foreseeable difficulties, for reasons of topography or other conditions, in securing building permits and in providing driveway access to buildings on such lots from an approved street. Each lot created through subdivision is suitable in its natural state for the proposed use with minimal alteration.**

No change to the grading is proposed and access can be provided at the rear of the site through an access easement to West 40<sup>th</sup> Street.

**5. The subdivision makes adequate provision for storm or surface water runoff, and temporary and permanent erosion control. The storm water drainage system shall be separate and independent of any sanitary sewer system. All plans shall be designed in accordance with rules, regulations and standards of the city engineer. Facilities intended to be dedicated to the City shall be located in perpetual, unobstructed easements of a width determined to be adequate and necessary by the city engineer. To the extent practicable, the amount of stormwater runoff from the site after development does not exceed the amount occurring prior to development.**

Existing utility and drainage provisions are adequate for the existing and proposed development. When the new home is built it will be subject to all Public Works site drainage regulations and may require an erosion control plan that meets the requirements of the SH Shoreland Overlay District.

**Recommendation of the Community Planning and Economic Development Department – Planning Division:**

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The Community Planning and Economic Development Department – Planning Division recommends that the City Planning Commission adopt the above findings and **approve** the minor subdivision application with the lot width and lot area variances for property located at 4004 Queen Avenue South.

**Attachments:**

- 1) Access agreement.
- 2) Letter from the applicant.
- 3) Hennepin County map.
- 4) Survey.
- 5) Architectural drawings.
- 6) Photos.