

**MINUTES OF A SPECIAL PLANNING COMMISSION MEETING HELD
TUESDAY, OCTOBER 16, 2007 – 7:00 P.M. – ROCKVILLE CITY HALL**

The meeting was called to order by Chair Toni Honer. Roll call was taken and the following members were found to be present: Chair Toni Honer, Dale Borgmann, Steve Dietman, Susan Palmer, Jerry Bechtold, Jerry Tippelt & Dan Hansen.

Staff members present were: Utility Billing/ Administrative Assistant Judy Neu, Attorney Jim Mogen & Building Official Jeff Howe.

Others present: None

APPROVAL OF AGENDA/AMENDMENTS – Motion by Member Bechtold, second by Member Borgmann, to approve the agenda and addition as amended. Motion carried unanimously.

APPROVAL OF AMENDED MINUTES 10/09/07 – Motion by Member Bechtold, second by Member Hansen, to approve the amended minutes of 10/09/07 with a correction that a motion should say recommend approval of a patio constructed of pervious paver not to exceed 12 feet. Motion carried unanimously.

Member Bechtold reported that Rena Weber, Shamba Mueller, Greg Berg (Stearns County Soil & Water) and him met at the Mueller site to get input from Stearns County Soil and Water. Member Bechtold reported that Greg Berg will type up a report.

NEW BUSINESS

AMENDING THE ACCESSORY USE- Attorney Jim Mogen explained that the Council had some issues regarding the removal of the AG-40 district and suggested to add the AG-40 language back in.

Discussion was held on:

- Accessory Structure in which to store materials in anticipation of building a principal structure
- Accessory Structure with water or sewer connection
- Accessory Structure and the uses
- Construction Site plan or Interim Use permit
- Time limit -1 year time frame to allow principle structure to be built and who is going to enforce it when the time is up

Attorney Jim Mogen explained that if someone builds a garage/accessory building in the AG-40 district for the purpose of storing stuff while they are building a house. They should be applying for an interim use permit.

Attorney Jim Mogen explained that the issues are:

- Terminology for AG-40 districts
- Removed exception for the AG-40 because of the fact that a use would have to be a permitted use in that accessory building or would have to be accessory to a home business or house.

Chair Honer stated that we need to incorporate as much information in so we clarify it better.

Attorney Jim Mogen explained that an accessory structure in which residents are requesting to have a bathroom installed should follow under a residential structure more than an accessory structure and then the question would be, are they meeting the building code requirements for a residential structure.

Member Tippelt stated that he disagrees with it because you are talking about two different things. You are talking about an accessory structure and the use. You can put an accessory structure up and we have an ordinance against the uses. Why do we want to penalize residents

that want to put up an accessory structure for storing stuff just because we have a few residents use it for what it is not zoned for?

Attorney Jim Mogen explained that the trouble in trying to enforce the ordinance. When a resident fills out a building permit we should be asking them what are they using it for.

Attorney Jim Mogen stated that the Council would like for the Planning Commission to look at exploring a one year time frame limit in allowing the principal structure to be built. He explained that the current and new language does not have a time limit and secondly how do we enforce the accessory use when it should not be there because there is no principle use or a permitted use associated with it.

Member Palmer stated are we really going to have them tear down the accessory structure. What would be our enforcement?

Member Borgmann questioned if the building official would have to enforce it.

Building Official Jeff Howe stated that the Zoning Administrator, Legal or the Building Official would have to enforce it.

Member Tippelt questioned if we require a construction site permit? Yes

Attorney Jim Mogen explained that you need to decide which way:

- Do you want flexibility in the code to allow them to fill out a construction site permit or a interim permit, which would allow for an accessory structure be built with out a principle structure and then later try to enforce it at the end; or
- Not allowing them at all

Attorney Jim Mogen explained that if the ordinance is flexible at the beginning you will have problems enforcing it at the end; if we are not flexible in the beginning you won't have the problem enforcing it at the end.

