

APPROVED
Minnetonka Beach Planning Commission Meeting Minutes
May 22, 2017

1. Call to Order

Chair Orehek called the meeting to order at 7:07 pm.

2. Roll Call

Present: Chair Orehek. Commissioners Anderson, Breazeale, Haag, Halverson, Moriarty, Steinke, and Council Liaison Bartel. **Absent:** None

Staff in attendance: City Administrator Susanne Griffin, Zoning Administrator Ben Gozola

3. Approve Agenda

(Anderson motion, Halverson second to approve agenda as presented; all ayes). Motion passed.

Chair Orehek noted that resident Rick Check asked the Planning Commission to hear a proposal regarding subdividing his properties. With that a new motion was made to add an Open Forum section to the agenda so that Mr. Check could speak to the Commission.

(Halverson motion, Haag second to add an Open Forum section after Old Business; all ayes). Motion passed.

(Haag motion, Halverson second to approve agenda as amended; all ayes). Motion passed.

4. Approve Minutes: April 24, 2017

(Anderson motion, Steinke second to approve the minutes of the regular Planning Commission meeting of April 24, 2017; all ayes). Motion passed.

5. Oath of Office – Breazeale and Moriarty

City Administrator Griffin administered the oath of office to new commissioners Breazeale and Moriarty.

6. Old Business

6.1. Proposed Zoning Code Amendment – Review of public comment

Zoning Administrator Gozola stated that the version of the proposed zoning code before the Commission is the near final version. The City Attorney will be reviewing the code. Gozola reviewed the memo in the packet dated 5/22/2017 which included key comments made by the public during the three public hearings that were held regarding the proposed zoning code amendment.

Feedback from Public Hearing #1:

Administrator Gozola reviewed a list of issues that were raised (and listed in 5/22/17 memo provided by Ben Gozola) at the first public hearing that needed further review including the implementation of the specialized lakeshore setbacks. Gozola discussed the topic of considering a mechanism to allow nonconforming non-lots-of-record to maintain building eligibility. Staff is not recommending any changes to the proposed language regarding discontinuance of legal nonconformities.

There was a concern at public hearing number one that staff was not following Planning Commission recommendations, however, Sambatek feels that requested changes to the code by the Planning Commission were incorporated into the draft.

He stated that there was a concern about the appeal process, however, no changes were being requested by the commission and the existing process would remain in place. There was also a concern raised about the Zoning Administrator having too much authority and it was reiterated that the proposed code includes the same level of authority as the existing code and the only change made was to add a

provision whereby the Mayor could appoint a Zoning Administrator in the case of a vacancy or extended absence.

Another concern raised by a resident had to do with ensuring the proposed code language was clear that all improvements on lakeshore properties meet required lakeshore setbacks, and as a result the Planning Commission recommended language that would add patios, permanent BBQ's, permanent fire pits, and terraces to the list of features that would need to be behind lakeshore (AMLS) setbacks.

Gozola stated that there was a concern raised about spelling out the City's authority to "swap" hardcover. The proposed code has a new legal conformities chapter that clearly spells out the statutory obligations of the City as it relates to these uses and the protections given to each landowner. No changes have been recommended to the proposed language.

Public Hearing #2:

Issues raised from this hearing includes:

- enhancing outdoor storage regulations-to be addressed
- reduce or eliminate "lake accessory uses" setback requirements-change implemented
- removing rocks and rip-rap from the hardcover definition-rocks no longer considered hardcover
- ensuring that new regulations would not negatively impact the church-done
- new pool safety regulations would require fence or cover-no change directed by Commission
- concerns about tables in the proposed code being confusing-staff open to suggestions
- suggestion to restrict all improvements to be just within the boundaries of the lot's buildable area-no changes to further restrict property rights in light of the feedback
- Comprehensive Plan should be reviewed in conjunction with proposed zoning code-plan will be reviewed for consistency with code after amendment process plus 2018 is the year to update the plan so the review will already be occurring
- hardcover swapping should not be allowed-city attorney is reviewing the legal nonconformity language for consistency with state statute

Commissioner Anderson asked about the notations in the memo regarding "swapping hardcover". Zoning Administrator Gozola explained that this issue is regarding legal conformities and has been discussed several times by the Commission and is ultimately governed by state statute. This relates to the landowner's ability to remove hardcover in one place to place that hardcover somewhere else. The city attorney will carefully review this language before final adoption.

- Zoning Administrator providing recommendations versus just analysis and assessment on an issue-Chair Orehek explained how this has been raised as an issue with some members of the Commission feeling that their input was given less weight when presented to Council than the Zoning Administrator, particularly when there was a difference of opinion. The Commission and staff will work together to ensure that both perspectives are clearly articulated when presenting to Council.
- Board of Adjustment process-City Attorney will specifically review this language and make a recommendation to the City Council
- existing section 220(6) establishing specific requirements for reconstruction of legal nonconforming structures if voluntarily demolished-language was removed because it no longer met statutory language and the City can't institute stricter property use than state statute.
- Language in proposed code has references that the general public might not have access to such as "A Planner's Dictionary"-links have been added to these references and language was revised to include only "A Planner's Dictionary" and a "standard dictionary"
- Definition of structure-current definition was recently adopted with the floodplain ordinance updates-won't be changed unless staff is directed

Public Hearing #3-Proposed Lakeshore Setbacks:

- desire by some residents to pull the line back to be less uniform with the shoreline and more uniform with existing home locations-the specialized lakeshore setback language has been removed for now

Commissioner Anderson asked for clarification on the current statutory language regarding legal nonconforming structures in relation to voluntary demolitions. The language is no longer relevant per Gozola.

