

GREENWOOD PLANNING COMMISSION
WEDNESDAY, MARCH 19, 2008
7:00 P.M.

1. CALL TO ORDER/ROLL CALL

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

Members Present: Chairman John Beal and Commission members Tom Fletcher David Paeper (7:04), Todd Palmberg and Mark Spiers

Absent: Chairman Pat Lucking and Commissioner H. Kelsey Page

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

Motion by Commission Spiers to appoint Commissioner Beal as the Chairman for tonight's meeting. Commissioner Palmberg seconded the motion. Motion carried 4-0.

2. APPROVE AGENDA

Commissioner Spiers moved to accept the agenda for tonight's meeting. Commissioner Palmberg seconded the motion. Motion carried 4-0.

3. MINUTES OF February 20th and February 25th.

Commissioner Spiers moved to approve the minutes of February 20th. Commissioner Palmberg seconded the motion. Motion carried 4-0-1. Commissioner Paeper abstained.

4. LIAISON REPORT

Council Liaison Sagal said the Council reviewed the ordinance amendments request by Mr. Schmitt, denying the proposed amendment for the expansion of use for drive up windows and directed the Commission to provide draft language allowing curb cuts across from residential properties as a conditional use.

Sagal said the Council received a status update from Bolton and Menk regarding infiltration into the sewer system. As it stands now there needs to be more investigation as to where the infiltration is coming from. The city will now focus on some manholes to see if they're contributing to the problem. Commissioner Spiers asked about homeowner contribution to the problem. Sagal said that some homeowners have indicated they have illegal connections to the sewer system, which they said they would take care of. If the infiltration is still high after the manhole inspections, the city may have to institute a program to look at individual properties.

Sagal said the Council was given a presentation from Dick Osgood of the Lake Minnetonka Homeowner's Association regarding milfoil. He said there have been negotiations with Lake Management about treating bays as a whole, rather than by individual properties. He indicated that St. Alban's Bay would be a good candidate for

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full bay treatments. The only concern about this program is the cost, with approximately \$30,000 still needed, outside of available monies, to initiate the process. Sagal said the process and chemicals used would be no different than what is currently in place for treatment of individual properties, they would just be applied to the entire bay.

5. PUBLIC HEARINGS

None

6. OLD BUSINESS

Ordinance Amendment – Recommendation to City Council on draft language to Section 1140:45(6)(c) permitting direct access to Excelsior Boulevard as a conditional use for commercial uses.

Chairman Beal noted this item was continued from the February meeting to give time for the City Attorney to draft specific language for the ordinance amendment.

The Planning Commission reviewed the draft language for recommendation to the City Council.

Chairman Beal asked if this was a public hearing. City Attorney Kelly said it was not. The Planning Commission was to review the ordinance and suggest changes for a public hearing in April.

City Attorney Kelly presented the proposed ordinance permitting curb cuts as a conditional use permit for commercial properties adjacent to residential properties which includes a requirement for civil engineering review for any proposed cut and limiting the width of curb cuts.

The Commission discussed the language regarding the referenced two hundred and fifty-foot width. It was clarified that a lot would not require two hundred and fifty feet in order to have a curb cut, rather there could be no more than one curb cut per two hundred and fifty feet of width.

Commissioner Palmberg asked if the ordinance addressed corner lots. City Attorney Kelly said it did not, but that would be self-regulated through public safety and civil engineering review.

Commissioner Spiers asked if there would be a lot width considered too narrow to permit a curb cut. City Attorney Kelly said that was not addressed by the proposed ordinance but that language could be added to set a minimum lot width requirement, for example, a curb cut would not be allowed on a lot dimension less than fifty feet.

Commissioner Paeper asked if the Planning Commission had the ability to deny a curb cut presented as a conditional use. City Attorney Kelly explained that a conditional use is

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a use that is allowed with conditions. That being the case, each request would be reviewed and reasonable conditions attached to ensure public safety. Kelly noted that specific conditions have not been part of the process since the intent was to draft an ordinance to allow access.

