

City of Ramsey
Agenda
Regular Planning Commission
Thursday November 12, 2015
7:00 pm
Council Chambers, 7550 Sunwood Drive NW

1. **Call to Order**
2. **Citizen Input**
3. **Approve Agenda**
4. **Approve Minutes**
 1. Approve the October 15, 2015 Planning Commission Meeting Minutes
5. **Public Hearing/Commission Business**
 1. PUBLIC HEARING: Consider Request for a Variance to the Driveway Setback Requirement on the Property Located at 5581 148th Lane NW
 2. PUBLIC HEARING: Request for a Conditional Use Permit to Exceed Sign Size and Height Restrictions at 8035 Riverdale Dr. NW; Case of Ramsey-Arbor Properties, LLC.
 3. Receive Update on Public Works Campus Space Needs Analysis and Consider Policy for a Future McKinley Street Connection
 4. Receive Presentation on Land Use Chapter of the Comprehensive Plan
6. **Commission/Staff Input**
 1. Zoning Bulletins
7. **Adjournment**

Regular Planning Commission

4. 1.

Meeting Date: 11/12/2015

By: JoAnn Shaw, Community Development

Information

Title:

Approve the October 15, 2015 Planning Commission Meeting Minutes

Purpose/Background:

N/A

Notification:

Observations/Alternatives:

Funding Source:

Recommendation:

Action:

Attachments

10.15.15

Form Review

Inbox

Tim Gladhill

Form Started By: JoAnn Shaw

Final Approval Date: 11/06/2015

Reviewed By

JoAnn Shaw

Date

11/06/2015 12:24 PM

Started On: 11/05/2015 12:20 PM

**PLANNING COMMISSION
CITY OF RAMSEY
ANOKA COUNTY
STATE OF MINNESOTA**

The Ramsey Planning Commission conducted a regular meeting on Thursday, October 15, 2015, at the Ramsey Municipal Center, 7550 Sunwood Drive NW, Ramsey, Minnesota.

Members Present: Vice Chairperson Randy Bauer
 Commissioner Andrew Andrusko
 Commissioner Ralph Brauer
 Commissioner Cindy Nosan
 Commissioner Gary VanScoy

Members Absent: Chairperson Gary Levine
 Commissioner Matthew Maul

Also Present: Community Development Director Timothy Gladhill
 City Planner Chris Anderson
 Planning Intern Jeff Solmonson
 Housing Intern Michael Healy

1. CALL TO ORDER

Vice Chairperson Bauer called the regular meeting to order at 7:00 p.m.

2. CITIZEN INPUT

None.

3. APPROVAL OF AGENDA

Motion by Commissioner VanScoy, seconded by Commissioner Nosan, to approve the agenda as presented.

Motion Carried. Voting Yes: Vice Chairperson Bauer, Commissioners VanScoy, Nosan, Brauer, and Andrusko. Voting No: None. Absent: Chairperson Levine and Commissioner Maul.

4. APPROVE PLANNING COMMISSION MINUTES

4.01: Approve the Following Planning Commission Minutes:

4.01.1: Planning Commission Meeting Minutes Dated August 6, 2015

Commissioner Andrusko recommended that Community Development Director Gladhill's title be changed to Community Development Director Gladhill.

Motion by Commissioner Andrusko, seconded by Commissioner Brauer, to approve the following minutes as amended: Planning Commission Meeting Minutes dated August 6, 2015.

Motion Carried. Voting Yes: Vice Chairperson Bauer, Commissioners Andrusko, Brauer, Nosan and VanScoy. Voting No: None. Absent: Chairperson Levine and Commissioner Maul.

4.01.2: Planning Commission Meeting Minutes Dated September 10, 2015

Motion by Commissioner Andrusko, seconded by Commissioner Brauer, to approve the following minutes as presented: Planning Commission Meeting Minutes dated September 10, 2015.

Motion Carried. Voting Yes: Vice Chairperson Bauer, Commissioners Andrusko, Brauer, Nosan and VanScoy. Voting No: None. Absent: Chairperson Levine and Commissioner Maul.

5. PUBLIC HEARINGS/COMMISSION BUSINESS

5.01: Public Hearing: Consider Request for a Variance to Allow a Detached Accessory Building to be located Nearer the Front Property Line than the Principal Building on the property located at 16841 Wolverine Court NW; Case of Allen and Ginger Millner.

Public Hearing

Vice Chairperson Bauer called the public hearing to order at 7:03 p.m.

Presentation

City Planner Anderson presented the staff report stating the City has received an application from Allen and Ginger Millner for a variance to allow a portion of a detached accessory building to be located nearer the front property line than the principal building at the property located at 16841 Wolverine Court NW. Staff reviewed the request in detail with the Commission and recommended denial.

Community Development Director Gladhill commented that the lack of staff support was due to the City's current ordinances.

Citizen Input

Commissioner VanScoy requested further information on what it means for an accessory structure to be closer to the property line than the principle structure.

City Planner Anderson discussed the City policy currently in place that addresses property line setbacks for principle and accessory structures. He explained that the City could revisit this regulation in order to determine if a portion of an accessory structure could be in front of the home, but not the entire accessory structure.

Commissioner VanScoy believed that the current code was quite clear in that accessory structures were not to be located in front of the principle structure.

Community Development Director Gladhill stated this was the case and staff was questioning if the Commission was willing to consider allowing a small portion to be in front.

Ginger Millner, 16841 Wolverine Court NW, explained she was requesting the accessory structure size due to the fact she had a very small attached garage at the time. She explained that she and her husband enjoy woodworking and would be using the detached structure for a woodshop, in addition to providing parking spaces. Given the angle of her home on the lot and the large row of conifers on her property, she believed the proposed location for the accessory structure made the most sense. She indicated that if the garage were attached to her home, her property would have more pavement and fill. She then discussed the number of detached garages in her neighborhood.

Allen Millner, 16841 Wolverine Court NW, commented that the proposed location of the detached garage would allow for access into and out of the structure from the existing driveway.

Commissioner VanScoy asked how much of the detached structure would be in front of the current line of the house.

Ms. Millner estimated a triangular shape that was approximately 15% of the structure would be in front of the line.

Commissioner VanScoy questioned if the building could be moved straight back 10 feet in order for it to be in alignment with the home.

Ms. Millner explained the City required there to be a minimum of 14 feet between structures and septic tanks. For this reason, the structure could not be pushed back 10 feet.

Commissioner Brauer inquired if the building could be made smaller in order to meet the City's requirements.

Ms. Millner stated the angle of the property line was causing concern with the placement of the building. She commented if the building was made smaller, she wouldn't have the same level of flexibility that she was seeking. She indicated that she could always attach the garage to the home, but believed the better option for her property was to build a detached structure, as this would save a large number of cedar trees on her lot.

Further discussion ensued regarding the accessory structure placement on the lot and access to and from the building.

Commissioner VanScoy asked if the rear yard could be used for the accessory structure.

Ms. Millner indicated a structure in the rear yard would be difficult to access. She explained she and her husband were planning on using the new building for vehicle parking.

Commissioner Andrusko inquired if the applicants had considered attaching the structure to the home with dual doors, which would allow for access through the garage.

Ms. Millner commented this was considered, but would require large doors in order for a sewer truck to be able to drive through the garage to the back yard.

Laura Meyer, 16840 Wolverine Court, stated she has been the Millner's neighbors for the past eight years. She believed the Millner's were kind and generous neighbors that took great care of their property. She encouraged the Commission support the Millner's variance request.

Rick Newman, 16821 Wolverine Court, indicated he had submitted written comments to the City regarding his concerns. He recommended that the Commission adhere to the City regulations already in place. He believed the proposed building location would negatively impact his property as he did not want a woodshop adjacent to his bedroom. He suggested the applicants consider another location for their accessory structure.

Motion by Commissioner VanScoy, seconded by Commissioner Andrusko, to close the public hearing.

Motion Carried. Voting Yes: Vice Chairperson Bauer, Commissioners VanScoy, Andrusko, Brauer, and Nosan. Voting No: None. Absent: Chairperson Levine and Commissioner Maul.

Vice Chairperson Bauer closed the public hearing at 7:32 p.m.

Commission Business

Commissioner VanScoy did not support the variance. He did not believe it would be in keeping with the neighborhood for the Millners to construct a garage in front of their home.

Commissioner Andrusko commented that with the City Ordinance as written, he could not support the proposed building location and variance either.

Commissioner Nosan did not agree with these statements. She understood that the applicants were interested in parking in the new structure. There was some concern with accessing the septic tank, which means the building could not be placed in the rear yard. She explained she supported the applicant's request.

Commissioner VanScoy clarified that the septic tank was not the issue, but rather the fact that the applicants wanted to park vehicles within the detached garage and it would be an inconvenience for the building to be placed in the rear yard.

Commissioner Andrusko stated the City had a viable alternative location for the structure that would not require a variance.

City Planner Anderson reported this was the case.

Ms. Millner reported that if her property required a new septic system, it would have to be located to the extreme rear of her lot.

Commissioner Brauer indicated the City had Ordinances in place for a reason. He feared that if the Commission were to approve the Millner's variance, a precedent could be set. He encouraged the applicant to reconsider the proposed size of their detached structure in order to meet the City's requirements.

Community Development Director Gladhill discussed the action that was required of the Planning Commission.

Motion by Commissioner Brauer, seconded by Commissioner VanScoy, to adopt Resolution #15-10-257 adopting unfavorable Findings of Fact #0954 due to the fact the applicant had an alternative building site for the proposed accessory structure.

Further discussion

The Commission reviewed the Findings of Fact at length adjusting the language to ensure the language was amended to be not favorable.

Community Development Director Gladhill suggested that Findings 32, 33 and 34 be removed. The Planning Commission supported this recommendation.

Commissioner VanScoy questioned if a Finding should be added to state that alternatives do exist for the applicant by either adjusting the accessory structure location or building size.

Commissioner Andrusko supported this recommendation.

There was a friendly amendment to the Findings of Fact adding #32 stating alternatives do exist for the applicant by either adjusting the accessory structure location or building size.

Motion Carried. Voting Yes: Vice Chairperson Bauer, Commissioners Brauer, VanScoy, Andrusko, and Nosan. Voting No: None. Absent: Chairperson Levine and Commissioner Maul.

Motion by Commissioner VanScoy, seconded by Commissioner Brauer, to adopt Resolution #15-10-258 denying the request for a variance to allow a detached accessory building to be located nearer the front property line than the principal building on the property located at 16841 Wolverine Court NW striking Conditions 2 through 8.

Further discussion

Community Development Director Gladhill reported that the action taken by the Planning Commission this evening would be appealable to the City Council, if the applicant wished to submit an appeal to City staff.

Motion Carried. Voting Yes: Vice Chairperson Bauer, Commissioners VanScoy, Brauer, and Andrusko. Voting No: Nosan. Absent: Chairperson Levine and Commissioner Maul.

Community Development Director Gladhill recommended that the Commission direct staff to look at the City's existing Ordinance regarding accessory structure setbacks in order to allow a small portion to extend in front of principle structures.

Commissioner VanScoy supported the Ordinance as it stands.

Motion by Commissioner Andrusko, seconded by Commissioner Brauer, to direct staff to investigate how other cities address accessory structure setback requirements with respect to being in front of principle structures.

Motion Carried. Voting Yes: Vice Chairperson Bauer, Commissioners Andrusko, Brauer, and Nosan. Voting No: VanScoy. Absent: Chairperson Levine and Commissioner Maul.

5.02: Public Hearing: Consider Request for a Variance to Fence Height and Shed Location at 5650 156th Lane NW; Case of Walter Gleb and Sandy Warner.

Public Hearing

Vice Chairperson Bauer called the public hearing to order at 8:00 p.m.

Presentation

Planning Intern Solmonson presented the staff report stating the City has received an application from Walter Gleb and Sandy Warner for a Variance to fence height and required setback for a shed on the property located at 5650 156th Lane NW. The applicant is requesting a variance for an existing fence higher than eight (8) feet and a shed setback of less than six (6) feet. This variance request arises out of a complaint brought to City staff regarding the two structures. Staff reviewed the request in further detail and recommended approval of the variance for the fence and recommended not approving the variance for the shed location.

Citizen Input

Vice Chairperson Bauer questioned if the two variances should be handled together or separate.

Community Development Director Gladhill requested the Commission make a motion on how to address the variances.

Motion by Commissioner Brauer, seconded by Commissioner VanScoy, to address the two variances requests for Walter Gleb and Sandy Warner separately.

Motion Carried. Voting Yes: Vice Chairperson Bauer, Commissioners Brauer, VanScoy, Andrusko, and Nosan. Voting No: None. Absent: Chairperson Levine and Commissioner Maul.

Walter Gleb, 5650 156th Lane NW, requested the Commission approve the fence variance as the fence would allow for privacy given the change of grade between his property and his neighbors. He explained that he was unaware of the City's fence height requirements when the fence was constructed.

Commissioner VanScoy questioned where the hot tub was located.

Mr. Gleb stated the hot tub was sunk into the existing deck in the rear yard.

Commissioner Andrusko asked if the fence had already been built.

Mr. Gleb stated this was the case.

Craig Thumstetter, 5641 156th Lane NW, explained he lived to the east of the applicant. He did not believe the fence should remain in place as it did not adhere to City Code. He recommended that the fence variance not be approved.

A friend of Mr. Walter Gleb, who resides at 1117 Marsh Street in Mankato, indicated he assisted with the fence construction and reported the fence was constructed at its present height to provide privacy. He understood there was some tension between the two neighbors and believed that no matter the fence height, the neighbor would object.

Alex Bannis, 15600 Iodine Street NW, opposed the fence and believed it was an eyesore. He recommended that the applicant be made to follow City standards.

Motion by Commissioner Brauer, seconded by Commissioner VanScoy, to close the public hearing.

Motion Carried. Voting Yes: Vice Chairperson Bauer, Commissioners Brauer, VanScoy, Andrusko, and Nosan. Voting No: None. Absent: Chairperson Levine and Commissioner Maul.

Vice Chairperson Bauer closed the public hearing at 8:11 p.m.

Commission Business

Community Development Director Gladhill requested the Commission take separate action on the fence and shed variances.

City Planner Anderson reviewed a visual of the subject property with contours to provide the Commission with additional information on the elevation of the property.

Commissioner Andrusko asked if the City has required property owners to remove fences or sheds in the past.

Community Development Director Gladhill stated that while rare, this has occurred in the past.

Further discussion ensued regarding Mr. Gleb's deck elevation.

Commissioner VanScoy questioned how high a fence could be without requiring a variance.

Community Development Director Gladhill reported that a fence could be up to eight feet in height. He explained that another alternative would be to construct a wall attached to the principle structure, which could then be higher than eight feet.

Motion by Commissioner VanScoy, seconded by Commissioner Nosan, to adopt #15-10-246 adopting Findings of Fact #0953, Items 1 through 11 and 17 through 26.

Motion Carried. Voting Yes: Vice Chairperson Bauer, Commissioners VanScoy and Nosan. Voting No: Andrusko and Brauer. Absent: Chairperson Levine and Commissioner Maul.

Motion by Commissioner VanScoy, seconded by Commissioner Nosan, to adopt Resolution #15-10-247 approving a variance to exceed the fence height only on the property located at 5650 156th Lane NW.

Motion Carried. Voting Yes: Vice Chairperson Bauer, Commissioners VanScoy and Nosan. Voting No: Andrusko and Brauer. Absent: Chairperson Levine and Commissioner Maul.

Planning Intern Solmonson provided the Commission with additional information regarding the storage shed and noted that it was located four feet from the property line and was within a drainage easement.

Citizen Input

Mr. Gleb explained he was not aware of any easements at the rear property line when he constructed the storage shed. He indicated he spoke to his neighbor along the side property line and stated they tried their best to locate the property line. He believed it would create a real hardship for him to have to move the shed given the fact it had a block foundation. He understood that the shed did not require a foundation, however given the fact that the majority of his backyard was wetland, he believed the block foundation was necessary.

Commissioner VanScoy inquired as to the size of the shed.

Mr. Gleb reported the shed was 8 feet by 12 feet.

Commissioner Brauer asked why a surveyor was not contacted to properly locate the property line.

Mr. Gleb stated he had contacted a surveyor a few years later and that was when he learned he was four feet off the property line.

Commissioner Andrusko questioned who the easement belonged to.

Community Development Director Gladhill indicated this was a public easement to be used by the City, for private utilities or can be used for surface grading to manage water runoff.

Vice Chairperson Bauer asked if Mr. Gleb recalled hearing about the easement when he closed on his property.

Mr. Gleb was only aware of the easements on the side of his property and not along the rear property line. He then discussed the location of a large tree stump that would hinder equipment from reaching the rear property line.

Alex Bannis, 15600 Iodine Street NW, explained that the shed was built up on a mound of soil that was reinforced by rocks within a wetland. He did not approve of how the shed foundation was constructed as this was pushing more water onto his property. He did not believe the property was properly delineated prior to Mr. Gleb constructing his shed.

Craig Thumstetter, 5641 156th Lane NW, encouraged the Commission to not allow Mr. Gleb's shed to remain in place just because he claims he did not know where the property line and easement was. He questioned why Mr. Gleb did not speak with the City prior to building his shed. He feared that he and his neighbors were being adversely impacted due to the retaining walls that were constructed surrounding the shed.

Mr. Gleb commented that the retaining wall and shed have in no way impacted the runoff pond. He reported that the retaining wall was fully on his property.

Motion by Commissioner VanScoy, seconded by Commissioner Brauer, to close the public hearing.