Building Official Jeff Howe stated that you will have problems enforcing it later.

Attorney Mogen explained that the items for the accessory structure:

- Reinsert the AG-40 district exemption into language
- Time limit- we will develop an interim use permit for accessory building to insert it in each code. (Time limit-one year with a one year renewal)
- Each district include language that accessory structure with no principle structure will be torn down after time limit and that the cost associated with it will be assessed to the property owner

Motion by Member Borgmann, second by Member Palmer, to recommend that the Attorney develop the language on reinserting the AG-40 district exemption, inserting a time limit (one year with a one year renewal) with the interim use permit, accessory structure with no principle structure be torn down after time limit and assess the cost associated with it and to bring it forward to the next council meeting for approval. Motion carried unanimously.

INDUSTRIAL SETBACK FROM RESIDENTIAL PROPERTY- Attorney Jim Mogen presented a written document regarding Section 22, Subd. 5(1) and Section 23, Subd. 5(1) (the two industrial zoning code provisions) both currently read: (A copy is hereby attached marked Exhibit A)

1. Setbacks.

- A. There shall be no interior or rear yard setback for driveways and parking areas except as stated in section C. below. When a setback is provided, there shall be a minimum setback of twenty-five (25) feet.

- B. There shall be a twenty-five (25) foot front and building setback, except as stated in section C. below.
- C. Setbacks from Residential Property, Churches and Schools. The setback from all residentially zoned property, churches and schools must be at least one hundred fifty (150) feet. This setback area must be landscaped and may not be used for parking, loading or driveways, except if the industrial property is at least one hundred fifty (150) feet from the residential property; then the normal non-residential setback shall apply.

My proposal recommends replacing that language with the following:

1. **Setbacks.**

- A. Front yard setback. There shall be a twenty-five foot front setback, except as stated in sections C and D, below.
- B. Side yard and rear yard setback. There shall be a twenty foot side or rear setback, except as stated in sections C and D, below.
- C. Setbacks from Residential Property, Churches and Schools. A Light Industrial District side or rear yard adjacent to a residential boundary line, or property currently used as a church or school, shall provide for a landscaped strip of at least one hundred feet in width along the lot boundary line. If the length of this portion abutting the residential boundary line is planted to provide a natural screen, setback may be reduced to sixty feet of landscaped property.
- D. There shall be no side or rear yard setback for driveways and parking areas except as stated in section C.

Member Palmer questioned on how wide does the screening need to be.

Chair Honer explained that under the landscaping ordinance the screening is 15' back.

Member Tippelt stated that he would like to keep the 150' setback from a residential district because you might have noise and/or odor issue. What is wrong with the 150' feet and a variance under unique situation?

Motion by Member Bechtold, second by Member Borgmann, to recommend that the attorney bring back a draft ordinance that is similar with the City of Saint Joseph. Motion carried unanimously.

WATER-ORIENTED ACCESSORY STRUCTURES-

Attorney Jim Mogen apologies and will be bring some language back to the next meeting.

TRANSITIONAL ZONING & ZONING MAP-"TARGET AREAS" FOR IMPLEMENTING

RANDALL'S IDEAS- Attorney Jim Mogen presented a written document regarding definition on "transitional zoning." (A copy is hereby attached marked Exhibit B)

Transitional Zoning: This phrase refers to zoning which attempts to deal with the problem of incompatible adjacent uses or use districts in changing or transitional areas by providing for the shading of uses or transitional areas, from more intense to less intense and from less intense to more intense uses within the district or near the boundaries of the districts. 1 Rathkopf's The Law of Zoning and Planning § 1:33 (4th ed.)

Under this definition, transitional zoning is focused on providing mechanisms so that permitted uses of neighboring zones are not incompatible, or at least the incompatibility is minimized.