Council Liaison Sagal said the Commission had to keep in mind that there are other commercial areas in the city that are adjacent to residential property. City Attorney Kelly said that was a good point, but noted the proposed ordinance is limited to the C-1 District along Excelsior Boulevard. He noted that the other commercial uses and the Old Log Theatre operate under existing conditional use permits and any alteration to their property would require city approval.

Commissioner Spiers asked if the location of curb cuts could be regulated in terms of distance from property lines and other curb cuts. City Attorney Kelly said the proposed ordinance does not establish a required setback, but issues such as that can be addressed as part of the conditional use permit.

Commissioner Fletcher questioned whether the two hundred and fifty feet referenced in the ordinance addressed linear feet per lot or linear feet across property lines along the road. City Attorney Kelly said at this point it was addressing on a per lot bases, limiting one access per two hundred and fifty linear feet of lot frontage.

Commissioner Palmberg asked if existing access points would be addressed by the ordinance or if they are grandfathered. City Attorney Kelly said they would exist as non-conforming uses and would be able to remain as such until either they are abandoned for a period of twelve months or the property is altered requiring a conditional use permit under the code.

Action:

Motion by Commissioner Spiers to hold a public hearing at the April 16th meeting to review language amending Section 1140:45(6)(c), permitting direct access to Excelsior Boulevard as a conditional use. Commissioner Palmberg seconded the motion. The motion carried 5-0.

Ordinance Amendment – Discuss the amendment of Section 1100 of the city Zoning Ordinance to add provisions regulating the mass of a structure including the creation of a volume measurement standard and redefining structure height.

Zoning Coordinator Karpas expressed support of the proposed ordinance and measurement process as opposed to the previous ordinance, which he found complicated and difficult to understand.

Chairman Beal said he found that encouraging. He said the he and Commissioner Fletcher and Zoning Coordinator Karpas have applied the measurement procedure to a number of structures independently and were getting very similar numbers in terms of volume. He sees this as an indication that proposed system is easier to understand and

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apply. He said he has provided the Commission with a draft ordinance for their review. He said the Commission has to decide if the proposed language is acceptable to pass on to the City Attorney for codification.

Commissioner Spiers asked about how close the independent measurements were. Zoning Coordinator Karpas said usually with three or four thousand cubic feet. Chairman Beal said within about seven percent or so and reiterated that the measurements were done on properties with sketchy information.

Chairman Beal said the purpose of the measurements is to try and gauge what is appropriate for the city based on existing structures.

Commissioner Fletcher noted that the measurements were done from the grade at the foundation and did not take into account the grade five feet from the foundation. He distributed a graph showing the volume to lot area ratios for the properties measured to date. He said he would like the opportunity to measure 5095 Highview Place again, since it seems the number doesn't seem right.

Chairman Beal added that the thought that a flat roofed structure would be easier turned out to be false, at least in the case of the Spiegel home on Byron Circle.

The Planning Commission discussed the process for reviewing the ordinance, expressing a desire to draft language and passing it on to the Council in a timely manner. Council Liaison Sagal said the Council is interested in moving this process forward.

Chairman Beal asked if the Commission was comfortable with passing his ordinance language onto the city attorney for massaging. Commissioner Spiers asked the city attorney if he could work with the document presented by Mr. Beal. City Attorney Kelly said he could and expressed a concern there may still be some open ended issues, such as dovetailing the basement measurement into the ordinance and creating a measurement standard for structures taking into account different roof types. Chairman Beal said he believes issues related to the basement are addressed in his draft.

City Attorney Kelly said he hasn't heard much discussion of the roof measurement based on height and said he got the sense that Beal felt there was an issue with equal protection. Chairman Beal said his issue is that he doesn't believe the Planning Commission has the authority to dictate aesthetics and show a bias towards one style or another.

The Commission discussed roof measurement and the concept of measuring height to the average of the peak and including a maximum overall height. Commissioner Spiers was comfortable with establishing a maximum height on top of the regular height measurement.

The Commission discussed the process, deciding that the City Attorney would provide an ordinance for their review at the April meeting and holding a public hearing at the May meeting.