Motion Carried. Voting Yes: Vice Chairperson Bauer, Commissioners VanScoy, Brauer, Andrusko, and Nosan. Voting No: None. Absent: Chairperson Levine and Commissioner Maul.

Vice Chairperson Bauer closed the public hearing at 8:42 p.m.

Commission Business

Community Development Director Gladhill discussed the property and its delineation. Staff did not believe Mr. Gleb had a wetland encroachment. He reported that if the Commission required additional information staff would have to report back at a future meeting.

Commissioner Brauer stated the issue at hand was not the wetland or the retaining wall, but rather that the shed encroached on the easement.

Community Development Director Gladhill commented this was the case.

Commissioner Andrusko questioned how the Commission has handled easement encroachment issues in the past.

Community Development Director Gladhill indicated encroachment agreements have been reached in the past with property owners, however, this was not the standard for drainage and utility easements.

City Planner Anderson provided further comment on encroachment agreements that have been approved by the City Council in the past. He noted these agreements were generally for portions of a driveway, deck or stairway and not for a structure with a foundation.

Vice Chairperson Bauer asked what year the shed was built.

Mr. Gleb stated the shed was constructed in either 2010 or 2012.

Commissioner Brauer recalled that a garden was constructed over an easement and the City required this homeowner to remove the garden from the easement. In addition, he recalled a resident that was storing miscellaneous items on an easement and the items had to be moved.

Commissioner VanScoy asked if the engineering department had assessed the impact of the encroachment onto this utility easement.

Community Development Director Gladhill explained that an assessment had not been completed due to the fact a variance was also required. He reported that if the variance were to proceed, an assessment would be completed by staff.

City Planner Anderson recommended that if the Commission were to approve a variance that it be contingent upon approval of an encroachment agreement by City Council.

Motion by Commissioner Nosan to recommend to adopt #15-10-246 adopting Findings of Fact #0953, Items 12 through 26. The motion failed for lack of a second.

Motion by Commissioner VanScoy, seconded by Commissioner Andrusko, to adopt #15-10-246 adopting unfavorable Findings of Fact #0953, Items 12 through 26.

Further discussion

Commissioner Brauer did not support the shed remaining in its current location due to the hardship that the encroachment could cause the City if access to the property were needed. He was disappointed by the dispute between these neighbors, however he understood that the City's Ordinances had to be followed.

Commissioner Andrusko reiterated that it was staff's recommendation to not support the shed variance.

Further discussion ensued regarding the proper language that should be included in the Findings of Fact Items 12 through 26.

Motion Carried. Voting Yes: Vice Chairperson Bauer, Commissioners VanScoy, Andrusko, Brauer, and Nosan. Voting No: None. Absent: Chairperson Levine and Commissioner Maul.

Motion by Commissioner VanScoy, seconded by Commissioner Andrusko, to adopt Resolution #15-10-247 denying a variance for the shed as there was adequate room to build or relocate the shed to properly meet City Code setback requirements.

Further discussion

Community Development Director Gladhill explained to the applicant that the decision made by the Planning Commission was appealable to the City Council.

Motion Carried. Voting Yes: Vice Chairperson Bauer, Commissioners VanScoy, Andrusko, Brauer, and Nosan. Voting No: None. Absent: Chairperson Levine and Commissioner Maul.

Vice Chairperson Bauer requested a five minute recess. The meeting recessed at 9:13 p.m.

Vice Chairperson Bauer reconvened the meeting at 9:18 p.m.

5.03: Public Hearing: Consider Recommendation on Comprehensive Plan Amendment and Zoning Amendment for 6139 157th Lane NW.

Public Hearing

Vice Chairperson Bauer called the public hearing to order at 9:18 p.m.

Presentation

Community Development Director Gladhill presented the staff report stating the intent of this case was to amend a previous approval for an existing use. There are, however, additional outcomes of the decision beyond the current, approved Conditional Use Permit for the property. Staff reviewed the request further and requested feedback from the Commission on how to proceed.

Citizen Input

Jackie Abendroth, 15810 Sodium Street, stated she has enjoyed the daycare at this location. She understood the secretarial business had moved on. She expressed concern with how new businesses moving onto this site would impact her property value.

Lowell Parsons, 15813 Nowthen Boulevard, explained he lived just north of the daycare. His main concern was with the high speed and level of traffic along Nowthen Boulevard. He did not want to see a gas station and convenience store at this corner as it would bring too much traffic into this area. He reiterated that the parcel was zoned Residential.

Elaine Parsons, 15813 Nowthen Boulevard, did not want to see any commercial uses brought to this property as it was directly surrounded by a quiet rural residential neighborhood. She also did not want to see any expansion to the existing building.

Vice Chairperson Bauer explained that the original thought was to rezone this property B-1, which would allow additional types of businesses. However, staff has reconsidered this and was now open to exploring the creation of a new zoning district, which could be more restrictive in which businesses could locate on this parcel. He questioned if the residents present supported the more restrictive approach.

The members in the audience nodded in approval.

Community Development Director Gladhill appreciated the input from the residents and suggested that the property be rezoned for professional office space and/or daycare uses. He explained that the Commission could table action on this item and allow staff time to amend the proposed zoning for this parcel.

Motion by Commissioner Brauer, seconded by Commissioner VanScoy, to close the public hearing.

Motion Carried. Voting Yes: Vice Chairperson Bauer, Commissioners Brauer, VanScoy, Andrusko, and Nosan. Voting No: None. Absent: Chairperson Levine and Commissioner Maul.

Vice Chairperson Bauer closed the public hearing closed at 9:35 p.m.

Commission Business

Motion by Commissioner Brauer, seconded by Commissioner VanScoy, to table action on this item directing staff to draft a new zoning classification for the property located at 6139 157th Lane NW and other similar properties.

Further discussion

Commissioner Andrusko feared that the City could be setting a dangerous precedent by creating a specific zoning for this one parcel.

Commissioner Brauer believed that a new zoning classification would assist with addressing the concerns with this property along with others in Ramsey. It was his opinion that the new zoning district would allow for compatible businesses to be located near or adjacent to residential zoning districts.

Commissioner VanScoy questioned if the Employment District could be used for this property.

Community Development Director Gladhill reported that the Employment District includes business as well as manufacturing and he did not believe this was wanted adjacent to residential neighborhoods.

Commissioner VanScoy encouraged staff to continue to include the public throughout the rezoning and Comprehensive Plan Amendment process.

Motion Carried. Voting Yes: Vice Chairperson Bauer, Commissioners Brauer, VanScoy, Andrusko, and Nosan. Voting No: None. Absent: Chairperson Levine and Commissioner Maul.

5.04: Public Hearing: Consider Ordinance Amending City Code Chapter 105 (Buildings and Building Standards) Related to Allowable Hours of Construction.

Public Hearing

Vice Chairperson Bauer called the public hearing to order at 9:45 p.m.

Presentation

Planning Intern Solmonson presented the staff report stating residents have concerns with the hours listed as the maximum allowance, not necessarily being the standard hours of construction that most contractors choose to use. Based on discussion in a previous Planning Commission meeting, the goal of the proposed amendment would be to introduce wording to negotiate an earlier stopping time for construction and creating exemptions built in for public improvement projects. Staff recommended approval of the proposed City Code amendment.

Citizen Input

There was no citizen input.

Motion by Commissioner VanScoy, seconded by Commissioner Andrusko, to close the public hearing.

Motion Carried. Voting Yes: Vice Chairperson Bauer, Commissioners VanScoy, Andrusko, Brauer, and Nosan. Voting No: None. Absent: Chairperson Levine and Commissioner Maul.

Vice Chairperson Bauer closed the public hearing at 9:47 p.m.

Commission Business

Motion by Commissioner VanScoy, seconded by Commissioner Nosan, to recommend that City Council adopt the Ordinance amending language regarding allowable hours of construction.

Motion Carried. Voting Yes: Vice Chairperson Bauer, Commissioners VanScoy, Nosan, Andrusko, and Brauer. Voting No: None. Absent: Chairperson Levine and Commissioner Maul.

5.05: PUBLIC HEARING: Consider Recommendation on Ordinance #15-15 Amending City Code Section 117-1 (Definitions) Chapter 117, Article II, Division 4, Subdivision III (Floodplain Overlay Districts).

Public Hearing

Vice Chairperson Bauer called the public hearing to order at 9:48 p.m.

Presentation

City Planner Anderson presented the staff report stating in 1979, the City enrolled in the National Flood Insurance Program (NFIP) by adopting floodplain regulations and Flood Boundary and Floodway Maps and Flood Insurance Rate Maps (FIRM) for the community. The Flood Boundary and Floodway Maps and FIRMs currently in effect are dated November 1, 1979. The community has grown substantially since the late 1970's and thus, the maps lack much of the current street network.

City Planner Anderson stated the Federal Emergency Management Agency (FEMA) has been systematically updating floodplain maps across the state and has recently completed new maps for Anoka County. If the City desires to remain in the NFIP, the floodplain standards must be amended to adopt the new maps. The floodplain standards are designed to minimize structural damage as a result of large scale floods, oftentimes referred to as the 100-year flood, by prohibiting the placement of structures within designated floodways and by requiring either flood-proofing and/or the use of fill to elevate a structure. Structures located within a designated floodplain are required to be covered by flood insurance. Staff provided further comment on the changes and recommended approval.

Citizen Input

Vice Chairperson Bauer asked when the Ordinance amendment would become effective.

City Planner Anderson reported that the Ordinance and new maps would become effective December 16, 2015.

Motion by Commissioner VanScoy, seconded by Commissioner Nosan, to close the public hearing.

Motion Carried. Voting Yes: Vice Chairperson Bauer, Commissioners VanScoy, Nosan, Andrusko, and Brauer. Voting No: None. Absent: Chairperson Levine and Commissioner Maul.

Vice Chairperson Bauer closed the public hearing at 9:58 p.m.

Commission Business

Motion by Commissioner VanScoy, seconded by Commissioner Andrusko, to recommend that City Council adopt Ordinance #15-15 amending Section 117-1 (Definitions) and Chapter 117, Article II, Division 4, Subdivision III (Floodplain Overlay Districts) to incorporate by reference the updated Flood Insurance Rate Maps and the Flood Insurance Study, both dated December 16, 2015.

Motion Carried. Voting Yes: Vice Chairperson Bauer, Commissioners VanScoy, Andrusko, Brauer, and Nosan. Voting No: None. Absent: Chairperson Levine and Commissioner Maul.

5.06: Consider Request for Extension of Approved Variance to Fence Height at 5859 Alpine Drive NW; Case of James Hirschman.

Presentation

Community Development Director Gladhill presented the staff report stating the purpose of this case is to consider an extension of a variance approved by the Planning Commission in October 2014. Due to the timing of completion of the Anoka County Improvement Project at Alpine

Drive and Nowthen Boulevard, the impetus behind the variance, the applicant has stated that they feel it is unfeasible to complete this year. It was noted that variance approvals are valid for one (1) year without approval of an extension. Staff finds the request for an extension to be reasonable.

Commission Business

Motion by Commissioner Andrusko, seconded by Commissioner Brauer, to recommend that City Council approve the variance request extension as presented.

Motion Carried. Voting Yes: Vice Chairperson Bauer, Commissioners Andrusko, Brauer, Nosan and VanScoy. Voting No: None. Absent: Chairperson Levine and Commissioner Maul.

5.07: Receive Presentation on Housing Chapter of the Comprehensive Plan.

Presentation

Community Development Director Gladhill presented the staff report and provided a brief presentation on the status of housing in Ramsey and how this relates to the housing chapter of the Comprehensive Plan. Staff discussed the comments received on the system statements.

Commission Business

Commissioner VanScoy asked if all of the comments brought to the Met Council would be considered in the Comprehensive Plan.

Community Development Director Gladhill reported all comments were received by the Met Council and would be considered. However, it was his understanding that some comments were more important than others.

Commissioner Brauer read a newspaper article that addressed roadway congestion. It was his understanding that no new roads would be built and that residents would have to get used to congestion.

Motion by Commissioner VanScoy, seconded by Commissioner Brauer, to recommend the City Council not formally dispute the system statements and direct staff to work prepare summary comments for the Met Council.

Motion Carried. Voting Yes: Vice Chairperson Bauer, Commissioners VanScoy, Brauer, Andrusko, and Nosan. Voting No: None. Absent: Chairperson Levine and Commissioner Maul.

Housing Intern Healy provided comment on the housing chapter of the Comprehensive Plan, along with housing trends for the City of Ramsey. Foreclosure rates for the past ten years were

discussed. He provided comment on the importance of maintaining the City's housing stock and reviewed the age of Ramsey's population. The shift in the household composition was noted.

Commissioner Brauer was interested in learning more about utilizing social media in order to draw more residents into the planning process.

Community Development Director Gladhill believed that staff would be working to tap into these avenues in the future in order to gain additional input from the public.

Community Brauer appreciated all of Housing Intern Healy's efforts and welcomed him to the City of Ramsey.

6. COMMISSION / STAFF INPUT

6.01: Zoning Bulletins

Zoning Bulletins were noted.

7. ADJOURNMENT

Motion by Commissioner VanScoy, seconded by Commissioner Nosan, to adjourn the meeting.

Motion Carried. Voting Yes: Vice Chairperson Bauer, Commissioners VanScoy, Nosan, Andrusko, and Brauer. Voting No: None. Absent: Chairperson Levine and Commissioner Maul.

The regular meeting of the Planning Commission adjourned at 10:35 p.m.

Respectfully submitted,

Tim Gladhill
Community Development Director

ATTEST:

JoAnn Shaw
Community Development Assistant

Drafted by Heidi Guenther
TimeSaver Off Site Secretarial, Inc.

Regular Planning Commission

5. 1.

Meeting Date: 11/12/2015

By: Chris Anderson, Community
Development

Information

Title:

PUBLIC HEARING: Consider Request for a Variance to the Driveway Setback Requirement on the Property Located at 5581 148th Lane NW

Purpose/Background:

Through the Code Enforcement Program, the City became aware of an existing driveway extension that encroaches into the required five (5) foot driveway setback on the property located at 5581 148th Lane NW (the "Subject Property"). Upon receiving a Notice of Violation from the City, Douglas and Vicky Foyt (the "Applicant") submitted an application for a variance to deviate from the standard driveway setback.

Notification:

Staff attempted to notify all Property Owners within a 350 foot radius of the Property of the Public Hearing via Standard US Mail. The Public Hearing was also published in the City's official newsletter, the Anoka County Union Herald.

Observations/Alternatives:

The Subject Property is zoned R-1 Residential (MUSA) and is approximately 0.25 acres in size. The Subject Property is surrounded by parcels of the same zoning and size. Within the R-1 Residential (MUSA) District, driveways are to maintain a five (5) foot setback from side property lines and have a surface consisting of asphalt or concrete.

The Applicant has stated that they installed the driveway extension in 2004, only after speaking with the neighbors to the west to ensure that they had no objections. At that time, City Code did not require a Zoning Permit for a driveway or driveway extension. Staff reviewed historical aerial images and has confirmed the driveway extension existed dating back to at least 2006. The quality of previous aerial images was not sufficient to verify if it existed prior to 2006. Nonetheless, 2006 still predated the Zoning Permit requirement, which clarifies why there is no permit on file for the driveway extension.

The Applicant brought in fill to create a level parking area adjacent to their garage and solidified it with a three (3) course block retaining wall. The bottom course is at least partially below grade. The surface of the driveway extension consists of a landscape rock or gravel material, which does not comply with the surfacing requirements of the R-1 Residential (MUSA) District. The edge of the driveway extension is approximately one (1) foot from the Subject Property's side lot line. Not only does the driveway extension encroach into the required setback, but it also encroaches into a standard five (5) foot Drainage and Utility Easement (the "Easement") as well.

There have been no known drainage issues as a result of the driveway extension encroaching into the Easement and there do not appear to be any small utilities in the Easement either. The Engineering Division has reviewed the encroachment and based on existing grades, believes that there is still positive drainage and that the driveway extension is not negatively impacting the purpose of the Easement.

There potentially is a location behind the garage that may be able to accommodate parking of the Applicant's trailer, which is the purpose for the driveway extension. That location would require a concrete or asphalt surface as it would still be considered side yard. If the trailer were stored/parked in the rear yard, it would be permissible to do so on an unimproved (e.g. grass) surface.

The owners of the parcel to the west, directly adjacent to the driveway extension have submitted written comments supporting the variance.

When contemplating a variance request, there is a three (3) factor test for practical difficulties that must be met by the Applicant. The following are the three (3) factors:

1. Is the property owner proposing to use the property in a reasonable manner?
2. Is the landowner's problem due to circumstances unique to the property and not caused by the landowner?
3. If granted, would the variance alter the essential character of the locality?

Is the Property Owner proposing to use the Property in a reasonable manner?

A driveway extension is a common and reasonable occurrence on a residential parcel. Earlier this year, during the review of Ordinance #15-08, which established a standard setback for off-street parking, Staff acknowledged that while it would simplify enforcement of off-street parking standards, it would not necessarily correct or address the common issue of parking either equipment or a vehicle alongside a garage. The request this evening is an example of that issue.

Is the plight/concern of the Owner due to circumstances unique to the Property not caused by the Property Owner?

It is fairly common to have a sloped grade (albeit a minor slope) along a common side lot line to direct drainage either to the street or to a drainage swale in the rear yard. It is also fairly common to park equipment and/or vehicles alongside a garage. In this instance, there simply isn't sufficient space to create a level parking surface in this location and maintain the required five (5) foot setback.

If granted, will the Variance alter the essential character of the neighborhood?