Some examples of transitional zoning would be:

Gradual or Tiered Zoning: This would be zoning neighboring property in such a way that changes in permitted uses are minimal and gradual. For example, instead of going from a single family zone to a high density residential zone, medium density zones would be created that limits the size of multiple unit buildings. Next to a single-family development, duplexes or townhouses are allowed, but not apartment buildings. Next to the duplexes, apartments of a certain maximum size are allowed, but large apartment campuses would not be.

Buffer Zoning: This would be zoning agricultural, parks, open space or other limited use districts adjacent to high intensity use zones so that a distance is placed between sensitive incompatible uses. An example of this would be to separate a residential zone from an industrial zone.

Mixed Use Zoning: Currently, the City uses pretty standard Euclidean Zoning Districts. This means that the districts tend to segregate residential from commercial and industrial uses. Mixed use zoning would allow some uses of an adjoining district as a kind of integration of the two districts. The provision usually has a distance limit from the adjacent use, and might require spaces or buffers between those uses to prevent concentrations. An example of this might be to allow, within a single-family district, limited two-family and townhouse lots within 1000 feet of a multi-family zoning district. This creates a de facto 1000 foot wide zoning district that mixes uses from the two districts.

Future Planning Zoning: This is zoning that attempts to prevent current development from interfering with future, planned development. The most common example of this is zoning that prohibits larger residential lots being developed with septic systems and wells, especially adjacent to existing municipally served development (or in the vicinity). Under this example, the ability of the City to service property on the other side of the large lot residential development is made much more expensive, possibly prohibitively so. This limits the type of development available in these areas, and requires numerous independent septic systems and wells, instead of connecting to the city water and sanitary sewer.

OTHER IDEAS

As you can see, when we have used the term “transitional zoning,” we frequently have not been talking about actual transition issues. Instead, we have been using the term to describe other ideas. Below are some terms that I believe define ideas other than transitional zoning.

Focused Development: The City has a current zoning plan that attempts to focus development into corridors and areas surrounding the downtown core, the two lakes, Hwy. 23 and the major roads connecting them. Even though these areas are not currently being developed, the zoning map and the future land use map suggest that future development should be limited to these areas by prohibiting common developments in large areas of the City.

In some ways, this is really planning for the future. The City is seeking to limit the costs of providing municipal services (improved roads, sanitary sewer, storm sewer, water mains, and police and fire coverage) by directing development to areas best able to develop and which takes best advantage of proximity to existing services.

This differs from a protection model, as laid out above, because it is focused on directing development, and not solely on preventing future incompatible uses or obstacles to planned developments.

Large Lot Residential: The City currently does not have a district which is limited to large residential lots. With the A-40 restrictions, subdivision of lots smaller than 40 acres is not encouraged. The A-40 district was designed to retain the rural characteristics of the land, and to prevent the need to extend municipal services to areas not conveniently adjacent to existing developed areas.

However, the argument is that there is a market demand for larger residential lots. It is not clear if this is purely residential lots (~1-2 acre) or what is known as “hobby farms” and “horse farms” (5-10 acres). In addition, some have argued that property owners that are experiencing fast increases to their market

values must be allowed to subdivide their property, and that limiting parcels to 40 acres limits the ability to do that.

Providing a zoning scheme that allows larger residential lots in order to meet market forces is probably not necessary. Under the R-1 and R-2 zone, there is no maximum lot size. Therefore, a developer would be able to subdivide their property into 1, 2, 5 or 10 acre lots, depending on their own analysis of what buyers want. This does not mean that large residential lots are not possible; simply that it is within the current zoning scheme to allow these developments.

However, if the goal is to allow property owners to subdivide their properties, and sell off portions to recognize property value increases, the zoning code will need adjustment. In addition, if the City wishes to encourage large lot residential development (as opposed to lot sizes of 10-20,000 sf), a new district would likely be appropriate.

Please note that large residential lots can be used to institute transitional zoning. For example, if we are concerned that new single-family home development in an R-1 district may be too dense for existing homes (for example, around the lakes), the development of a larger minimum lot size would be a form of transitional zoning that would lower the density of adjacent developments.

