

**CITY OF MENDOTA HEIGHTS
DAKOTA COUNTY, MINNESOTA**

**PLANNING COMMISSION MINUTES
November 24, 2009**

The regular meeting of the Mendota Heights Planning Commission was held on Tuesday, November 24, 2009, in the Council Chambers at City Hall, 1101 Victoria Curve at 7:00 P.M.

The following Commissioners were present: Chair Lally, Commissioners Field, McManus, Norton, Povolny, and Viksnins. Those absent: Commissioner Hennes. Those present were Assistant to the City Administrator Jake Sedlacek, Acting City Engineer Ryan Ruzek and Planner Steve Mr. Grittman. Minutes were recorded by Carla Wirth.

Approval of October 27, 2009 Minutes

COMMISSIONER FIELD MOVED, SECONDED BY COMMISSIONER NORTON, TO APPROVE THE MINUTES OF OCTOBER 27, 2009 AS PRESENTED.

AYES: 5
NAYES: 0

Chair Lally arrived at the meeting at 7:03 p.m..

Hearings

Discussion of City Zoning Ordinance

Planner Steve Grittman noted the Commission has received a copy of the Zoning Ordinance draft showing revisions. He advised that additional illustrations will be inserted to help clarify the understanding of more difficult sections. Mr. Grittman stated one of the biggest revisions is to combine the PUD sections into a single chapter, noting the rest of the changes are more clerical in nature.

Chair Lally asked if the Council wanted to reconcile the large number of applications approved or receive general feedback to the PUD section. Mr. Grittman stated the Council is seeking general feedback, noting when they started this process, they wanted to assure the Zoning Ordinance was up-to-date and did not conflict with the Comprehensive Plan.

Chair Lally noted some of the changes were to insert amendments that had already been passed. Mr. Grittman indicated that was correct, some of the revisions involved a codification of those amendments.

Commissioner McManus inquired about the purpose of the red footnotes. Mr. Grittman explained the software tracks changes made from the original version. Once finalized, those footnotes will no longer be shown.

Commissioner McManus stated at most meetings the Commission addresses wetlands and wetlands permits, yet the introduction does not contain such a definition. Mr. Grittman explained wetlands are regulated by a separate chapter and refer to wetlands that are on the City's wetland map.

Chair Lally asked if most wetland regulations are state law, not municipal law. Mr. Grittman explained that the City's ordinance creates a 100-foot buffer zone to address how to treat the wetland from the upland and does not address State regulations. Chair Lally asked if the development of bluff areas is regulated by Wild and Scenic River and federal laws. Mr. Grittman stated the Critical Area Ordinance is a combination of federal and state mandates and was adopted by the City as a local ordinance.

Commissioner Povolny asked why the accessory structure language is highlighted in yellow. Mr. Gritman explained it is highlighted in yellow because that language is not yet in final text form. That section will be rewritten because of internal conflicts between general and R-1 accessory allowances and when completed, an illustration will be included.

Commissioner Povolny asked if the recreational vehicle language had been changed. Mr. Gritman stated it is the same with the exception of a small insertion made in Section 3a at the suggestion of a Councilmember.

Commissioner McManus referenced Page 12-1B-5 that indicates the Comprehensive Plan is prepared and maintained by the Planning Commission. Mr. Gritman explained the Planning Commission holds the public hearing and advises the Council on the adoption. The way the Statute reads, the Planning Commission is the body that is responsible for preparation of the Comprehensive Plan and referring it to the Council.

Chair Lally noted the Comprehensive Plan then goes to the Metropolitan Council for final adoption. Mr. Gritman stated that is correct.

Commissioner Norton referenced Page 12-1D-6, and asked about the practical difference between the previous "string rule" and the new clause regarding the district setback and average setback. Mr. Gritman explained the "string rule" currently works as a visual line between two flanking homes to define the front setback. The problem with the existing "string rule," because of the wide variation of setbacks, is that it has prohibited homes from expanding towards the street or side yards, depending on the layout. Mr. Gritman explained the change is to use an average setback of the adjoining structures instead of the "string rule." He explained this will eliminate the need for so many setback variances and allow forward expansion. It also changes it to a numerical calculation so measured numbers can be used instead of scaling the setback along a line of sight.

Commissioner Povolny asked if porch setbacks have been addressed, noting the Planning Commission has considered many variance requests for front porches. Mr. Gritman stated staff discussed changing the Code to allow porch extensions into the front setback by conditional use permit (CUP) rather than variance so the finding of a hardship is not required. With a CUP, the Planning Commission would have review authority but be able to use a neighborhood standard, not the hardship standard.