The driveway extension has existed for about ten (10) years and hasn't drawn any attention or concern until just recently. The area is well maintained and nicely landscaped. It does not appear that the essential character of the neighborhood would be altered if the variance were granted.

As a reminder, the Planning Commission acts in a quasi-judicial capacity when considering variances rather than a providing a recommendation.

Alternatives

Option 1: Approve Resolutions #15-11-270 and #15-11-271 granting a variance to the standard driveway setback, contingent upon upgrading the surface to comply with Section 117-111 (R-1 Residential District) and upon entering into an Easement Encroachment Agreement with the City. The driveway extension has been in place for about ten (10) years and there have been no known concerns related to drainage or aesthetics. The Applicant has stated that if the Variance were granted, they would upgrade the surface to comply with the surfacing requirement. Additionally, the Engineering Division has stated that it does not appear that the driveway extension is impacting or will negatively impact the purpose of the Easement.

Option 2: Approve modified versions of Resolutions #15-11-270 and #15-11-271 granting a variance to the standard driveway setback, contingent upon the fill and retaining wall being removed and replaced with an at-grade asphalt or concrete surface and upon entering into an Easement Encroachment Agreement. While Staff would not necessarily oppose this option, the Applicant has stated that the reason for the fill and retaining wall was to create a level parking surface. Also, if the existing driveway extension is not negatively impacting the purpose of the Easement, this option doesn't appear to accomplish anything more than Option 1.

Option 3: Deny the request for a variance to the driveway setback standard. It does appear that there may be an alternative option for parking/storing the trailer in the side or rear yard of the Subject Property. There is a level area behind the garage and alongside the home where a concrete or asphalt surface could be installed. However, the

Applicant would still likely want to have a driving surface to access that location which would still require a variance. The Applicant has also stated that they believe parking the trailer on the driveway extension presents a better image than if it were parked in the rear yard on the grass. This option would require the Applicant to remove the fill and retaining wall that are within the required setback area. Staff does not support this option.

Funding Source:

All costs associated with this request are the Applicant's responsibility.

Recommendation:

Considering the duration that the driveway extension has been in place already with no known issues, Staff would recommend approval of the Variance contingent upon the driveway extension surface being upgraded to comply with current City Code standards and upon the Applicant entering into an Easement Encroachment Agreement with the City.

Action:

Motion to adopt Resolutions #15-11-270 and #15-11-271 granting a variance to the standard driveway setback on the Subject Property.

Attachments

[Site Location Map](#)

[Applicant's Site Plan](#)

[Aerial View of Subject Property](#)

[Letter of Support from Neighbor](#)

[Photos of Subject Property](#)

[Findings of Fact: Draft Resolution #15-11-270](#)

[Variance: Draft Resolution #15-11-271](#)

Form Review

Inbox

Tim Gladhill

Chris Anderson (Originator)

Form Started By: Chris Anderson

Final Approval Date: 11/04/2015

Reviewed By

JoAnn Shaw

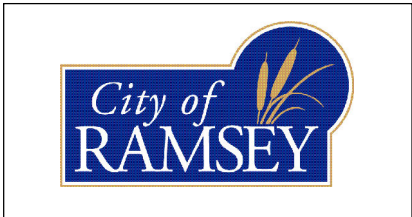
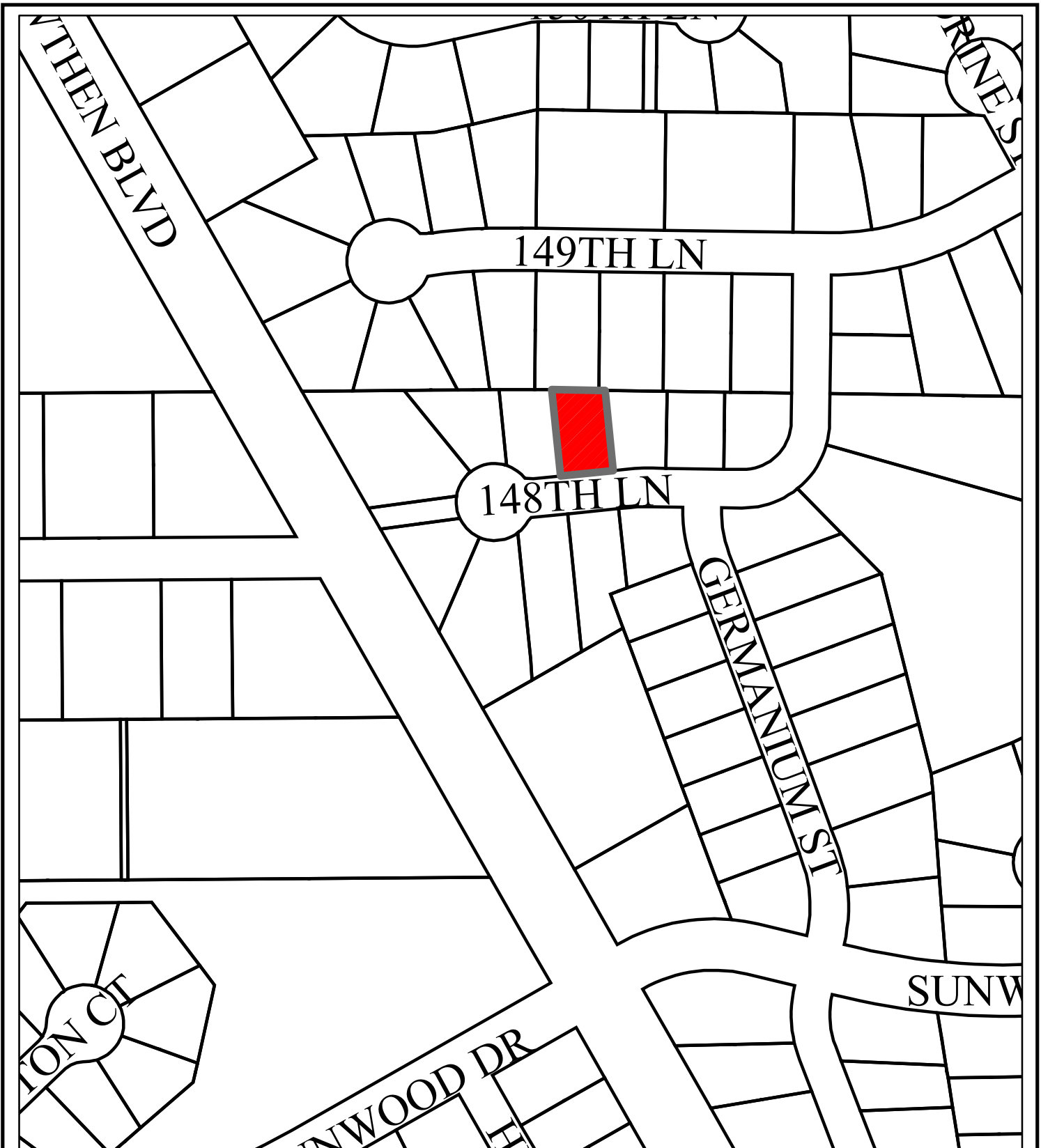
Chris Anderson

Date

11/04/2015 10:54 AM

11/04/2015 12:34 PM

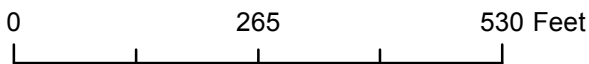
Started On: 10/28/2015 04:34 PM



5581 148th Lane NW
25-32-25-22-0066

Legend

-  Site
-  Parcels





9/28/2015

To whom it may concern,

Doug & Vicky Foyt @5581 148th Ln NW Ramsey, MN had asked us if it would be okay with us if they put in a parking area next to their garage. We knew that it was going to be close to our property line, but that did not bother us. Especially because they have it landscaped nicely & it never looks cluttered.

Thank You
Jason & Marcy Remer
5601 148th Ln NW Ramsey, MN
(763)242-0198

marcy Remer
Jason Remer



Commissioner _____ introduced the following resolution and moved for its adoption:

RESOLUTION #15-11-270

RESOLUTION ADOPTING FINDINGS OF FACT #0956 RELATING TO A REQUEST FROM DOUGLAS AND VICKY FOYT FOR A VARIANCE TO THE REQUIRED DRIVEWAY SETBACK AT 5581 148TH LANE NW

WHEREAS, Douglas and Vicky Foyt, hereinafter referred to as the “Applicant,” have properly applied for a variance from Section 117-111 (R-1 Residential District) of the Ramsey City Code to encroach on the required setback for a driveway on the property generally known as 5581 148th Lane NW and legally described as follows:

Lot 4, Block 1, Ramsey Commons 2nd Addition, Anoka County, Minnesota

(the “Subject Property”).

NOW THEREFORE, BE IT RESOLVED BY THE PLANNING COMMISSION OF THE CITY OF RAMSEY, ANOKA COUNTY, STATE OF MINNESOTA, as follows:

1. That the Subject Property is approximately 0.25 acres in size and is located in the R-1 Residential (MUSA) zoning district.
2. That the Subject Property is surrounded by properties of similar size that are also zoned R-1 Residential (MUSA).
3. That the Subject Property has frontage along 148th Lane NW.
4. That the City received a complaint stating that a driveway extension was installed within the past year and across a property boundary, as well as a shed and new furnace that been installed without the issuance of any permits.
5. That the City contacted the Applicant regarding these matters through the Code Enforcement Program.
6. That the Applicant has since applied for a Zoning Permit for the existing shed and obtained the required Building Permit for the furnace.
7. That while the existing shed complied with the rear yard setback of five (5) feet, it was partially located within a Drainage and Utility Easement. The Applicants have relocated the shed such that it still complies with the required setbacks and is outside of any easement.
8. That the Applicant has stated the driveway extension was installed in 2004, which predates the Zoning Permit requirement.
9. That through a review of aerial photographs, the driveway extension is clearly visible dating back to 2006, which still predates the Zoning Permit requirement. The aerial images from

2005 are too grainy to determine definitively whether the driveway extension existed at that time or not.

10. That the surface of the driveway extension consists of a landscape rock or gravel surface.
11. That the R-1 Residential (MUSA) District requires driveway surfaces to consist of either asphalt or concrete.
12. That the required driveway setback is five (5) feet in the R-1 Residential (MUSA) District.
13. That there is a five (5) drainage and utility easement along the side lot line of the Subject Property.
14. That there is no infrastructure related to stormwater within this easement area and it does not appear to contain other small utilities either.
15. That there are no known drainage issues due to the driveway extension, which has existed since at least 2006, and possibly dating back to 2004.
16. That the driveway extension is about one (1) foot from the boundary line of the Subject Property, encroaching on both the required setback and the drainage and utility easement.
17. That to establish a level parking surface, the Applicant brought in fill and installed a small retaining wall consisting of three (3) courses of landscape block, one of which is partially below grade. Both the fill and retaining wall are within the drainage and utility easement.
18. That the owners of the adjacent property to the west have submitted a written comments supporting the request for a variance.
19. That Ordinance #15-08, which was just recently adopted, specifies that motor vehicles and equipment parked in the side yard of a property shall maintain a five (5) foot setback from the edge of required surfacing to property boundary.
20. That as Ordinance #15-08 was developed and reviewed, it was acknowledged that it would not resolve a common issue, which is the desire of many property owners to park a motor vehicle and/or a piece of equipment along the side of a garage if that garage were constructed to the minimum required setback.
21. That to encroach into a drainage and utility easement with a driveway would require an Encroachment Agreement being executed between the Applicant and the City.
22. That economic circumstances alone do/do not create the practical difficulties.
23. That the plight is/is not due to circumstances unique to the Subject Property.
24. That the plight was/was not created by the Applicant.
25. That, if granted, the Variance will/will not alter locality's essential character.

26. That, if granted, the Variance will/will not impair an adequate supply of light and air to adjacent property.
27. That, if granted, the Variance will/will not unreasonably increase congestion on the public street.
28. That, if granted, the Variance will/will not have the effect of allowing any uses prohibited in the applicable zoning district.
29. That if granted, the Variance will/will not permit a lesser degree of public health, safety, and general welfare.
30. That, if granted, the Variance will/will not permit standards that are lower than those required by state law.
31. That, if granted, the Variance will/will not increase the danger of fire or endanger public safety.
32. That, if granted, the Variance will/will not diminish or impair established property values within the neighborhood.
33. That, if granted, the Variance will/will not violate the intent and purpose of the comprehensive plan.

The motion for the adoption of the foregoing resolution was duly seconded by Commissioner _____, and upon vote being taken thereon, the following voted in favor thereof:

and the following voted against the same:

and the following abstained:

and the following were absent:

whereupon said resolution was declared duly adopted by the Ramsey Planning Commission this the 9th day of July, 2015.

Chairperson

ATTEST:

City Clerk

Commissioner _____ introduced the following resolution and moved for its adoption:

RESOLUTION #15-11-271

RESOLUTION APPROVING/DENYING THE ISSUANCE OF A VARIANCE TO ENCROACH INTO THE REQUIRED SETBACK FOR A DRIVEWAY AT 5581 148TH LANE NW AND DECLARING TERMS OF SAME

WHEREAS, Douglas and Vicky Foyt, husband and wife, hereinafter referred to as the “Permittee,” have properly applied for a variance from Section 117-111 (R-1 Residential District) of the Ramsey City Code to encroach on the required setback for a driveway on the property generally known as 5581 148th Lane. NW and legally described as follows:

Lot 4, Block 1, Ramsey Commons 2nd Addition, Anoka County, Minnesota

(the “Subject Property”).

AND WHEREAS, the Planning Commission conducted a public hearing on November 12, 2015, pursuant to Section 117-53 of the Ramsey City Code.

NOW THEREFORE, BE IT RESOLVED BY THE BOARD OF ADJUSTMENT OF THE CITY OF RAMSEY, ANOKA COUNTY, STATE OF MINNESOTA, as follows:

1. That based on Findings of Fact #0956, a Variance to encroach into the required driveway setback on the **Subject Property** is hereby granted/denied.
2. That the driveway extension shall be located no closer than one (1) foot from the western lot line of the **Subject Property** and shall not be expanded without prior written consent of the City of Ramsey (the “City”).
3. That the **Permittee** shall upgrade the surface of the driveway extension to comply with the standards of City Code Section 117-111 (R-1 Residential District) no later than June 30, 2016.
4. That the **Permittee** shall be required to enter into an Easement Encroachment Agreement with the **City**, subject to the approval of the City Council, for the portion of the driveway .
5. That the **Permittee** is responsible for accurately locating the property line of the **Subject Property** (survey markers exposed) and having it clearly marked for the City to verify the encroachment distance.
6. That the **Permittee** shall maintain positive drainage along the westerly property line of the **Subject Property**.
7. That the **Permittee** shall be responsible for all costs incurred in administering and enforcing this Variance.
8. That the **Permittee** shall obtain all necessary permits prior to commencing any construction and/or resurfacing of the driveway, including a Zoning Permit.

9. That this **Variance** shall automatically expire if the use is not initiated by November 12, 2016 and issuance of the Zoning Permit shall constitute initiation.

The motion for the adoption of the foregoing resolution was duly seconded by Commissioner _____, and upon vote being taken thereon, the following voted in favor thereof:

and the following voted against the same:

and the following abstained:

and the following were absent:

whereupon said resolution was declared duly adopted by the Ramsey Planning Commission this the 12th day of November, 2015.

Meeting Date: 11/12/2015

By: Geoff Solomonson, Community
Development

Information

Title:

PUBLIC HEARING: Request for a Conditional Use Permit to Exceed Sign Size and Height Restrictions at 8035 Riverdale Dr. NW; Case of Ramsey-Arbor Properties, LLC.

Purpose/Background:

The City has received an application from Ramsey-Arbor Properties, LLC., requesting a conditional use permit (CUP) to exceed sign size restrictions for their parcel located at 8035 Riverdale Dr. NW (the "Subject Property"). The Subject Property is located directly adjacent to the Armstrong Boulevard Interchange project. The Applicant desires to construct a 225 square foot (450 square foot gross aggregate surface area) sign to a height of seventy-five (75) feet without the required monument style base material.

Notification:

In accordance with State statute, Staff attempted to notify property owners within 350 feet of the subject property of the public hearing via Standard US Mail. The Public Hearing was also noticed in the Anoka County Union Herald, the City's official newsletter for public notices.

Observations/Alternatives:

The request will result in a mutli-tenant sign that is taller and larger than the requirements for being located in the Armstrong Boulevard Interchange Overlay District. The existing Armstrong Boulevard Interchange Overlay District allows for signs up to fifty (50) feet in height and 150 square feet of surface area (300 square feet of gross aggregate surface area, e.g. double sided sign) and requires a monument style base of materials consistent with that the of the principal building to a minimum height of six (6) feet. Due to the location of the site, which is immediately adjacent to the Armstrong Boulevard interchange, a taller sign could be warranted due to the height of the overpass bridge.

This Conditional Use Permit would supersede the current CUP, which allowed for multiple ground signs on the property. Under this new CUP, both the new sign and the existing smaller sign with frontage on Riverdale Dr. would be allowable. This case may also set a new precedent for additional, taller signs within the Armstrong Boulevard Interchange Overlay District. This process, required by City Code, simply allows the Planning Commission to review the request on a site specific nature, attach reasonable conditions, and provide an enforcement tool in the event the proposed use is not being used consistent with City Code.