Attorney Jim Mogen explained that conservation subdivision would allow smaller lots and open spaces.

Member Palmer explained that we should be looking at the future land use map and figure out:

- Where do we want to see Conservation Subdivisions
- Where do we want to see Conservation Overlay District
- Where would we want the same amount of homes but would preserve the open space

Chair Honer explained that we could take what Randall Arndt portrays and word it as a "mission statement". We could talk about in two ways:

- Standard Residential Subdivision- The City of Rockville encourages to going greener
- That we encourage development if it is done in a correct way

Another thing is that we need to look at is:

- Acreage-Example a 60 acre parcel would be handled different than if you have a 300 acre parcel.

Attorney Jim Mogen stated that you still will have the same issue on 60 acres as you would on a 300 acre parcel.

Attorney Jim Mogen explained that you will end up with splits. For example in a 60 acre parcel you allowed a subdivision standard and the 300 acre parcel you allowed conservation subdivision. The issue would be you allowed for the 300 acre parcel to have more rights than the 60 acre parcel.

Member Palmer explained that she doesn't think you're allowing different rights just as long as you are following Randall Arndt ideas.

Attorney Jim Mogen explained if that's the issue you should be encouraging the conservation subdivision, not to come up with a different criteria base on the lot.

Member Palmer stated that it needs to be more of a comprehensive discussion and she does not feel comfortable going piece by piece without looking at the full map.

- What do we want the future zoning to look like
- Are there areas that truly define as transitional
- Where to allow Conventional Subdivision
- Where to allow Conservation Overlay
- Where to allow 5-10 Acre parcels

Attorney Jim Mogen explained that the current future land use map identify these. If you are looking at changing what is currently in place you should get approval from the council first.

Member Palmer stated that we are looking at amending what we have.

Attorney Jim Mogen explained that you can look at Conservation Subdivision without redoing the entire zoning code.

Attorney Jim Mogen suggests that you join two sub-committees on:

- Ideas on smaller lots (hobby farm)
- Where would Conservation Subdivisions be

Chair Honer stated to think about what sub-committee you would like to be on and will discuss it at the next meeting.

STAFF REPORT - Update on Anthony Peters-25523 Pleasant Road

Building Official Jeff Howe explained that he visited the site with Anthony Peters and he suggested to Tony Peters that he should remove the couch, bunk beds & carpet and if he is looking for a final inspection to connect Nancy Scott the former building official.

Member Palmer questioned if is it an accessory structure.

Building Official Jeff Howe explained that it is an accessory structure that has a garage portion in which he was allowed to install a bathroom but he has more items than what was previously told. He also has a washer, dryer and in floor heat tubes and that all he would need yet is the heater to hook it up with.

Member Palmer stated that this could be a cabin.

Building Official Jeff Howe stated that “yes” it could be a house. If you would finish the structure by insulating it, finish the wall that separates the living area from the garage, put in the heater for the in floor heat. This would be a habitable structure.

Building Official Jeff Howe explained “yes” we have an enforcement issue here. This gentleman is using this accessory structure as a cabin.

Attorney Jim Mogen explained that it is an enforcement issue, which the Zoning Administrator should take care of it. The problem is that he has a duplex on a lot that does not allow for duplexes and he has a building permit for an accessory structure. He does not have a building permit for a residential use.

Member Tippelt questioned if he is breaking the law now.

Attorney Jim Mogen stated “yes” he is using the building residentially and it is not a residential building. He is breaking the building code and in addition he now has two residential structures on a single parcel in which the dimension of his lot is not large enough to accommodate for 2 residential structure in which he would need a variance for that and he is also violating the zoning code as will.

OLD BUSINESS-There was none.

ADJOURNMENT – Motion by Member Borgmann, second by Member Hansen, to adjourn the meeting at 9:17 p.m. Motion carried unanimously.

JUDY NEU
BILLING CLERK/ADMINISTRATIVE ASST

TONI HONER
CHAIR