

1. CALL TO ORDER/ROLL CALL

Chairman Lucking called the meeting to order at 7:00 p.m.

Members Present: Chairman Lucking and Commission members John Beal, Bill Cook, Brian Malo (7:20), David Paeper, Todd Palmberg and Mark Spiers

Absent: None

Others Present: Council Liaison Tom Fletcher, City Attorney Mark Kelly and Zoning Coordinator Gus Karpas.

Mayor Kind attended the meeting as an observer and did not participate in the discussion on Agenda items.

2. OATH OF OFFICE

City Attorney Kelly administered the Oath of Office to incoming Commissioner Bill Cook.

3. APPROVE AGENDA

Commissioner Beal moved to accept the agenda for tonight's meeting. Commissioner Paeper seconded the motion. Motion carried 6-0.

4. MINUTES OF July 15, 2009.

Commissioner Beal moved to approve the minutes of July 15, 2009. Commissioner Spiers seconded the motion. Motion carried 4-0. Commissioners Cook and Paeper abstained.

5. LIAISON REPORT

Council Liaison Fletcher said the Council discussed a variety of issues. He said the Construction Management Ordinance and Stormwater Run-off Ordinance passed, with minor changes to the Construction Management Ordinance.

Fletcher said the proposed Administrative Hearing Ordinance will have a second reading at the next Council meeting.

He said he brought up the issue of amending the ordinance to permit expanded food service for the Lakeshore Market and it was met with opposition by a majority of the Council.

City Attorney Kelly suggested the item be placed on the next Planning Commission agenda for official action.

Fletcher said the Council also discussed the proposed changes to the Tree Preservation Ordinance and noted he provided written feedback from the Council via e-mail. He said the proposed Lighting Ordinance has been put on hold until the Council has time to

review resident comments from a Community Survey that was recently sent out. He strongly urged residents to participate in the survey.

The City Council also took action on the Brands' variance request to construct a new garage which exceeds the maximum permitted impervious surface area. It was approved with a condition that the detached garage located near the road be removed. He commented that he feels the Council is doing a good job on tightening up on variance requests.

Fletcher said a number of non-planning issues were also discussed and summarized the discussion on St. Alban's Bay milfoil, the rejection of the Social Host Ordinance, the proposed Liquor Ordinance and changes in the budget.

6. OTHER BUSINESS

DISCUSS FENCE ORDINANCE – Review and comment on the existing fence regulations as they pertain to permitted height. The current ordinance is unclear whether the measurement should be taken from the ground or from the fence panel itself. The current ordinance also is unclear as to whether posts are included as part of the height requirement. Discuss thoughts and make recommendation to the Council on whether the Commission feels amendment is necessary.

Chairman Lucking summarized the request from the City Council that it take a look at the existing ordinance to determine if there may be reasonable changes made pertaining to height. Lucking said he really appreciates this type of feedback from the City Council, in that it's a specific direction to the Planning Commission. He said his interpretation of the ordinance is that the measurement is taken from the ground.

Zoning Coordinator Karpas summarized the issue, stating the Council wanted the thoughts of the Planning Commission on permitting a specific separation from grade to the bottom of a fence panel, the permitted height of a fence panel and whether they would support permitting post to extend slightly higher than the top of a fence panel.

City Attorney said the discussion started with a neighbor complaint regarding the height of a post cap, which exceeded the six foot maximum height permitted in the ordinance. Any change made to the ordinance would clarify the regulations.

Commissioner Beal said there is no need to write a novel when developing the ordinance, but at the same time, wants it written so it can't be gamed.

The Planning Commission discussed the issues pertaining to sloping grade and how to measure separation, whether it should be a set number or an average over the length of a fence panel. Commissioner Spiers felt an average separation should be part of the ordinance since the height of a fence could vary greatly from one end of the panel to the other.

Commissioner Paeper wanted to be careful not to dictate fence design through height restrictions.

Commissioner Spiers reiterated he had no problem permitting a separation from grade provided there was some provision for averaging. Chairman Lucking said average may be difficult in situations where there are steeper slopes.

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Commissioner Spiers discussed fence height relative to street height, stating in the case of his property, the street was approximately two feet higher in grade, so visually, a six foot fence would appear to be only four feet, and not as effective.

Chairman Lucking commented that the height of the top of the fence panel is the focus of the ordinance. He asked why a six foot height was selected initially. Zoning Coordinator Karpas said fences over six feet in height require a building permit per the Uniform Building Code and that the city's height restriction is consistent with most cities for that reason.

Commissioner Palmberg wanted clarification on why the ordinance needed to be changed. Zoning Coordinator Karpas said it was an attempt to clarify the ordinance and to be a little more lenient on the height provisions, which could now be interpreted to include the fence post in the six foot restriction. City Attorney Kelly said clarification of the ordinance permits city staff to more easily explain the regulations to residents.

Commissioner Spiers asked if the intent was to draft ordinance amendments or to establish guidelines. City Attorney Kelly said his thought was to establish guidelines.

Chairman Lucking said if there were to be an average clause on the grade, there should be a maximum spacing permitted for fence posts.

Zoning Coordinator Karpas said the establishment of an average grade separation may create enforcement issues, since it would be difficult to determine the average grade without spot elevations.

Commissioner Beal said the request from the Council shouldn't be made into a big deal. He suggested permitting a maximum separation of three inches, a maximum panel height of six feet, and a maximum post height not to exceed six inches from the top of the fence panel. Commissioner Paeper suggested including a maximum distance between posts.

Zoning Coordinator Karpas said he would prefer the changes be codified, noting staff changes over time, and it would be better to have something in black and white for future reference.