Alternatives

Option 1: Recommend City Council adopt Resolutions #15-11-272 and #15-11-273 approving a Conditional Use Permit for a new seventy-five (75) foot high and 225 square foot sign as well as the existing smaller sign on Riverdale Dr contingent upon incorporating a monument style base of materials consistent with the exterior finish of the principal building to a minimum height of six (6) feet. The proposed signage appears reasonable in size. The proposed location of the sign is not within the vision clearance triangle nor within any easement. Staff supports this option.

Option 2: Recommend City Council adopt Resolutions #15-11-272 and #15-11-273 approving a Conditional Use Permit for a new seventy-five (75) foot tall and 225 square foot sign (450 square feet aggregate) as proposed without the required base finish. Staff is not opposed to the proposed sign height or area necessarily, but feels that it

should include the required monument style base finish as outlined in the Armstrong Boulevard Interchange Overlay District provisions.

Option 3: Recommend that City Council deny the request. Staff does not support this option.

Funding Source:

All costs associated with reviewing the application are the responsibility of the Applicant.

Recommendation:

Staff recommends approval of the request for a conditional use permit to exceed the square footage and height limitation for a ground sign in the Armstrong Boulevard Interchange Overlay District contingent upon incorporating a monument style base finish consistent with the exterior finish of the principal building to a minimum height of six (6) feet. Staff is in the process of developing a potential amendment to the City's sign regulations and one potential outcome of this exercise is to increase the maximum square footage allowed, which would reduce the number of conditional use permit requests forwarded to the Planning Commission. Staff would develop standards based off of previous conditional use permit approvals and previous discussions with the Planning Commission.

Action:

Motion to recommend that City Council adopt Resolution #15-11-272 approving Findings of Fact #0957 and Resolution #15-11-273 relating to Ramsey-Arbor Properties, LLC's request for a conditional use permit to exceed sign size restrictions established in City Code.

Attachments

Site Location Map

Aerial Map with Dimensions

Sign Proposal

Resolution #15-11-272: DRAFT Findings of Fact

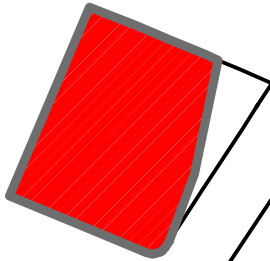
Resolution #15-11-273: DRAFT Conditional Use Permit

Form Review

Inbox	Reviewed By	Date
Chris Anderson	Chris Anderson	11/04/2015 12:15 PM
Tim Gladhill	JoAnn Shaw	11/04/2015 12:42 PM
Form Started By: Geoff Solomonson		Started On: 10/29/2015 10:12 AM
Final Approval Date: 11/04/2015		

146TH AVE

NW 100





RIVERDALE DR

ARMSTRONG BLVD


144TH AVE

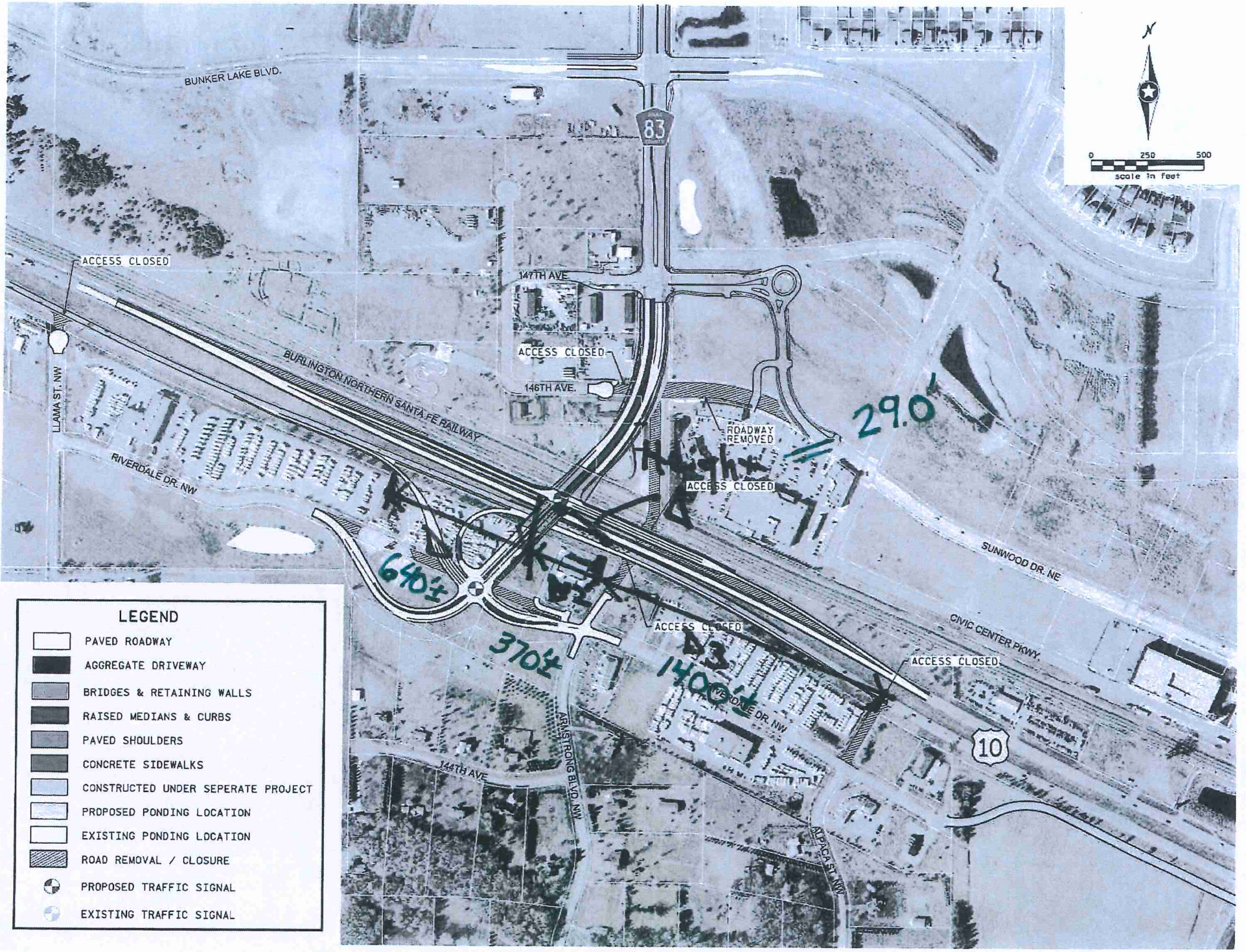


8035 Riverdale Drive NW
29-32-25-41-0028

Legend
 Site
 Parcels

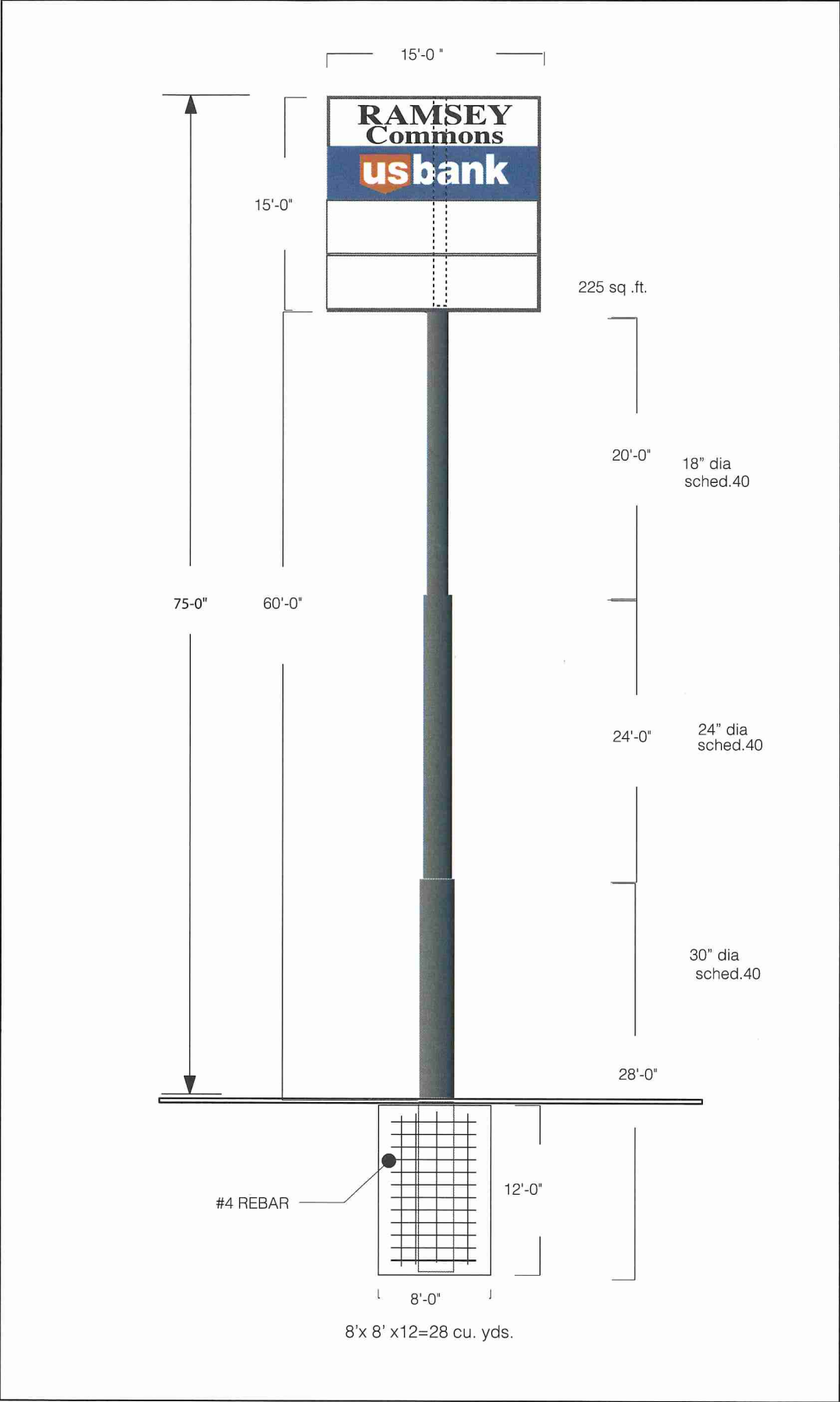


0 320 640 Feet




LEGEND

- PAVED ROADWAY
- AGGREGATE DRIVEWAY
- BRIDGES & RETAINING WALLS
- RAISED MEDIANS & CURBS
- PAVED SHOULDERS
- CONCRETE SIDEWALKS
- CONSTRUCTED UNDER SEPERATE PROJECT
- PROPOSED PONDING LOCATION
- EXISTING PONDING LDCATION
- ROAD REMOVAL / CLOSURE
- PROPOSED TRAFFIC SIGNAL
- EXISTING TRAFFIC SIGNAL





Install pylon 75' tall from ground level with 15'x 15' sign cabinet

Direction 2

Ramsey Commons

Councilmember _____ introduced the following resolution and moved for its adoption:

RESOLUTION #15-11-272

A RESOLUTION ADOPTING FINDINGS OF FACT #0957 RELATING TO A REQUEST FROM RAMSEY-ARBOR PROPERTIES, LLC FOR A CONDITIONAL USE PERMIT TO EXCEED SIGN SIZE AND HEIGHT RESTRICTIONS FOR A GROUND SIGN TO BE LOCATED AT 8035 RIVERDALE DR. NW

WHEREAS, the City of Ramsey received an application from Ramsey-Arbor Properties, LLC for a conditional use permit to exceed the sign size and height restrictions on the property generally 8035 Riverdale Dr. NW and legally described as follows:

Tract A Reg. Land Survey No. 254, Ex Rd, Subject to Easement of Record, Anoka County, Minnesota

("Subject Property")

NOW THEREFORE, BE IT RESOLVED BY THIS CITY COUNCIL OF THE CITY OF RAMSEY, ANOKA COUNTY, STATE OF MINNESOTA, as follows:

1. That Ramsey-Arbor Properties, LLC, hereinafter referred to as "Applicant," properly applied for a conditional use permit (the "Permit") to exceed the allotted height and square footage for a sign in the Armstrong Boulevard Interchange Overlay District.
2. That the Applicant appeared before the Ramsey Planning Commission for a public hearing pursuant to Section 117-51 (Conditional Use Permits) of the City Code on November 12, 2015, and that said public hearing was properly advertised, and that the minutes of said public hearing are hereby incorporated as a part of these findings by reference.
3. That the Subject Property is approximately 1.25 acres in size.
4. That the lot has frontage along Riverdale Drive NW.
5. That City Code Section 117-519 (Business type districts) states that signs located within the Armstrong Boulevard Interchange Overlay District shall be allowed to a height of fifty (50) feet and the gross surface area of a ground sign shall not exceed 150 square feet for each exposed face nor exceed an aggregate gross surface area of 300 square feet, and that a sign shall have a monument style base constructed of materials that are consistent with the principal building to a minimum height of six (6) feet.
6. That the Applicant is proposing a seventy five (75) foot tall ground sign with a fifteen (15) foot by fifteen (15) foot sign cabinet measuring 225 square feet (450 square foot aggregate) with no base finish.
7. That the Subject Property is located adjacent to the Armstrong Boulevard interchange with Highway 10.
8. That the height of the Armstrong Boulevard overpass bridge will be twenty nine (29) feet high above the ground.

9. That there are two (2) current signs on the Subject Property that were previously approved by CUP: a 90 square foot sign that is twenty five (25) feet in height next to Highway 10 and a twenty three (23) square foot sign that is eight (8) feet high along Riverdale Drive.
10. That this CUP will supersede the previous CUP, still allowing two (2) ground signs on the property.
11. That the Applicant has provided an exhibit that demonstrates the proposed height and location in relation to the Armstrong Boulevard interchange and the impact of traffic visibility in the area.
12. That a conditional use permit to exceed sign size restrictions will/will not grant the Applicant special privileges that are denied by the City Code to other properties in the residential area.
13. That the proposed increase in sign square footage will/will not be designed so as to be harmonious and appropriate in appearance with the existing or intended character of the vicinity and will/will not change the essential character of the area.
14. That the proposed increase in sign square footage will/will not adversely impact traffic in the area.
15. That the proposed increase in sign square footage will/will not be unduly dangerous or otherwise detrimental to persons residing or working in the vicinity of the use or to the public welfare.
16. That the proposed increase in sign square footage will/will not substantially impair the use, enjoyment, or market value of surrounding properties.
17. That the proposed increase in sign square footage will/will not be hazardous or disturbing to existing or future neighboring uses.
18. That the proposed increase in sign square footage will/will not create excessive additional requirements at public cost for public facilities and services, and it will/will not be detrimental to the economic welfare of the community.
19. That the proposed increase in sign square footage will/will not involve activities and uses that will be detrimental to any persons, property, or the general welfare by reason of excessive production of glare.

The motion for the adoption of the foregoing resolution was duly seconded by Councilmember _____, and upon vote being taken thereon, the following voted in favor thereof:

and the following voted against the same:

and the following abstained:

and the following were absent:

whereupon said resolution was declared duly passed and adopted by the Ramsey City Council this the ___ day of _____, 2015.

Mayor

ATTEST:

City Clerk

Councilmember _____ introduced the following resolution and moved for its adoption:

RESOLUTION #15-11-273

A RESOLUTION APPROVING THE ISSUANCE OF A CONDITIONAL USE PERMIT TO RAMSEY-ARBOR PROPERTIES, LLC BASED ON FINDINGS OF FACT #0957 TO EXCEED SIGN REGULATIONS ESTABLISHED IN CITY CODE AND DECLARING TERMS OF THE PERMIT.

WHEREAS, Ramsey-Arbor Properties, LLC has properly applied for a conditional use permit to exceed sign size and height restrictions as established in City Code on the property generally known as 8035 Riverdale Dr. NW and legally described as follows:

Tract A Reg. Land Survey No. 254, Ex Rd, Subject to Easement of Record, Anoka County, Minnesota

("Subject Property")

WHEREAS, the Planning Commission met on November 12, 2015, conducted a public hearing, and recommended City Council approve/deny the request.

NOW THEREFORE, BE IT RESOLVED BY THIS CITY COUNCIL OF THE CITY OF RAMSEY, ANOKA COUNTY, STATE OF MINNESOTA, as follows:

1. Based on Findings of Fact #0957, a conditional use permit ("Permit") to exceed allotted square footage and height is hereby granted/denied to Ramsey-Arbor Properties, LLC ("Permittee").
2. The **Permittee** is herein granted/denied permission to erect one (1) new permanent sign (the "Sign") on the **Subject Property** fronting Highway 10 to replace the existing ground sign fronting Highway 10.
3. The **Sign** erected on the **Subject Property** shall not exceed two hundred twenty five (225) square feet in size per face, nor an aggregate of 450 square feet if double faced.
4. The installation of the **Sign** on the **Subject Property** requires a Sign Permit from the City of Ramsey (the "City") and the application submittal for said Sign Permit shall include footings sized and approved by a licensed engineer.
5. The **Permittee** shall not install the **Sign** within the vision clearance triangle as defined in Section 117-348 (g) of Ramsey City nor within any easement on the **Subject Property**.
6. The sign shall be properly constructed and maintained in accordance with Division 8 (Signs) of the Ramsey City Code, including a monument style base constructed of materials that are consistent with the principal building to a minimum height of six (6) feet.
7. The **Permittee** shall be responsible for all **City** costs incurred in administering and enforcing this **Permit**.