Commissioner Moriarty asked about timelines and next steps. New commissioners need some time to get up to speed. Chair Orehek stated the proposed code has been under discussion by the Commission for the past year including three public hearings. The next step would be for the Planning Commission to recommend the final draft to the City Council. Once Council adopts the code and it is published, then the code becomes effective. At the next Planning Commission meeting they will continue to have discussion and dialogue on any outstanding items and review any legal review comments. The Commissioners agreed that the draft was ready for legal review.

Commissioner Halverson asked about what happens after the code is adopted and the outstanding list of issues. Gozola stated that once they forward a proposed code to the City Council the Commission's job is complete and they can determine their own timeline for the list of outstanding issues.

Commissioner Breazeale asked about existing language that shows up at green in the draft and whether that language is up for discussion. Chair Orehek stated that he is open to discussion for things that seem out of the ordinary.

Chair Orehek asked everyone to read through the document before the next meeting. Griffin reminded Commissioners that all meeting packets are online even past the meeting date so the information is readily available to Commissioners and the public.

6.2.1 – Transportation Projects

Safe crossing and traffic study proposals

Chair Orehek explained the background on both the Safe Crossing project and the more city-wide traffic related issues project. He stated that Commissioner Halverson was heading up the Safe Crossing and that one meeting with Hennepin County Transportation had been held. Now a subcommittee was being formed to include some commissioners and members of the public to continue work on this project. Commissioner Halverson has emailed the volunteers and has only heard back from a few people. Staff was asked to publish another article in the Beachcomber about the Safe Crossing subcommittee opening. A meeting will be scheduled soon with the sub-committee regardless if they get additional members so that the process can move forward.

Traffic study proposal - at the June meeting Chair Orehek will provide the background on this project and discuss next steps.

6.2. 3 – Open Forum added during approval of the agenda

Resident Rick Check – 2422 Lafayette Road spoke to the Planning Commission about the three lots he owns and his desire to downsize. He currently owns a rambler on 180 feet of lakeshore on Lafayette Road. The three lots have another complication which is a sewer line and easement in the rear of the property. Also in the rear of the property is an undeveloped road called Northwoods Avenue.

Mr. Check showed on a plan what his intention is which is to divide the lots into either three or two smaller parcels. He would prefer to allow access to the rear lot via Northwood Avenue and develop this parcel separately. He would then like to split the other parcel into two lakeshore lots (north to south).

Check was asking the Planning Commission to give him a sense of how the City might respond to this proposal before he moves forward with any plan. Commissioner Breazeale pointed out that the City has a one acre minimum on lots.

Chair Orehek asked Zoning Administrator Gozola to respond to Mr. Check's request. Gozola talked about a recent lot line shift that occurred elsewhere in the City. He stated that he would want to review his notes and become more familiar with the request before commenting further, but Mr. Check could contact Mr. Gozola about how best to proceed with his request.

Chair Orehek asked the audience if they had any questions about the zoning code proposal. Council Member Kozloski – 3034 Northview Road - asked about litigation over the past several years, which was in part the catalyst for updating the zoning code, and whether the Commission took that information into consideration when preparing the proposed language. Chair Orehek confirmed that discussion about past litigation was part of the discussion and especially as it relates to the lake setback issue.

7. Reports

- 7.1. Chairperson – Chair Orehek will bring the traffic study detail back to the Commission next month. Orehek reminded Commissioners to review the code language and be prepared to make final comments at the June meeting.
- 7.2. Commissioner Reports-none
- 7.3. Council Liaison Bartel reported on the last council meeting:
 - fees collected from overweight vehicles
 - Parks brought up to council that construction causes a lot of damage to city property – talked about taking photos of the before and after and maybe establishing a special fee on permits to repair streets damaged due to construction vehicles
 - police contract under negotiation and will save the City considerable funds
 - Three Rivers Public Safety chief reported that they would be doing saturations on the trail to educate users
 - looking to find a new date for Finance committee meeting to discuss investment opportunities
 - Council approved three special events: Artisan home tour at Skelton's, Parade of Homes remodel at Halverson's, Tour de Tonka bike ride was approved as a back-up route if necessary – permit approved to use the trail.
 - Staff is looking into whether other communities charge impact fee for special events.
 - Allegations of nuisance violation on Lafayette Road
 - Approved City insurance broker change
 - Audio and video recording of city meetings, audio is now available on iline, staff researching video
 - Council Member Myers working on water tower grant for possible preservation/restoration
 - Council Member Kozloski is researching Code of conduct
 - Mayor will be talking to committee chairs to remind them they are expected to make a report at council meetings
 - Administrator Griffin researching land use attorney's and Ben Young's retirement/replacement, city policies being consolidated and put on website, working with LMCD on a few dock changes
- 7.4. Planning and Zoning Administrator – no report
- 7.5. Building Permit Report – Received and filed

8. ADJOURNMENT

(Haag motion, Halverson second to adjourn; all ayes). Motion passed. Meeting adjourned at 8:25 p.m.

PUBLIC IN ATTENDANCE – The following individuals signed the sign-in sheet: Nell Mathews, Rick Check, Paul & Sue Kozloski, Mike Taylor, Mike Fasching, Andrew Myers, Jaci Lindstrom

Minutes respectfully submitted by City Administrator Susanne Griffin.

Susanne Griffin, City Administrator