The Planning Commission discussed specific changes. City Attorney Kelly summarized the discussion stating the Commission supports a three inch grade separation, a maximum panel height of six feet, a maximum post height not to exceed twelve inches above the top of the fence panel, a maximum panel length of eight feet and a minimum panel length of four feet.

Commissioner Spiers feels the issue of post dimensions needs to be discussed, especially in the case of a masonry wall. Chairman Lucking felt the post dimension may not be an issue, since they would be located on the interior side of the fence.

Commissioner Spiers also felt there should be a provision giving the Zoning Coordinator some discretion when measuring separation to take into account grade change.

Commissioner Palmberg discussed grade change and noted the separation could vary greatly based on the design of the fence. He feels, if the separation exceeds three inches, a variance would be required.

Commissioner Spiers reiterated his desire to regulate post dimension, stating a maximum should be established. Chairman Lucking said he was unsure how to regulate that. Spiers said it should be regulated because it adds visual weight to the fence. City Attorney Kelly agreed that setting a maximum dimension would be beneficial. The Planning Commission agreed to permit a maximum post dimension of sixteen inches by sixteen inches.

The Planning Commission will hold a public hearing on the proposed ordinance amendments at their October meeting.

OATH OF OFFICE - City Attorney Kelly administered the Oath of Office to incoming Commissioner Brian Malo.

COMMERCIAL PARKING AND IMPERVIOUS SURFACE REGULATIONS – Review and comment on the current regulations for required parking spaces for office uses and permitted impervious surface area on commercially zoned property.

The current parking requirement for office uses requires a minimum of one (1) on-site parking space for each five hundred (500) square feet of floor area. When compared with other cities, this appears to be low

The current impervious surface regulations permit a maximum of 30% impervious surface area on all lots within the city regardless of what the property is zoned. This is difficult in the commercially zoned properties due to parking requirements.

Discuss thoughts and make recommendation to the Council on whether the Commission feels amendment is necessary.

Chairman Lucking summarized the request as it pertains to parking for office uses. Council Liaison Fletcher said he was the one who initiated this issue. He thought it would be good to get the parking regulations into the realm of being reasonable, since our requirements are much lower than other cities, and that the current requirement of one space per five hundred square feet is not reasonable.

Commissioner Paeper said the universal standard is five spaces per one thousand square feet, or one space per two hundred square feet.

Commissioner Beal asked if this was an issue. Chairman Lucking said it was not at this time. Council Liaison Fletcher said there could be an issue in the future and he would prefer to address the issue now, before an application is submitted, because then it would be too late.

Chairman Lucking suggested using the same standard applied to retail uses. That standard is six spaces per one thousand square feet. Council Liaison Fletcher felt that may be too restrictive. Commissioner Beal feels our regulation should be the same as surrounding cities.

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After some discussion, the Planning Commission agreed to amend the ordinance to require a parking requirement for office uses of one space per three hundred square feet.

Chairman Lucking summarized the request as it pertains to impervious surface area in on commercially zoned property.

Commissioner Beal commented the current regulation is not even in the ballpark to what exists, which is about eighty percent on most properties. City Attorney Kelly stated those properties are currently grandfathered.

Commissioner Beal noted the stormwater management plan requirement of neighboring cities. He believes that requirement is key in permitting increased impervious surface.

Chairman Lucking agrees it is appropriate to change the ordinance and would like to see a specific maximum set to provide to applicants.

The Commission discussed appropriate impervious surface percentages and agreed seventy-five percent, with a stormwater management plan, would be acceptable.

Commissioner Beal said the regulation should permit up to thirty percent with a stormwater management plan and anything exceeding seventy-five percent would require a variance.

A public hearing will be held at the October meeting for the amendment of the ordinance.

ALTERNATIVE PERMEABLE MATERIALS – Discuss the potential of permitting alternative permeable materials as a means of lessening the impact of the impervious surface standards on some of the smaller lots in the city. The current ordinance does not provide any type of exemption or credit for materials deemed permeable.

Zoning Coordinator Karpas explained the City Council would like the Planning Commission's thoughts on allowing the use of permeable materials as a means of lessening the impact the of the city's impervious surface standards on smaller lots in the city.

Chairman Lucking noted the Commission has discussed this issue in the past.

Commissioner Beal said that we have used hardcover as a surrogate for building mass. He said the purpose of hardcover standards is to set a percentage that allows water to soak into the ground. He agrees the city may want to do something rational about the use of permeable materials, now that we have a massing ordinance.

Chairman Lucking commented that even though a paver may be permeable, it's still set on top of Class Five gravel which is not. Commissioner Beal said if there is a paver that absorbs water, it should be encouraged.

Commissioner Paeper said the Commission is discussing a total system rather than an individual block.

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Chairman Lucking said he doesn't feel the Commission has enough knowledge on the issue to make a decision at this time.

Commissioner Spiers said there are a lot of products out there with green attributes and the discussion on the use of permeable paves is a good start, but the city should eventually took a look at the environmental issues in a more comprehensive way.

Chairman Lucking feels he needs more information on what is standard in terms of permeability and whether there's an average benefit. He would like more background.

Commissioner Paeper asked if there were any model ordinances the city could use. He agreed with Spiers that this issue may need to be looked at in a more broad view.

City Attorney Kelly suggested contacting the DNR. Zoning Coordinator Karpas said the Minnehaha Creek Watershed District (MCWD) offers educational presentation on these types of issues.

It was agreed that staff would contact the MCWD and arrange for a presentation on permeable pavers.

7. PLANNING COMMISSION LIAISON

No Planning Commission Liaison was selected. Councilmember Fletcher will represent the Planning Commission at the next Council meeting.

8. ADJOURN

Motion by Commissioner Beal to adjourn the meeting. Commissioner Paeper seconded the motion. The meeting was adjourned at 8:10 p.m.

Respectively Submitted
Gus Karpas - Zoning Coordinator