8. The City Administrator, or his/her designee, shall have the right to inspect the **Subject Property** for compliance and safety purposes annually or at any time, upon reasonable request.
9. Should any provision of this **Permit** be declared void or unenforceable, the other provisions shall not be affected but shall remain in full force and effect.
10. This **Permit** shall not be considered modified, altered, changed or amended in any respect unless in writing and signed by the **City** and the **Permittee**.
11. That if the **Permittee** or its successors or assigns violates any material term or condition of this **Permit** it is grounds for suspension or revocation hereof consistent with applicable law, if the City Council reasonably determines that continued operation of the facility places the public health, safety or welfare or the environment in jeopardy or creates a public nuisance due to odors, litter, debris or other nuisance factors.

The motion for the adoption of the foregoing resolution was duly seconded by Councilmember _____, and upon vote being taken thereon, the following voted in favor thereof:

and the following voted against the same:

and the following abstained:

and the following were absent:

whereupon said resolution was declared duly passed and adopted by the Ramsey City Council this the ___ day of _____, 2015.

Ramsey-Arbor Properties, LLC hereby acknowledges receipt of this permit and has reviewed the conditions of this permit and has agreed to comply with the terms of this permit.

Ramsey-Arbor Properties, LLC

By: _____

Its: _____

STATE OF MINNESOTA)
) ss.
COUNTY OF _____)

On this _____ day of _____, _____, before me a Notary Public, personally appeared _____, the _____ of Ramsey-Arbor Properties, LLC, a Minnesota domestic business corporation, on behalf of this corporation.

Notary Public

CITY OF RAMSEY:

By: _____
Mayor

By: _____
City Clerk

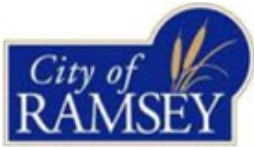
STATE OF MINNESOTA)
) ss.
COUNTY OF ANOKA)

On this _____ day of _____, _____, before me a Notary Public personally appeared Sarah Strommen and JoAnn M Thieling, to me personally known, who, being each by me duly sworn, did say that they are respectively the Mayor and City Clerk of the City of Ramsey, the Municipal Corporation named in the foregoing instrument, and seal affixed to said instrument is the corporate seal of said Municipal corporation, and the said instrument was signed and sealed on behalf of said Municipal Corporation by authority of its City Council, and said Sarah Strommen and JoAnn M Thieling acknowledge said instrument to be the free act and deed of said Municipal Corporation.

Notary Public

This document drafted by:
City of Ramsey
7550 Sunwood Drive NW
Ramsey, MN 55303

This document reviewed by:
Ratwik, Roszak & Maloney, P.A.
730 Second Ave. S., Suite 300
Minneapolis, MN 55402



Our Mission: To work together to responsibly grow our community, and to provide quality, cost-effective, and efficient government services.

Regular Planning Commission

5.3.

Meeting Date: 11/12/2015

Submitted For: Patrick Brama, Administrative Services

By: Patrick Brama, Administrative Services

Information

Title:

Receive Update on Public Works Campus Space Needs Analysis and Consider Policy for a Future McKinley Street Connection

Purpose/Background:

PURPOSE

Receive update on Public Works Campus *Space Needs Analysis* (specifically, concept site maps and preliminary costs). Preliminary feedback is welcome. No specific direction is requested.

-and-

Consider policy direction on McKinley Street. One of the top two concepts for the public works campus requires the future connection of McKinley Street to be vacated. Before the City makes a final decision on a concept for the Public Works Campus, the City must make a policy decision on McKinley Street (is it needed, is it a priority?). Staff recommends this policy discussion begin with the Planning Commission.

BACKGROUND

On June 09, 2015, the City Council authorized Staff to complete a space needs analysis for a potential future public works campus. Detailed background information on this case (public works campus, space needs analysis, process, funding, etc.) can be found by referencing the attached case. A more detailed case write-up will be provided in the November Public Works Committee meeting.

Notification:

NA

Observations/Alternatives:

NA

Funding Source:

NA

Recommendation:

NA

Action:

PURPOSE

Receive update on Public Works Campus *Space Needs Analysis* (specifically, concept site maps and preliminary costs). Preliminary feedback is welcome. No specific direction is requested.

-and-

Consider policy direction on McKinley Street. One of the top two concepts for the public works campus requires the future connection of McKinley Street to be vacated. Before the City makes a final decision on a concept for the Public Works Campus, the City must make a policy decision on McKinley Street (is it needed, is it a priority?). Staff recommends this policy discussion begin with the Planning Commission.

Attachments

Space Needs Analysis (partial and preliminary)

McKinley Street REF MAP

Process Outline

06 09 2015 Council Case

Form Review

Inbox

Tim Gladhill

Kurt Ulrich

Form Started By: Patrick Brama

Final Approval Date: 10/30/2015

Reviewed By

Tim Gladhill

Kurt Ulrich

Date

10/30/2015 09:12 AM

10/30/2015 01:29 PM

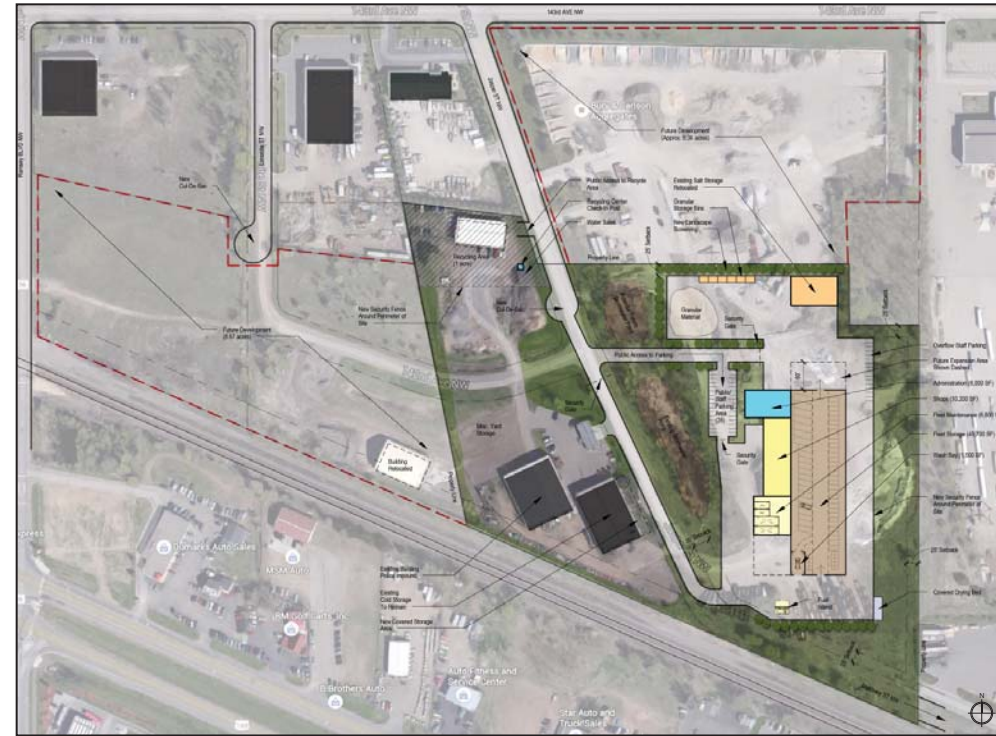
Started On: 10/28/2015 10:19 AM

An aerial satellite-style map of an industrial area in Ramsey, MN. The map shows several large industrial buildings, parking lots, and roads. A semi-transparent white box is overlaid on the top-left portion of the map, containing text. The text includes the title 'City of Ramsey, MN Public Works Study', the meeting name 'Public Works Committee Review Meeting', and the date '10/20/2015'. Various street names and business names are visible on the map, such as '143rd Ave NW', '142nd Ave NW', '141st Ave NW', '140th Ave NW', '139th Ave NW', '138th Ave NW', '137th Ave NW', '136th Ave NW', '135th Ave NW', '134th Ave NW', '133rd Ave NW', '132nd Ave NW', '131st Ave NW', '130th Ave NW', '129th Ave NW', '128th Ave NW', '127th Ave NW', '126th Ave NW', '125th Ave NW', '124th Ave NW', '123rd Ave NW', '122nd Ave NW', '121st Ave NW', '120th Ave NW', '119th Ave NW', '118th Ave NW', '117th Ave NW', '116th Ave NW', '115th Ave NW', '114th Ave NW', '113th Ave NW', '112th Ave NW', '111th Ave NW', '110th Ave NW', '109th Ave NW', '108th Ave NW', '107th Ave NW', '106th Ave NW', '105th Ave NW', '104th Ave NW', '103rd Ave NW', '102nd Ave NW', '101st Ave NW', '100th Ave NW', '99th Ave NW', '98th Ave NW', '97th Ave NW', '96th Ave NW', '95th Ave NW', '94th Ave NW', '93rd Ave NW', '92nd Ave NW', '91st Ave NW', '90th Ave NW', '89th Ave NW', '88th Ave NW', '87th Ave NW', '86th Ave NW', '85th Ave NW', '84th Ave NW', '83rd Ave NW', '82nd Ave NW', '81st Ave NW', '80th Ave NW', '79th Ave NW', '78th Ave NW', '77th Ave NW', '76th Ave NW', '75th Ave NW', '74th Ave NW', '73rd Ave NW', '72nd Ave NW', '71st Ave NW', '70th Ave NW', '69th Ave NW', '68th Ave NW', '67th Ave NW', '66th Ave NW', '65th Ave NW', '64th Ave NW', '63rd Ave NW', '62nd Ave NW', '61st Ave NW', '60th Ave NW', '59th Ave NW', '58th Ave NW', '57th Ave NW', '56th Ave NW', '55th Ave NW', '54th Ave NW', '53rd Ave NW', '52nd Ave NW', '51st Ave NW', '50th Ave NW', '49th Ave NW', '48th Ave NW', '47th Ave NW', '46th Ave NW', '45th Ave NW', '44th Ave NW', '43rd Ave NW', '42nd Ave NW', '41st Ave NW', '40th Ave NW', '39th Ave NW', '38th Ave NW', '37th Ave NW', '36th Ave NW', '35th Ave NW', '34th Ave NW', '33rd Ave NW', '32nd Ave NW', '31st Ave NW', '30th Ave NW', '29th Ave NW', '28th Ave NW', '27th Ave NW', '26th Ave NW', '25th Ave NW', '24th Ave NW', '23rd Ave NW', '22nd Ave NW', '21st Ave NW', '20th Ave NW', '19th Ave NW', '18th Ave NW', '17th Ave NW', '16th Ave NW', '15th Ave NW', '14th Ave NW', '13th Ave NW', '12th Ave NW', '11th Ave NW', '10th Ave NW', '9th Ave NW', '8th Ave NW', '7th Ave NW', '6th Ave NW', '5th Ave NW', '4th Ave NW', '3rd Ave NW', '2nd Ave NW', '1st Ave NW'.

City of Ramsey, MN Public Works Study

Public Works Committee Review Meeting
10/20/2015

Option A



Total Site Area: 15.50 acres
Total Developable Area: 18.03 acres

Total Estimated Project Cost:
\$14 Million (Based on 2017 values)

Option B



Total Site Area: 11.40 acres
Total Developable Area: 21.98 acres

Total Estimated Project Cost:
\$14.8 Million (Based on 2017 values)

Option C



Total Site Area: 13.62 acres
Total Developable Area: 19.80 acres

Total Estimated Project Cost:
\$13.9 Million (Based on 2017 values)

Option D

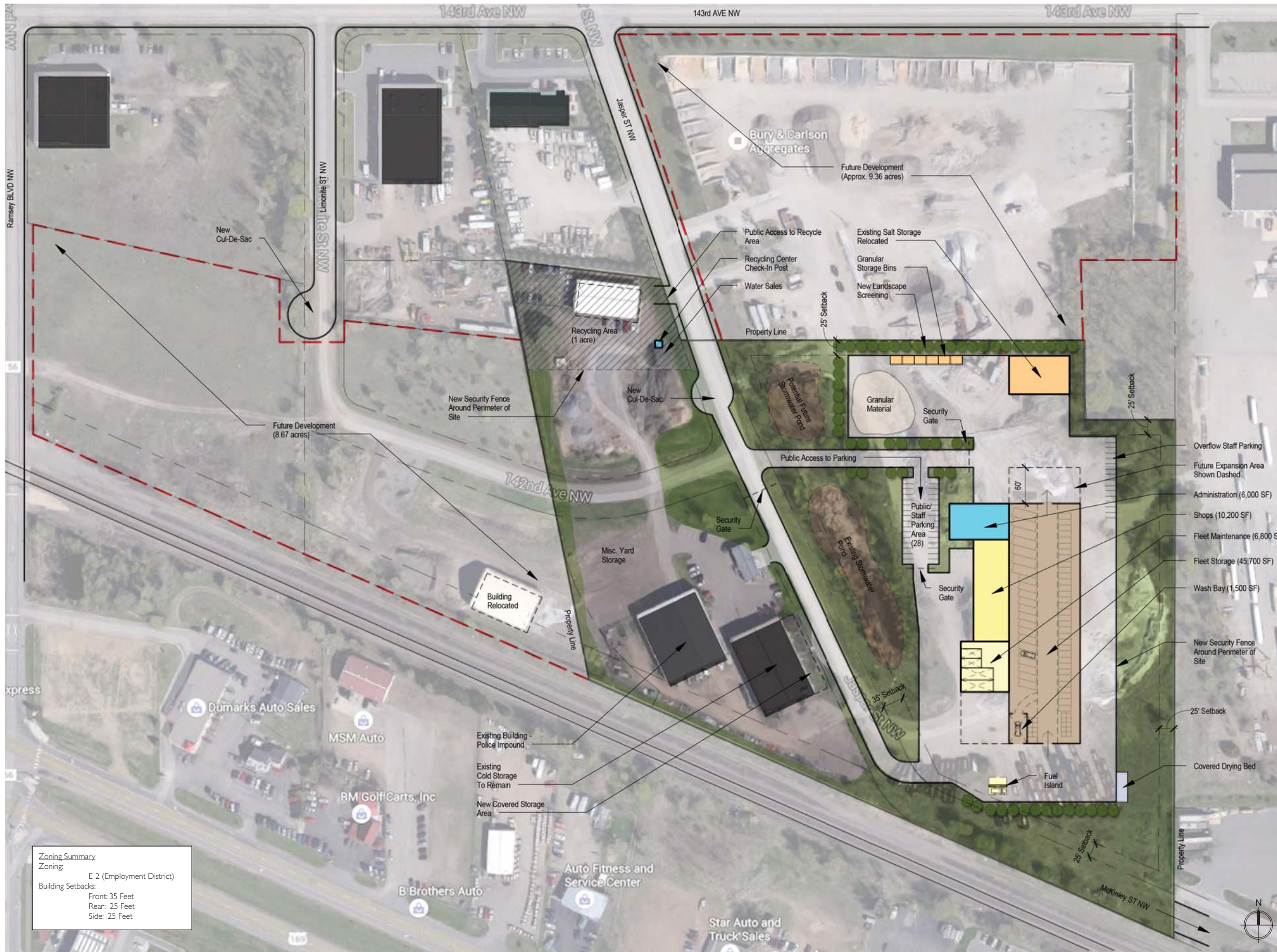


Total Site Area: 9.68 acres
Total Developable Area: 23.91 acres

Total Estimated Project Cost:
\$13.7 Million (Based on 2017 values)

Preferred Options

Additional Options Studied



Zoning Summary
 Zoning: E-2 (Employment District)
 Building Setbacks:
 Front: 35 Feet
 Rear: 25 Feet
 Side: 25 Feet

Pros:

- Utilizes existing cold storage buildings
- Efficient centralized operation / circulation
- Room for future growth / expansion
- Existing stormwater pond can remain in-place

Cons:

- Salt storage building needs to be relocated

Estimated Project Cost:

Building Cost =	\$10,908,500
Site Work =	\$400,000
Sub Total =	\$11,308,500

Construction & Design
 Contingency = \$565,425

Soft Costs
 (A&E, FF&E, Etc.) = \$1,400,000

Total Estimated Project Cost =
 \$13,273,925 (Based on 2016 values)

**Total Estimated Project Cost =
 \$13,967,621** (Based on 2017 values)

Option A
 15.50 acres



Pros:

- Operations are centralized with efficient circulation
- Room for future expansion
- Existing stormwater pond can remain in-place

Cons:

- New cold storage/police impound building required
- Salt storage building needs to be relocated

Estimated Project Cost:

Building Cost =	\$11,744,500
Site Work =	\$300,000
Sub Total =	\$12,044,500

Construction & Design
Contingency = \$602,000

Soft Costs
(A&E, FF&E, Etc.) = \$1,400,000

Total Estimated Project Cost =
\$14,046,500 (Based on 2016 values)

**Total Estimated Project Cost =
\$14,778,825 (Based on 2017 values)**

Option B
11.40 acres



Missing Sections

NOTES

- McKinley would provide relief on highway 10 (for local business traffic)
- Anoka has not provided any indication/ desire to make this connection (even recently)
- The former Highway 10 improvement plans called for highway to be shifted to the north, against the BNSF train tracks. This shift emphasized the need for the completion of McKinley Street. The new Highway 10 Access Planning Study does not call for the highway to be shifted north against the BNSF train tracks. As a result, room exists, and it is planned, for a new frontage road system to be constructed on the south side of the BNSF train tracks.
- If the City decides to vacate the McKinley Street connection at the Public Works Campus now—and in the future Anoka decides they would like to make the connection—Ebony Street would provide the City a back-up alternative (to Jasper Street).