Assistant to the City Administrator Jake Sedlacek stated staff has noticed front porches have been a point of discussion for both the Planning Commission and Council so it would be beneficial for the Planning Commission to provide clear direction that can be referred to the Council.

Chair Lally stated he cannot recall an instance where such a request was declined when the Planning Commission could find a hardship. However, there was discussion whether it was a request for an open or enclosed porch structure and several months ago, a variance was granted based on lot size and other issues. Mr. Gritman stated the hardship factors tend to be related to weather exposure, lot size, street configuration, and whether the structure was enclosed. Chair Lally stated a CUP still allows a review process to give guidance to the applicant and information to neighbors.

Mr. Gritman suggested staff draft proposed language for consideration by the Planning Commission, noting a public hearing will also be held on the Zoning Ordinance. The Commission agreed.

Commissioner Povolny suggested language be crafted to classify porches and take into consideration whether it will be enclosed, open with columns, and the square footage. Mr. Gritman stated staff will also provide information on what has been approved so there is a guide as to scale.

Commissioner Norton stated most variances have been for porches that provide some cover from weather elements when entering the home. He stated he shares Commissioner Povolny's concern about a porch that is extended to cover the entire front of the house.

Commissioner Povolny stated in one case, sides were allowed to be enclosed to address weather conditions so, perhaps, the language should allow a percentage of the porch to be enclosed.

Chair Lally stated in one case, an enclosed porch was allowed because the house did not contain a front hallway.

Mr. Gritman stated staff will draft language for the Planning Commission's review.

Commissioner Povolny asked if Commissioners can provide language suggestions to staff prior to the next meeting. Mr. Gritman stated that would be welcomed.

Commissioner Viksnins stated he has not had a chance to study the ordinance so he has no substantive comments.

Commissioner Field noted some of the sections have been taken care of and should be incorporated into the ordinance so the Commissioners know they have already been addressed. He noted that the land reclamation section has been deleted and is not picked up in replacement wording but, basically, subjects land reclamation to the Land Use Management Plan and related regulations. Mr. Gritman stated the Land Use Management Plan is where the real review for land reclamation will occur.

Commissioner Field referenced Page 12-1J-8 and asked why text is identified in red. Mr. Gritman stated the existing ordinance will be inserted.

Mr. Gritman stated it would be helpful if the Planning Commission could identify questions or comments to staff. He advised that staff will complete the insertions so the Planning Commission can review the entire document prior to the public hearing being held, possibly in January of 2010.

Commissioner McManus referenced Pages 12-1D-16-17, that identifies trees and landscaping. However, nothing is mentioned about buckthorn, a weed tree, and dangerous vegetation. Mr. Gritman stated that is not covered separately but can be included. Commissioner McManus stated that Mendota Heights has a buckthorn problem and thinks language prohibiting buckthorn should be included.

Commissioner Field thanked staff and Mr. Gritman for their work on this complicated and detailed revision.

Chair Lally concurred and stated his support that the Code is flexible to meet the City's current needs.

Commissioner McManus agreed the Code was good to start with and stated the update will make it even better.

Mr. Sedlacek asked for the Commission's input on Section 12-1G-7E, Fences for Industrial Districts Abutting Residential Districts. He explained that in Industrial zones, fences must be 50% opacity or greater and in Residential zones fences must have 30% opacity.

Chair Lally stated his question is whether a fence that is more of a barrier and less open would be more desirable between industrial and residential uses.

Mr. Gritman stated a transition between Industrial and Residential Districts still requires screening of inappropriate uses. He explained that while an industrial area may have a chain link or industrial-style fence adjacent to residential in the current language, the change would require a more compatible fence if adjacent to a residential neighborhood, like vinyl or wood. With regard to opacity, it does not "trump" the screening requirement.

Commissioner Norton stated if adjacent to industrial, he would prefer a fence that is more opaque, perhaps to 100% so the view of the industrial facility is blocked. He stated that the appropriate fence material maybe something like cedar wood, not concrete block.

Chair Lally noted that it would be allowable for an industrial site to have a chain link fence with evergreen trees to transition to the residential property. Mr. Gritman stated that is correct. Chair Lally stated his preference would be to allow additional opacity, as suggested by Commissioner Norton.

Commissioner Povolny noted the Bituminous Roadway project considered several months ago required fencing, berms, and trees but did not abut residential.

Commissioner Field asked for a clarification on the residential fencing requirement. Mr. Grittmann stated you need to meet the residential construction requirement, 30% open, of a certain height, and be on the boundary.