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Council Liaison Sagal asked if it was possible to adopt an ordinance without the actual numbers decided. City Attorney Kelly said you couldn't. Sagal expressed concern about the homes being measured, stating he didn't believe they represented an accurate statistical analysis since they were homes the Council felt were too large. He feels there needs to be a mix of homes, including those that are viewed as appropriate in size, not just those thought to be too large.

Commissioner Spiers said you have to keep in mind that there is no way to discern property lines by just looking at a property. He said an individual property and its impact might be skewed based on the balance of the neighborhood and the location of structures on adjacent lots.

City Attorney Kelly noted that the houses measured to this point showed that all the homes were similar in volume though the lot areas varied greatly. He commented this is the crux of the problem, everyone wants the same size house with no regard to whether their lot will support its mass.

Commissioner Fletcher believes it would make sense to include specific numbers with the ordinance when it's passed onto the Council. Chairman Beal agreed, noting that the measurement process is not complicated, which has removed the original stumbling block.

The Planning Commission agreed that those members who had yet to apply the measurement process would meet with staff to be brought up to speed.

The Planning Commission will discuss the draft ordinance at their April meeting.

7. NEW BUSINESS

Ordinance Amendment – Discuss the amendment of Section 1140 of the city Zoning Ordinance to redraft provisions regulating signage within the city creating more comprehensive language in regards to commercial and non-commercial speech.

City Attorney Kelly said there have been rumors that Clear Channel Communications was looking to convert their existing billboards into the digital display billboards, which has forced the city to look at its existing sign ordinance, which has not been updated for a number of years and may not be adequate to address current issues related to signage. He said the ordinance before the Commission is a doctored version of the ordinance drafted by the League of Minnesota Cities in response to recent lawsuits brought against cities by outside advertising entities. He said he has also spoken with the City of Excelsior's city attorney regarding their ordinance, which includes greater regulation of digital signs.

Kelly said the proposed ordinance addresses signage from a commercial speech and non-commercial speech aspect, noting that off-premises commercial speech can be regulated due to its location and not its content.

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Chairman Beal said he liked the ordinance in terms of billboard regulation and asked if it would regulate the temporary commercial signs that tend to pop up along Minnetonka Boulevard and other high traffic areas. City Attorney Kelly said it would since it limits advertising to the property in which the sign is located.

Commissioner Spiers expressed concern about the regulation of real estate signs, more specifically temporary open house signs. He said he could understand the need for regulating them, but feels prohibiting them would be detrimental to real estate agents and those trying to sell their property. City Attorney Kelly said you can't ban one type of off-premise sign but allow, whether regulated or not, another type of off-premise sign.

Commissioner Spiers said he wasn't a big fan of billboards and wouldn't mind seeing them disappear, but said he likes the electronic signs. He feels they are cleaner and better maintained.

The Commission discussed the potential impact on adjacent residential properties of digital signs, including the light pollution associated with such signs.

Commissioner Fletcher asked about the sign on Mr. Schmitt's property and whether we could regulate it as part of his request to redevelop his property. Zoning Coordinator Karpas questioned whether the city had the authority to interfere with a legal agreement, in the form of a lease, between Mr. Schmitt and Clear Channel. City Attorney Kelly said it would be a fair topic of discussion through the application process, noting that the city could determine that the existing signage, even though non-conforming, could remain, but not all additional signage. This would force Mr. Schmitt to make a decision.

City Attorney Kelly said he would like some time to review the provision under consideration by the City of Excelsior and determine if any of that language would be included in Greenwood's draft. He said he would be able to have a draft ready for a public hearing by the April meeting.

Action:

Motion by Commissioner Spiers to hold a public hearing at the April 16th meeting to review language amending Section 1140:40 creating new provisions regulating signage within the city creating more comprehensive language in regards to commercial and non-commercial speech. Commissioner Palmberg seconded the motion. The motion carried - 5-0.

8. PLANNING COMMISSION LIAISON

Commissioner Palmberg will serve as the Planning Commission Liaison at the April 1st City Council meeting.

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9. ADJOURN

Motion by Commissioner Spiers to adjourn the meeting. Commissioner Palmberg seconded the motion. The meeting was adjourned at 8:45 p.m.

Respectively Submitted
Gus Karpas - Zoning Coordinator