Ramsey Public Works Campus

PROCESS/PROJECT OUTLINE

Estimated Cost: \$6M-\$12M

1. Space Needs Analysis

Summer/Fall 2016

\$20,000

The purpose of this step is to answer a number of questions regarding the existing Public Works site. For example, how are we operating today; and what resources do we have today? What resources/ facilities do we need now and in the future? Can we renovate the existing Public Works campus/ buildings? Should we demolish and rebuild? What alternatives for location and design of a new campus exist; and how much do they cost? Construction of a new Public Works campus will result in available land for redevelopment—what is the highest and best use for redevelopment?

DELIVERABLES:

- Feasibility Report
- Space Needs Analysis
- Master Planning

2. Preliminary Design

Summer 2017

\$65,000

The purpose of this stage is to develop schematic designs of the new Public Works Campus; and to select a design. The outcome of this stage is preliminary architectural designs, preliminary site plan documents, preliminary project budget, and overall project design selected.

DELIVERABLES:

- General Building Design and Layout Selected
- Preliminary Detailed Budget, Architectural Plans, and Site Plans

3. Final Design, Specs, Bid Docs

Summer 2018

\$190,000

The purpose of this stage is to develop final detailed site plans, architectural plans, civil plans, landscaping plans, electric/ mechanical plans, construction specifications, bid documents, and project budget. This work does have a shelf life of five years. This is work will need to be completed in order to construct a new Public Works Campus. Essentially, the project would be ready-to-bid after this step.

DELIVERABLES:

- Final detailed plans, specifications, bid documents, and budget
- Project would be ready to bid

4. Bidding & Bid Award

Winter 2018/19

\$15,000

The purpose of this stage is to bid and potentially award the proposed construction project to a general contractor. Staff would recommend the City Council have a detailed/formal policy discussion regarding this project before this step is completed. This would entail a detailed review of the project budget and the proposed funding source (bonding). The outcome of said discussion would be consensus support from policy makers for construction of a new Public Works Campus, or not.

DELIVERABLES:

- Bid Tabulation and Potential Bid Award

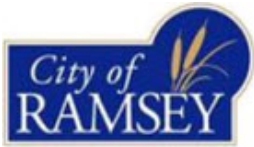
6. Construction Administration

2019/2020

\$20,000

The purpose of this stage is to physically construct a new Public Works and provide construction administration services. This step would be authorized when a bid is awarded. The number above only outlines the cost for the architect to provide construction administration services (project management).

DISCLAIMER: other than step 1, all numbers included this document are very preliminary, in draft form, unofficial, and not developed by licensed professionals. As this process unfolds, accurate numbers will be provided. These numbers should be utilized for reference purposes only.



Our Mission: To work together to responsibly grow our community, and to provide quality, cost-effective, and efficient government services.

CC Regular Session

7. 4.

Meeting Date: 06/09/2015

Submitted For: Patrick Brama, Administrative Services

By: Patrick Brama, Administrative Services

Information

Title:

Consider Strategy for Future Public Works Campus Planning Process

Purpose/Background:

PURPOSE

Provide direction to Staff on how to move forward with planning for a replacement Public Works Campus.

1. Consider Staff recommendation on how to proceed with the space needs analysis (Step 1 of process).
2. Consider Staff recommendation to budget \$65,000 for preliminary design in 2016 (Step 2 of process).

BACKGROUND (Public Works Campus)

1. The Public Works department moved from its original location on Hwy 47 and 142nd Ave to its current location at 14100 Jasper St in 1995. The buildings were originally constructed for a company called Minnesota Sawdust in 1984. At the time of the move, we employed 7 full-time maintenance workers and 2 seasonal workers. Today, we employ 17 full-time maintenance workers and 8-12 seasonal workers.
2. In 2002 the City of Ramsey purchased the property at 14210 Jasper St and converted that building to what is now our utility department and sign shop.
3. In 2005 the Public Works department was granted an interim use permit for a temporary construction trail to house our administrative offices and lunch room.
5. In 2006 we constructed covered storage to protect our winter road salt supply.
6. Since approximately 2007, we have been using off-site storage buildings to house seasonal or less frequently used equipment, due to the lack of secure storage space at our campus.

BACKGROUND (Process)

Please see the attached process outline. At this point, the City is at Step 1 (of 5) in the process to plan for, and construct, a replacement Public Works Campus (Space Needs Analysis Stage). The City budgeted \$20,000 for this work in 2015 (to be completed in 2015).

Notification:

NA

Observations/Alternatives:

Please review staff recommendation first. If the Council is concerned with the Staff recommendation, below are alternatives to consider:

1. Competitively Bid Step 1 of the attached process (rather than select BKV Group now).
2. Don't budget for Step 2 in 2016 at this time (wait until 2017 or later).
3. Oppose planning for the reconstruction of a replacement Public Works Campus altogether in 2015 (or later).

Funding Source:

General Fund and Enterprise Funds

Recommendation:

1. Consider Staff recommendation on how to proceed with the space needs analysis (Step 1 of process).

Typically, Staff would recommend completing a RFQ (Request for Quotes) for this type of work. However, a RFQ on a space needs analysis can easily turn into a bidding war between engineering firms; which motivates firms to "undercut" their bid on the space needs analysis in an effort to "buy" later steps of engineering/ architectural services (steps 2-5 outlined in the attachment). Unless a solid reason exists, Cities select the lowest quote on any given project. This situation can result in a lack of service/ quality in work delivered. Additionally, it should be noted, a space needs analysis can be a fairly ambiguous in terms of several items (not easy to compare apples to apples--and challenging to draft a very clear RFQ).

As a result of the information outlined above, Staff would feel more comfortable allowing an architectural/ engineering firm that has a good track record with City to complete Step 1 of this process. Then, when it comes to Steps 2-5, staff would recommend architectural/ engineering services for this project be competitively bid (i.e. a standard RFQ process). NOTE: in order for the City to receive quality competitive bids for steps 2-5, the space needs analysis needs to be thorough and of high quality (will make the RFQ very clear). This work is not required to be competitively bid via State Statute.

Attached to this case is a proposal from BKV Group for a space needs analysis (not to exceed \$19,500). Staff would recommend awarding BKV Group this work. BKV Group has a solid track record with the City (Fire Station #2 and the Ramsey Municipal Center).

2. Consider Staff recommendation to budget \$65,000 for preliminary design in 2016 (Step 2 of process).

As the Council knows, in order to complete a project in 2016, we need to budget for that project in 2015. If the Council is interested in moving this project along in 2016, Staff would recommend budgeting for Step 2 (Preliminary Design) now. Staff was provided a "preliminary/ budgeting" estimation of \$55,000 for this work by BKV Group. Staff would recommend the City Council budget \$65,000 for Step 2 in 2016.

Action:

Motion to:

Accept the attached proposal for professional services from BKV Group, not to exceed \$19,500.

-and-

Direct Staff to budget \$65,000 in 2016 for preliminary design of a replacement Public Works Campus.

Attachments

Campus REF MAP (Two Options)

Process Outline

BKV Group Proposal (Step 1 Space Needs)

Form Review

Inbox

Grant Riemer

Diana Lund

Kurt Ulrich

Form Started By: Patrick Brama

Final Approval Date: 06/04/2015

Reviewed By

Grant Riemer

Diana Lund

Kurt Ulrich

Date

06/04/2015 10:41 AM

06/04/2015 10:56 AM

06/04/2015 03:24 PM

Started On: 06/03/2015 04:57 PM

Regular Planning Commission

5. 4.

Meeting Date: 11/12/2015

By: Geoff Solomonson, Community
Development

Information

Title:

Receive Presentation on Land Use Chapter of the Comprehensive Plan

Purpose/Background:

Staff will be providing a brief presentation on the Land Use chapter of the Comprehensive Plan in preparation for the upcoming Comprehensive Plan Update process. Included is a copy of the existing Land Use Chapter.

Notification:

Observations/Alternatives:

Funding Source:

Recommendation:

Action:

No action is being requested; this case is for informational purposes only. No amendments to this chapter are being recommended at this time.

Attachments

Current Land Use Chapter

Form Review

Inbox

Chris Anderson

Tim Gladhill

Form Started By: Geoff Solomonson

Final Approval Date: 11/04/2015

Reviewed By

Chris Anderson

JoAnn Shaw

Date

11/04/2015 11:34 AM

11/04/2015 12:42 PM

Started On: 11/04/2015 10:59 AM

5. LAND USE

A. Existing Land Use

1. General Land Use

The City of Ramsey is surrounded on three sides by other municipalities including the Cities of Elk River, Anoka and Oak Grove and Nowthen. All of these communities are growing communities except for Anoka, which is near fully developed. Ramsey is rapidly growing and has developed for the most part as a bedroom community with most developed land as low-density single family residential. The City has roughly 29 square miles of land, including roadways and open water. The following table represents the existing land use inventory for the City as a whole.

Table 5-1 Existing Land Use—2008

Land Use Category	Gross Acreage	Net Acreage	% of City*
Agricultural	1,956.82	1,693.65	10.2%
Commercial	360.35	326.35	1.9%
Industrial	425.40	421.76	2.2%
Landfill	157.62	151.58	0.8%
Multi-Family Residential	258.08	239.89	1.3%
Park	1,820.51	1,120.39	9.5%
Public/Quasi-public	347.60	284.02	1.8%
Rural Residential	6,888.71	5,576.42	36.0%
Single Family Residential	1,998.05	1,746.75	10.4%
Vacant	2,303.03	1,517.61	12.0%
Right-of-Way	2,043.76	2,043.76	10.7%
Water	568.24	568.24	3.0%
Wetland	0.00	3,437.74	-
Total City	19,128.16	19,128.16	100.0%

a) Residential

The City of Ramsey is predominantly a residential community. Over 7,500 acres have been developed as residential housing, the majority of which is in single family housing units. Other housing types include townhomes, a mobile home park and an apartment building.

The typical lot size within the Metropolitan Urban Services Area (MUSA) is around 10,000 to 12,000 square feet, however larger lots up to 5 acres in some areas can be found along the Mississippi and Rum Rivers. *Densities within smaller lot subdivisions range anywhere from 2 to 3 units per gross acre or roughly 2.5 to 3.5 units per net acre.* Net acre refers to total land area less major road right-of-way and wetlands.

Outside of the MUSA, development patterns generally consist of residential subdivisions with lot sizes of 1 to 5 acres. A portion of the area lying generally north of Trott Brook in central Ramsey remains in large tracts of land (10 or more acres in size). Residential platting has

not occurred in this area due to the numerous wetlands and poor soil conditions, which largely prohibit development. In 1989 the City adopted an ordinance intended to preserve large tracts of land for future orderly expansion of urban services. This policy was consistent with regional growth management policy. The City also adopted an ordinance that established a maximum density of 1 unit per 10 acres and limited lot sizes to 10-acre minimums in the Urban Reserve and Central Rural Reserve areas and 2.5-acres in the Rural Developing area. Densities of existing rural subdivisions generally range between 0.2 units per gross acre to 1 unit per gross acre.

b) Commercial

The commercial development has been primarily focused along the Highway 10 corridor and the Highway 47 corridor south of 155th Avenue. These two corridors generate a high volume of traffic, which is attractive for retail businesses. The commercial activity that dominates Highway 10 is primarily retail and wholesale trade oriented with several used car and recreational vehicle sales businesses. Several sites along Highway 10 are unimproved and in some instances operating out of single-family homes. Commercial activity located around the Bunker Lave Boulevard and Highway 47 intersection is a more service-oriented shopping area consisting of fast food restaurants, a hair salon, a video store, a real estate office, a gas-convenience store, two day care centers and two banks.

A commercial node in the rural area at the intersection of Highway 47 and 167th Avenue consists of a grocery store, hardware store, video store, a bank, hair salon and other small businesses situated in a strip mall development. Because low-density development surrounds this strip mall, retail stores tend to struggle; however, the site does have good visibility and accessibility making it somewhat conducive to commercial activity. The site is not served by municipal utilities and has had problems with on site septic system operations.

Other commercial development exists on Highway 10 adjacent to Elk River. There are also some home occupations scattered throughout the community.

A unique development mixes business and residential land uses along the south side of 149th Avenue. These long narrow lots were developed outside the MUSA adjacent to industrially zoned property. They were intended to act as a buffer between industrial and residential land uses.

Within the Town Center Master Plan area, some commercial development has occurred near the corner of Armstrong Boulevard and Sunwood Drive. Additional commercial development is planned throughout the Town Center area.

c) Industrial

Recent industrial development has consumed a large portion of the undeveloped land within the MUSA. Development of the AEC Energy

Park and the City of Ramsey Business Park 95 has created over 500,000 square feet of new construction since 1996. This new development has occurred all within the MUSA and has intermingled with older, existing industrial developments. Redevelopment of underutilized industrial sites needs to be studied for future industrial development opportunities and in order to preserve the quality of the existing development that is in place. There has been continued demand for industrial land in Ramsey, and vacancy rates have been low in 2008.

d) Park and Recreation

The City of Ramsey has two regional parks within its boundaries, Mississippi West Regional Park and the Rum River Central Regional Park. These two regional parks encompass an area of over 500 acres. There is a State Wayside Rest along Highway 10 and the Mississippi River that has camping facilities, restroom facilities, and picnic tables. Several community and neighborhood parks ranging in size from less than one acre to over 50 acres are scattered throughout the City. On the private side, Ramsey has two 18-hole golf courses open to the public, the Links at Northfork located in west Ramsey just north of Highway 10 and Rum River Hills Golf Course located near 167th Avenue and Highway 47. The Boy Scouts of America own approximately 160 acres of land, which is used for recreational camping and outdoor activities along the Rum River. The total acreage devoted to park and recreation uses is roughly 1,814 acres or 10% (inclusive of wetlands within parks) of the Ramsey land area.

e) Agriculture

As shown on the Existing Conditions Land Use Map, agricultural uses are primarily located in the northeastern and southwestern portions of the City. A total of 1,956 acres appear to have some kind of agricultural use occurring on them as of 2008. The dominant soil type in Ramsey is the Hubbard-Nymore association, which is classified as “moderately well suited” to farming; however, fertility and available water capacity are low.¹

f) Public/Qausi-Public

Public/Semi-public land uses are comprised of churches, schools, city offices, public works facilities, fire stations and other government or non-profit entities. Several churches provide Ramsey with a variety of worship opportunities. Ramsey Elementary School is the only school located in Ramsey and is located within MUSA. Middle and high school students are bused to Anoka and Elk River. City Hall and the police station are located north of Highway 10 in Town Center. A public works garage is located in the Gateway Industrial Park. The City has a fire station located at the old City Hall.

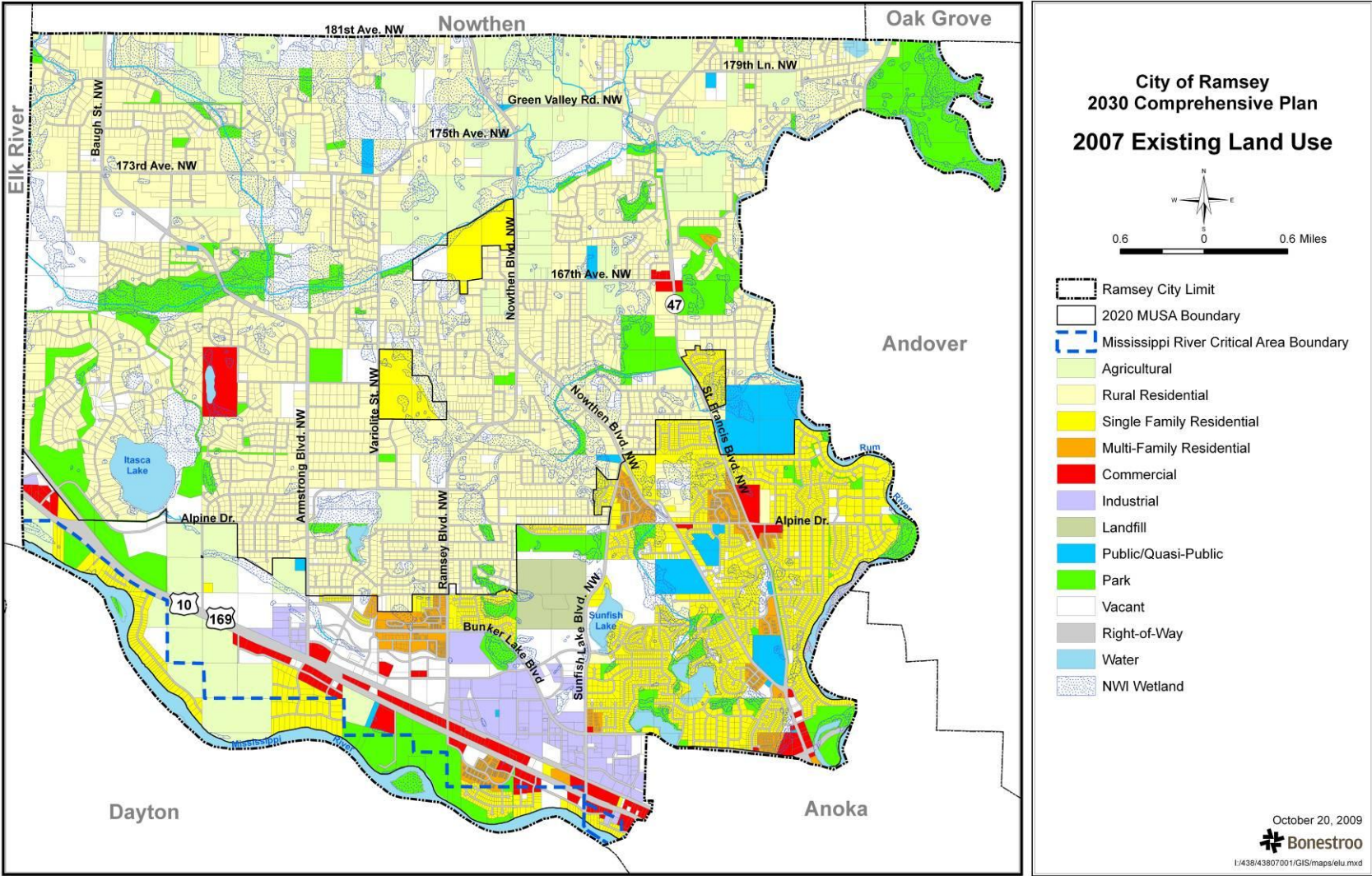
g) Transportation

Currently the City contains over 2,043 acres of City, County and State road right-of-way. Much of the right-of-way is comprised of U.S.