Commissioner Povolny asked that the issue of “welded wire” be addressed in the update. Mr. Grittmann stated a material standard is not included in the ordinance.

Planning Commission consensus was reached to include a material standard.

Commissioner McManus stated that big impervious fences can become a serious eyesore so he would be “skittish” about allowing a 12-foot high totally solid fence and may rather see greenery or trees as screening.

Commissioner Norton agreed that is preferable but noted the language of the preceding paragraph addresses landscaping and screening and does not say it has to include trees or shrubs, just that it has to have grass. He stated he is curious how other cities have addressed this issue. Commissioner Norton agreed that landscaping, trees, and berms are preferable to any kind of fencing but if the issue is to obscure a view, then a fence may be appropriate.

Mr. Grittmann stated staff will draft some suggestions to address those concerns and a buffer section can be inserted to be more prescriptive of plantings and spacing.

Commissioner Norton noted this language would address subsequent approvals as opposed to changing any existing spaces with fencing and landscaping. Mr. Grittmann concurred and stated staff will also look at the map to identify how many areas would be involved.

Mr. Sedlacek noted the attendance of newly hired City Administrator David McKnight.

Mr. Sedlacek advised that staff receives about one request per month for chickens and last week got a request for a horse. Staff has informed requestors that it would require an ordinance change. Mr. Sedlacek stated staff would like direction about having more clear language.

Mr. Grittmann read Page 12-1B-2 regarding definitions, noting chickens are identified as “fowl” under the “Animals, Food” section. The Commission discussed the types of animals that would be considered to be a household domestic pet. Mr. Grittmann stated he supports the current language.

Commissioner Norton asked what is the largest lot in Mendota Heights. It was noted there is a 15-acre lot that used to have horses and the preschool has a permit to have certain alpacas or llamas. Mr. Grittmann stated the question with chickens relates to “suburban farming” and the current ordinance does not permit chickens.

Commissioner Norton referenced the language indicating: “and others raised for purposes of food consumption.” He suggested adding clarifying language such as “and others that are typically raised for purposes of food consumption.” Mr. Grittmann stated that would be a good clarification and staff will make the revision.

Commissioner Field stated it would be nice if Mr. Grittmann could provide “point” and “counter point” about the changes being made. Mr. Grittmann stated he will provide such a memorandum.

Commissioner McManus stated the material reviewed tonight can now be abridged and the Commission can move on to other issues that staff would like addressed. Mr. Grittmann agreed and indicated he would prepare a companion memorandum to cite those specific issues.

Discussion on Cancellation of December Meeting

Mr. Sedlacek explained the Council has authorized the Planning Commission to cancel the December meeting. He advised that there are three potential planning cases, two for cellular applications and one for a wetlands permit.

Chair Lally asked if it would be a hardship to consider the planning cases in January. Mr. Sedlacek stated one applicant may feel it is a hardship.

COMMISSIONER FIELD MOVED, SECONDED BY COMMISSIONER NORTON, TO CANCEL THE DECEMBER 22, 2009, PLANNING COMMISSION MEETING IF APPLICATIONS ARE NOT RECEIVED BY CLOSE OF BUSINESS ON NOVEMBER 30, 2009.

AYES 6
NAYS 0

Verbal Review

Mr. Sedlacek gave the following verbal review:

PLANNING CASE #09-36 Heart to Home, Inc. Conditional Use Permit
• Approved by the City Council as recommended by the Planning Commission.

PLANNING CASE #09-37 Heart to Home, Inc. Conditional Use Permit
• Approved by the City Council as recommended by the Planning Commission.

PLANNING CASE #09-38 Stonewall, Inc. Wetland Permit for HR-PUD (High Density Residential PUD)
• Approved by the City Council as recommended by the Planning Commission.

PLANNING CASE #09-39 City of Mendota Heights Zoning Ordinance Amendment
• Approved by the City Council as recommended by the Planning Commission.

Commissioner Field requested an update on Mendota Plaza. Mr. Sedlacek stated there was to be a closing on the construction loan on November 16, 2009, but to the City's knowledge, it has not yet occurred. A park dedication check was received but the final plat has not been received for signing and recording at the County. Mr. Sedlacek indicated that no more has been heard about a start date.

COMMISSIONER MCMANUS MOVED, SECONDED BY COMMISSIONER POVOLNY, TO ADJOURN THE MEETING AT 7:58 P.M.

AYES 6
NAYS 0

Respectfully submitted,
Carla Wirth, Recording Secretary