¹*Soil Survey of Anoka County*, 1977 United States Department of Agriculture, Soil Conservation Service

Highway 10, a 4 lane divided highway. The Burlington Northern Santa Fe Railroad line stretches the length of the community and is wide enough to contain utility easements as well. The Mississippi and Rum Rivers contain no barge traffic and serve only recreational boating.

Figure 5-1 Existing Land Use Map



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B. Future Land Use

1. Land Use Goals

The following are Land Use goals and policies developed as part of the Comprehensive Plan Update process:

a) The needs and rights of existing residents are balanced with the needs and rights of those who wish to develop

STRATEGIES:

1. Encourage a developer-led public involvement process for new development that solicits feedback from the public at the beginning of the process
2. Develop a meaningful density transition ordinance that incorporates lot size, transitioning, screening, space, berms, landscaping, or buffers
3. Protect Ramsey's rural character while providing opportunities for urban growth

b) A variety of housing densities and types

STRATEGIES:

1. Develop dense, mixed-use environments in Town Center and other key locations served by sewer and water
2. Assess the market for various housing types and densities and have the Land Use Plan reflect appropriate opportunities to match market demand

c) Fair and consistent land use regulations

STRATEGIES:

1. Develop a policy for processing comprehensive plan amendments
2. Establish a rational, logical staging plan for extension of MUSA consistent with the Comprehensive Sewer Plan and tied to Comprehensive Plan Amendment Policy
3. Re-assess the value of 4 in 40 (rural preserve and rural reserve)

d) Walkable neighborhoods

STRATEGIES:

1. Include a review of infrastructure, including parking for walking and other non-motorized transportation modes when reviewing any transportation improvement projects
2. Explore options for revising the City's sidewalk policy, including requiring sidewalks or trails on both sides of some new public streets, different standards for public versus private roads, high-volume versus low-volume roads, and issues related to long-term maintenance
3. Locate residential development at appropriate densities near services to encourage walking

e) Efficient growth

STRATEGIES:

1. New development should use existing infrastructure where possible
2. New development should be built close to existing or proposed services such as commercial, employment, and government, where possible.

f) Ramsey Town Center is constructed in accordance with its vision

STRATEGIES:

1. Concentrate the highest density residential development in or near Town Center and at other key locations as shown on the future land use map
2. Encourage residential and commercial development in the Town Center before other parts of the City
3. Continue to work to secure a stop on the Northstar Commuter Rail Line for Ramsey
4. Develop incentives for the Town Center to enhance its marketability
5. Maintain high quality design standards for the Town Center

g) Adequate retail and commercial services

STRATEGIES:

1. Locate other neighborhood commercial nodes with basic services available close to existing and future residential neighborhood concentrations
2. Assess the supply of commercial and industrial land available for development

h) New development is well-integrated with existing development

STRATEGIES:

1. New development should protect natural resources, make trail connections, and blend in with surrounding development
2. Use clustering and/or conservation development practices to protect existing neighborhoods and natural resources
3. Develop form-based codes
4. Develop a meaningful density transition ordinance that incorporates lot size, transitioning, screening, space, berms, landscaping, or buffers

i) The rights of property owners are respected and protected within the planning and development process.

STRATEGIES:

1. Private property owners will be allowed the maximum use and enjoyment of their property, as free as practical from excess taxation, assessment, or intrusion consistent with good planning and the well-being of the larger community.
2. The rights of private property owners will be balanced with the need to protect and enhance natural resources in the community.
3. The rights of private property owners will be balanced with the need to provide a safe and efficient transportation system in the community.
4. The rights of private property owners will be balanced with the needs of future development.

j) Property rights are protected along with natural resources

STRATEGIES:

1. Explore options to compensate property owners for development rights to protect natural resources
2. Regularly assess outcomes of ordinances related to natural resources and make changes as necessary
3. Provide incentives to homeowners for the permanent protection of high-value natural resource areas

2. The General Plan

The land use plan is intended to guide the future development of the community. It is designed to protect, preserve, enhance and build upon the physical features of both the built and natural environment. Developed through a combined effort of Ramsey residents, landowners, city officials and business owners, the plan guides land uses through the year 2030. Many people will use the plan to learn about the community, its direction and vision. More importantly it will be used to

assist and guide local decision-makers and city staff in the everyday business demanded of a growing suburban community.

The future land use element contains goals and polices for the following land use categories:

a) Rural Developing

Areas of Ramsey guided Rural Developing will not have urban services and include single family, detached housing types. Minimum lot size is 2.5 acres per unit. Much of Ramsey has been developed in this pattern, and only some areas guided Rural Developing contain large lots that could be subdivided into 2.5 acre lots.

b) Low Density Residential

Areas guided Low Density Residential must have urban services before development can take place. These areas will average 3 units per acre and contain single family, detached dwellings.

Where Low Density Residential is directly adjacent to areas guided Rural Developing that contain 2.5 acre lots, strategies for density transitioning will be employed. This means that while an area of Low Density Residential may average 3 units per acre, those lots directly adjacent to 2.5 acre lots will be closer in size to 2.5 acres in order to provide an effective transition that maintains the existing character of the neighborhood. Screening methods, such as landscaping must also be employed to transition between very low density areas and urban lots.

c) Medium Density Residential

These areas are within the MUSA and intended to receive medium density housing including lower density multi-family housing and higher density single-family housing. Average density will be 6 units per acre.

d) High Density Residential

These areas are within MUSA and intended to accommodate multi-family housing such as townhomes and apartment buildings. Average density will be 12 units per acre.

e) Business Park

Areas guided Business Park are reserved for office and industrial development.

f) Office Park

Areas guided Office Park are reserved primarily for office and office-showroom development. Corporate campuses are also appropriate in these areas. Light and heavy industrial uses are not appropriate for areas guided Office Park.

g) Commercial

Areas guided Commercial may include a range of neighborhood and community commercial/retail development.

h) Mixed Use

Mixed Use areas may include a combination of residential, commercial, light industrial, open space and a transit hub.

i) Parks, Trails and Open Space

Parks, trails and open space include the City Park and trail system, golf courses, regional parks, wetlands and the greenway. Lands in this category are intended to preserve the natural resource base and provide an adequate supply of active and passive recreational lands in Ramsey.

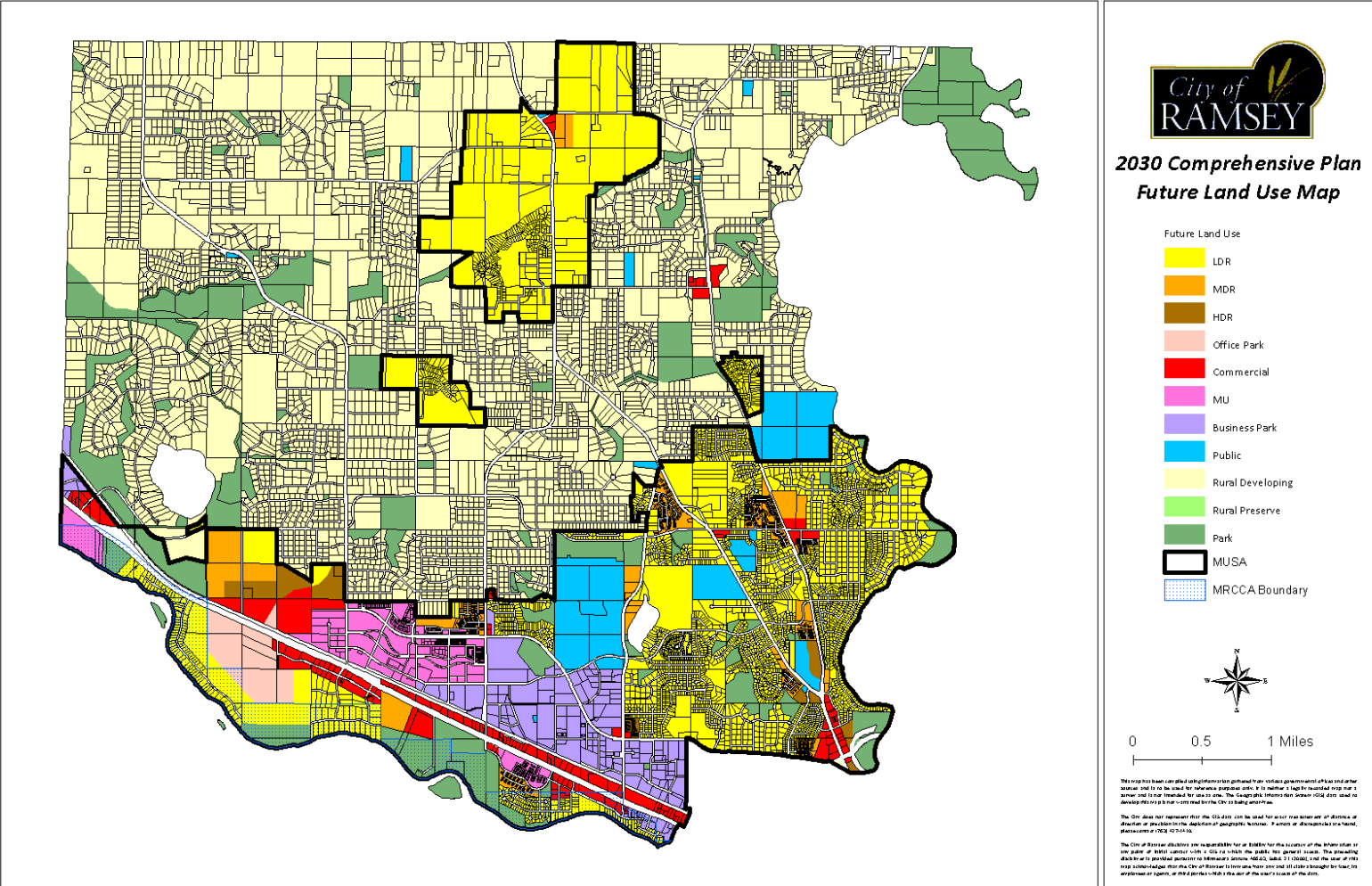
j) Public/Quasi-Public

This category generally includes city offices, public works facilities, churches, schools other non-profit or government facilities, and bridges/major rights-of-way.

Figure 5-3 shows the changes in land use designation on the new 2030 Land Use Plan compared to the previous 2020 Plan.

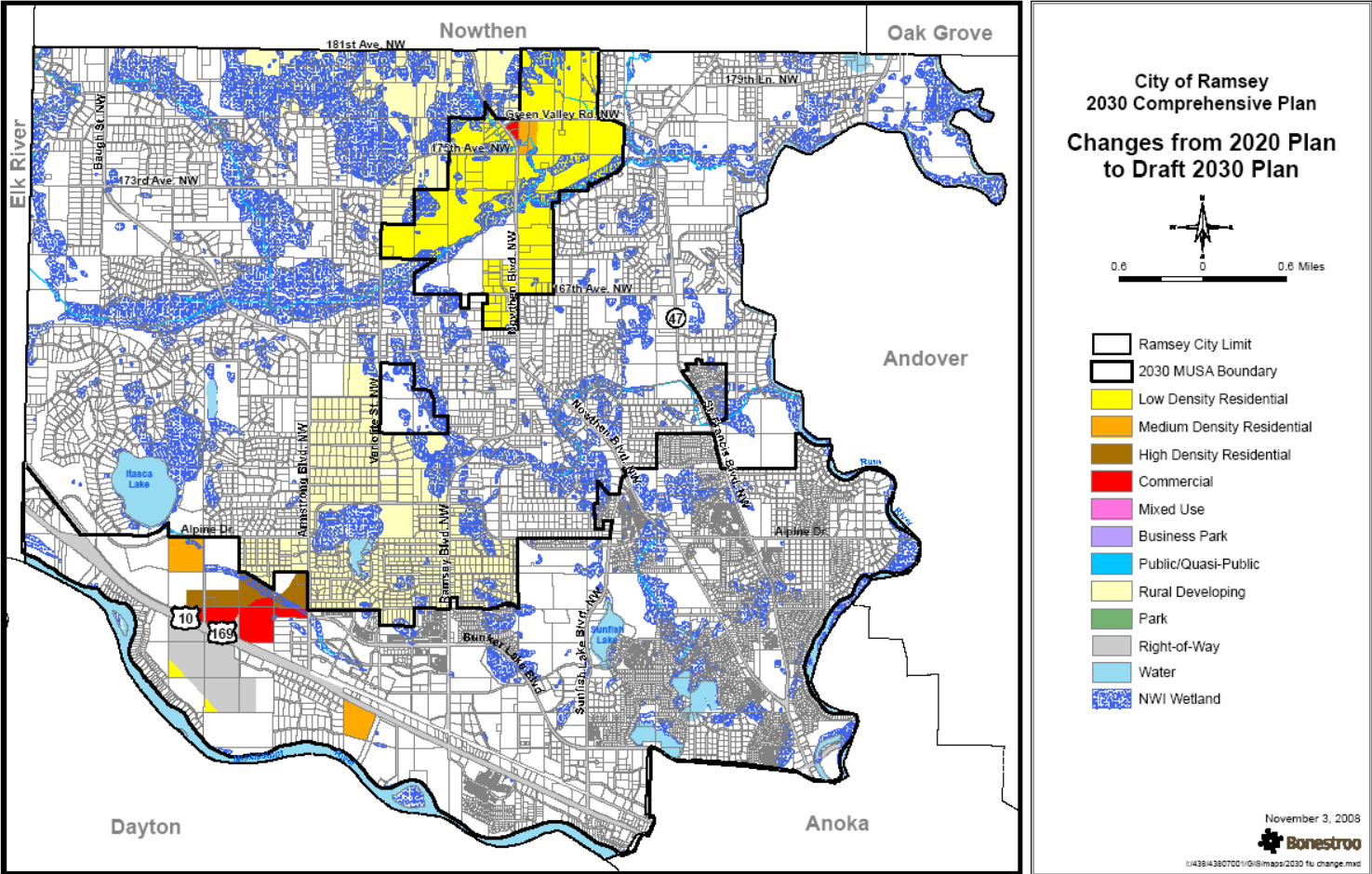
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Figure 5-2 Future Land Use Map



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Figure 5-3 Changes in Land Use from 2020 Plan to 2030 Plan



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3. Future Land Use Calculations

The following table represents a tabulation of land uses based on the future land use plan. The tabulations assume a complete build out of the community, which may or may not happen within the lifetime of this plan. Park and Open Space includes the landfill, privately owned golf courses and the Boy Scouts of America camp grounds in addition to public park lands. Although this plan shows the eventual depletion of agriculture lands in Ramsey in terms of a land use category, it is anticipated that agriculture activities that occur today may still occur in the Rural Developing areas. The agriculture land located in areas designated as urban residential, places to work or other urban uses will continue to be farmed until such time that the property owners decide to develop in accordance with the development staging plan or sell to development interests.

Table 5-2 Future Land Use Calculations

2030 Land Use	Gross Acreage	Net Acreage	% of City
Low Density Residential	3,389.52	2,854.72	14.9%
Medium Density Residential	373.49	339.05	1.8%
High Density Residential	122.09	103.07	0.5%
Commercial	401.76	389.92	2.0%
Mixed Use	358.76	333.74	1.7%
Business Park	566.18	552.54	2.9%
Office Park	166.80	166.80	0.9%
Public/Quasi-Public	388.58	342.62	1.8%
Rural Developing	8,660.06	6,644.40	34.7%
Park	2,088.92	1,351.56	7.1%
Right-of-Way	2,043.76	2,043.76	10.7%
Water	568.24	568.24	3.0%
Wetland	-	3,437.74	18.0%
Total City	19,128.16	19,128.16	100.0%

4. Future Land Use Categories

The following is a description of the various land use categories that will guide future development of the community.

a) Residential (Rural Developing, Low Density, Medium Density, High Density and Mixed Use)

Through the year 2030 Ramsey will continue to be primarily a commuter suburb dominated by single-family detached housing. As transportation access to the rest of the metro area and neighboring suburbs improves, more persons will be interested in obtaining part of the rural life-style present in Ramsey. As the population in Ramsey ages, new housing opportunities will be demanded to fulfill the life-cycle housing needs of Ramsey residents. It is critical that growth in Ramsey be guided and managed so that today's residents can continue to enjoy a high quality of life and that future generations will be awarded the same benefits as today's residents.

Residential areas are intended to reflect the continuous greenway corridor (see Environmental Protection Chapter XIII.). While lands restricted for development (wetlands, steep slopes, ponds and lakes) are not intended to be eligible for density credit, useable lands, which are voluntarily protected for greenways are intended to receive density credit. Landowners are encouraged to preserve and restore areas of significant natural resources such as open prairie or tree canopy as permanent open space by increasing density in areas more conducive to development.

Residential areas in Ramsey are very diverse in terms of lot sizes, but very similar when it comes to types of housing. Residential lots range from the farmstead of 10 to 20 acres to the rural estate lots averaging 2.5 acres, down to the urban lot of 10,800 square feet served by municipal utilities. In each of these lot size classifications, single-family homes are the dominant housing type.

The future land use plan creates opportunities for the development of a diversity of housing types and styles while preserving the strong single-family character of existing residential neighborhoods.

b) Rural Developing

The Rural Developing area is the largest land use within the City of Ramsey. The existing primary use of this area is very low-density residential development with average densities of *roughly 1 unit per 2.5 acres*, a development pattern that was established in the early 1970s. Because of this very low-density pattern of development and the numerous wetlands, the extension of urban services to the rural developing area is not practical or financially feasible. Regional growth policy would suggest imposing a gross density consistent with the Rural

Preserve area of 1 unit per 10 acres. However, because of the historical development pattern that has already been well established, an overall density of one unit per 10 acres will never be established.

The maximum density for the Rural Developing area shall be *1 unit per 2.5 acres* gross. This density was determined by examining the natural features and the predominant existing density within the Rural Developing area.

Rural Policy

It is the policy of the City of Ramsey to:

1. Enforce a maximum overall density of 1 unit per 2.5 acres in the *Rural Developing* area.
2. Encourage preservation of open space and natural resources beyond what is required by ordinance or other legal means through the PUD process.
3. Develop, implement and enforce a septic system inspection program and wellhead protection program for existing and future private septic systems and wells consistent with Minnesota Rules Chapter 7080.
4. Encourage environmentally sensitive and open space design and construction techniques that preserve natural resources within private control (i.e. other than public land dedication).²
5. Provide for the extension of urban services only when groundwater contamination (due to failing septic systems or other reasons) has the potential to pose a threat to human health and the provisions and process outlined in the City Charter have been followed.
6. Encourage private well users to periodically test the drinking water supply from private wells in order to prevent serious health hazards from occurring due to groundwater contamination.

Rural Performance Criteria

Residential development projects in the Rural Developing area shall be evaluated based on the following criteria:

1. Rural design principles are evident in the plan.

² Good examples of rural design principles can be found in the book Rural by Design by Randall Arendt, an APA publication.

2. The site or sites can support two septic drain fields in accordance with Minnesota Rules Chapter 7080.
3. Owner/developer agree to on-site septic system inspections in accordance with City requirements.
4. The plan reflects a strong sensitivity to protecting and enhancing natural resources (wetlands, tree canopy, ponds, drainage ditches, rivers, etc.) particularly in relation to the greenway corridor system.
5. The site uses landscaping and natural vegetation (such as planting of windrows or shade trees) to improve the energy efficiency of housing.

c) Urban Residential

All future (new) urban residential development will be served by public sewer and water according to the development staging plan as further described later in the future land use plan. Exceptions to this rule may occur in areas where pre-existing large lot development surrounds vacant urban lands and soils are well suited for on-site septic systems. Densities within the urban residential area may vary by district; however, an average *gross* density of all future urban residential development is targeted at 3 or more units per gross acre (a goal consistent with regional growth policy). Overall, the plan encourages a higher density of development in the urban area to provide a wider variety of housing opportunities including single family and multi-family housing affordable to a range of household incomes. Furthermore, higher density development increases land use efficiency.

A concern expressed by many residents living in the rural areas of Ramsey and on large lot developments within the existing Metropolitan Urban Services Area involved the transition between future urban development and existing rural development. It is the intention of this plan to assure compatibility between future urban housing and existing residential developments by establishing some form of transition between existing single family homes and future (new) urban development. Areas where transitions are necessary are primarily (but not exclusively) located along the edges of the urban services boundary and are to be served by municipal sewer and water.

Land uses within the urban residential area include:

- Low and high density housing including predominantly single-family housing but also multi-family housing and accessory apartments
- Limited, small-scale home occupations
- Education and institutional services limited to schools and churches
- Park & open space

The principles of affordable housing and preservation of open space are addressed in the urban residential areas through the provision of density bonuses and density credits. These are voluntary provisions that provide incentives to developers who provide affordable housing or preserve significant natural resources and open space.

Density bonuses for affordable housing should be based on a definition of affordable housing that reflects average wages and incomes of the region. In 2007, the Metropolitan Council defined affordable housing as housing which costs up to \$201,800. It is intended that a density bonus formula may be established as part of the City of Ramsey zoning ordinance update.

Subject to City Council approval as part of the PUD process, density credit may be given to areas of the greenway (see Chapter 13. Environmental Protection and Natural Resource Management for a further description of the Greenway) that are significant environmental areas, which are not protected by ordinance or other legal means. For example, if a 40-acre parcel contained no major road right-of-way and no wetlands but contained 10 acres of land within the greenway³, the developer may receive density credit for the entire 40 acres as net developable acreage. A maximum density of 5 units per net acre (for example) would then yield 200 units. The developer may be allowed to reduce lot sizes or mix housing styles in order to preserve some or all of the remaining 10 acres in the Greenway as permanent open space. This open space would not be left as unmanaged open space (or an outlot) but would be required to be preserved as permanent open space through park dedication or some land preservation tool such as a land trust or permanent conservation easement acceptable to the City Council.

The following further defines urban residential uses: low density residential, medium density residential and high density residential.

Low Density Residential

³ Lands within the Greenway may include significant natural resources, vegetative cover or habitat worth preserving or simply may be vacant land which should be preserved as open space to connect other pockets of open space, parkland, wetlands etc.

Low density residential places an emphasis on single-family detached housing but is designed to allow a variety of housing types and styles (life-cycle housing) including attached single-family housing (townhouses) and two-family homes (twin-homes, duplexes). This area represents over 3,000 acres of total land use in the community.

In order to ensure that low-density mixed-housing projects can be made viable and acceptable to the community, all low-density mixed-housing projects are intended to be the subject of a Planned Unit Development (PUD)⁴. Any residential development proposal containing unit types other than exclusively single-family detached housing will be required to be processed as a PUD. Individual elements (or housing types) within a PUD may range in density as long as the overall density of the PUD does not exceed a maximum of *3 units per net acre*.

Low Density Residential Performance Criteria: Projects within the Low Density Residential areas as shown on the Future Land Use Plan shall adhere to the following performance criteria:

1. The project shall be planned as an integral element of the larger neighborhood with interconnecting streets, pedestrian trails and greenways.
2. Higher intensity housing shall be planned as an integrated part of the project and may be used for buffering or transition to major roads or more intense uses.
3. Higher intensity housing shall have direct access to major roadways (local collectors) so excessive traffic is not routed through local streets and lower density neighborhoods.
4. Higher intensity housing shall be located within close proximity to existing or planned park and recreation facilities and connected by an off or on-road trail.
5. Where possible, natural features shall be protected and incorporated into the PUD or site plan as permanent open space for the benefit of the project and the community.
6. Where possible and practical, traffic generated by new development shall be routed to collector streets rather than through adjacent local neighborhood streets.

⁴ The Planned Unit Development is a process by which land use can be more closely tied to design decisions during a subdivision approval process. It allows for more opportunities to preserve open space and natural features and provide a variety of housing types through greater flexibility with zoning regulations.

7. Where possible and practical, parkland and open space shall be situated to act as a buffer between future and existing development.
8. New development that is adjacent to existing single- family detached development shall be compatible in density and type with existing and planned development.

Medium Density Residential

Medium density residential shall not *exceed 6 units per net acre*. Medium density areas include housing units such as attached and detached townhouses, condominiums, duplexes and triplexes or small apartment buildings. These areas are smaller, typically “infill” sites, that would not be conducive to high density housing, yet would be underutilized as single family housing. These areas take advantage of close proximity to park and open spaces, commercial and public services and accessibility to the road network.

If low-density residential land is rezoned to accommodate higher density residential uses, the new high density residential development shall include a transition area between existing single-family detached housing and the new high-density housing. This transition area may consist of single-family detached home, open space or some other transition acceptable to the City Council.

High Density Residential

This category sets aside parcels strictly for high-density housing development with a maximum density of *12 units per net acre* and includes housing units such as townhouses, condominiums and apartments. These areas will provide housing for a variety of residents including seniors. Areas of high-density residential land use should have direct access to the major roadway network in order to promote transit usage and convenient access to city services such as park and recreation uses and the greenway. Locating high density housing with these factors in mind, minimizes traffic through local streets and neighborhoods, creates a larger labor pool for businesses, and allows residents convenient access to shopping, parks and recreation facilities encouraging a more walkable pedestrian oriented community life-style.

If low-density residential land is rezoned to accommodate higher density residential uses, the new high density residential development shall include a transition area between existing single-family detached housing and the new high density housing. This transition area may consist of single-family

detached home, open space or some other transition acceptable to the City Council.

Urban Residential Policy

It is the policy of the City to:

1. Require Low Density Residential developments except those that are exclusively single-family detached units to be completed through a planned unit development.
2. Require a transitioning of new higher density housing to existing single-family detached housing. The transitioning should consist of a more compatible density, open space, or other means acceptable to the City Council.
3. Periodically review the planned unit development section of the zoning ordinance to ensure appropriate guidelines and rules for development of land within the residential areas.
4. Encourage scattered site affordable housing developments as part of each residential housing project rather than segregating affordable housing in one project.
5. Consider allowing density bonuses for providing affordable housing, preservation of natural areas, creating open space connections, or buffering consistent with the plan.
6. Require compatible land use transitions at the edges of neighborhoods through land use, site design and landscaping.
7. Encourage environmentally conscious site design and construction methods to assure that development respects the natural environment.
8. Provide dispersed locations for a diversity of housing styles, types, and price ranges and encourage development of housing and services that meet the needs of nontraditional households.
9. Plan and provide for the housing and service needs of the elderly and disabled.
10. Regularly review and revise, as necessary, zoning and subdivision regulations, building codes, design standards and approval processes to assure that regulations and standards are flexible enough to allow quality and variety of housing options.

11. Require and enforce high design and maintenance standards for all residential development.
12. Require the maintenance of existing and future housing through enforcement of the housing maintenance code.
13. Facilitate and promote housing rehab and renovation programs through partnerships with HUD, Fannie Mae, local banks, MHFA, Metro Council, ACCAP, Anoka County HRA and other non-profit or private organizations.
14. Promote and market first time homebuyer programs such as the Minnesota Cities Participation Program through MHFA.
15. Ensure projects are consistent with the goals and policies of the Mississippi River Critical Area Plan (MNRRA) and are sensitive to the Rivers natural environment.
16. Ensure open space that is part of a residential development is preserved as permanent open space through such means as permanent conservation easements, land trusts, deed restrictions or other legal means to permanently preserve open space.

The following table summarizes maximum density allowances for the various residential districts.

Table 5-3 Density Table

Land Use Category	Average Density
Rural Developing	1 unit per 2.5 acres gross
Low Density Residential	4 units per net acre
Medium Density Residential	7 units per net acre
High Density	15 units per net acre

d) Commercial

Commercially guided land uses are generally located along Highways 10 and 47. Highway 10 is of critical importance in developing a strong community image. Future commercial development and redevelopment should focus on key nodes along the corridor (rather than span an entire corridor) and serve the travelers along the corridor as well as adjacent neighborhood residents. (See chapter VI for a further discussion on a Highway 10 corridor study). The commercial development along Highway 47 is more of a commercial node pattern. This land use plan supports existing commercial nodes that serve neighborhoods and commuters particularly at the intersections of County Road 116 and Alpine Drive.

The locations of existing commercial within the community (at major intersections such as County Road 116 and Highway 47 or along major roadways such as Highway 10) play an important role in what types of uses go there. The predominant use is gas/convenient stores that serve commuters. Other uses include fast food or sit down restaurant, grocery, small-scale retail trade and services such as drive through banking, real estate, legal services, dry-cleaning, or day care. The Mixed-Use land use (defined later) is also intended to provide shopping and services.

While commercial development along the Highway 10 corridor should be guided by the results of a corridor study and river crossings study, other commercial nodes can be better defined as follows.

167th Avenue and Highway 47: The commercial node at 167th Avenue and Highway 47 functions as a neighborhood service center; however, the viability of this commercial node is somewhat unstable due to the low density development within its primary market area and the lack of adequate public facilities. The surrounding area is guided for future development of a rural character.

Alpine Drive and Highway 47: This area is intended to function as a neighborhood commercial service center with uses that serve the basic convenience needs of Ramsey residents such as grocery, hair salon, gas/convenience, coffee shop, bakery, dry-cleaners, and other convenience uses. The basic intent of this commercial area is to service the immediate residential neighborhood and the travelers on Highway 47. Uses that draw regional traffic such as the typical big box retailers, large department stores, automotive sales, or large screen theaters are not intended for this area. These uses are more destination oriented uses and would likely create traffic volumes that are not supported by the local roadways serving this node.

Bunker Lake Boulevard and Highway 47: This commercial node is largely developed and operates in a similar fashion as Alpine Drive and Highway 47. However, because this node has more accessibility due to Bunker Lake Boulevard (County Road 116) more destination-oriented uses such as banks, postal services, real estate or insurance offices and other services are appropriate uses.

General Goals for Commercial

The following are the goals of the City relative to places to shop:

1. To provide commercial/retail services to satisfy basic needs of Ramsey residents and commuters.
2. To reduce traffic congestion and create an environment that conveniently and efficiently serves the automobile while maintaining a pedestrian friendly atmosphere.

3. To create an image that is attractive, inviting to both pedestrians and automobiles and displays an identity consistent with the overall community identity.
4. To redevelop, improve and clean up underutilized commercial sites along Highway 10.

Commercial Policy

It is the policy of the City to:

1. Allow for the development of community convenience uses at the intersection of Alpine Drive and Highway 47 and County Road 116 and Highway 47.
2. Control access to Highway 47 and Highway 10 in order to reduce traffic congestion and improve accessibility to businesses.
3. Facilitate private sector redevelopment and rehabilitation of underutilized sites along the Highway 10 corridor.
4. Provide safe and convenient access to places to shop from adjacent neighborhoods through pedestrian trails and paths.
5. Discourage strip commercial development along the Highway 10 Corridor and seek solutions to traffic problems associated with multiple access points.
6. Encourage clustering of commercial development at major intersections that can take advantage of good access to and visibility from the major roadway system.
7. Require development within the Mississippi River Corridor to be compatible with the goals and policies of the Mississippi National River and Recreation Area (MNRRA) and the Critical Area Plan.

e) Business Park and Office Park

The City of Ramsey has an existing industrial park area that consists of a variety of heavy and light industrial uses. This area generally lies east of Ramsey Boulevard and south of Bunker Lake Boulevard and the sanitary landfill. During the early 1990's the AEC Energy Park and Ramsey Business Park 95 opened up new land for industrial development with urban services. These parks have rapidly been filling up and have brought over 1,000 new jobs to the community, many of which were new jobs created in the metropolitan area.

Ramsey has a significant supply of available land that is strategically located just north of U.S. Highway 10 and along the BNSF railroad line. The current zoning ordinance designates the majority of this land as Business Warehouse and Industrial property. Since the last plan update,

much of this land has been developed, and vacancy rates for industrial property in Ramsey are generally low.

To increase the supply of land for business and office park development, the plan for 2030 guides land south of Highway 10 near the proposed Mississippi River Bridge crossing for Office Park use.

General Goals for Business Park and Office Park

The following are the goals of the City:

1. To ensure a diversity of good paying jobs to residents of the City of Ramsey.
2. To provide a sound economic base for the City, local school districts and Anoka County.
3. To improve the ratio of jobs to housing in order to lessen Ramsey's dependency on job centers elsewhere in the region.
4. To provide opportunities for growth of existing businesses (business retention).
5. To create opportunities for high quality development that contributes to a good image for the City of Ramsey.
6. To ensure adequate means of transportation and transit for employees to be able to get to and from places to work.

It is the intent of the plan to create industrial/office park settings where buildings and uses relate to each other to become places rather than function as freestanding elements. Future business park and office park uses will be served by urban utilities in order to insure the highest quality of public infrastructure and public and private investment. Development of these areas is intended to maximize the efficiency of land use by optimizing street widths and utility lengths and creating centralized storm ponds that function not only to filter sediments from surface runoff but also provide amenities for the employees and businesses there.

The Business Park designation accommodates uses such as business and professional offices, showrooms, warehousing, light industrial/manufacturing, heavy industrial/manufacturing, and public works facilities.

This Office Park designation is intended to accommodate corporate campus, office, office-showroom and other low-impact, job-producing uses that are less intense than those found in the Business Park areas.

Business Park and Office Park Policy

It is the policy of the City to:

1. Require developments to adhere to environmentally sensitive design and construction standards. (See “Protecting Water Quality in Urban Areas” a publication on Best Management Practices by the MPCA).
2. Encourage high quality and unique design and site planning.
3. Allow for techniques to minimize infrastructure costs such as centralized storm ponds, shared driveways and loading docks and optimum street widths.
4. Facilitate the clean up and redevelopment of brownfields and underutilized sites within the places to work area.
5. Promote economic development in the City of Ramsey.
6. Continue to market, develop and expand the Ramsey Business Park.
7. Develop and implement a business retention and expansion program.
8. Work with the educational entities such as the Anoka High School and Anoka Hennepin Technical College to enhance employee-training programs and connect welfare recipients to work opportunities as part of the welfare to work program.
9. Require individual sites to be connected to a trail system that links employees with the Town Center, parks and neighborhoods.
10. Work with the Anoka County Traveler and the Metropolitan Council Transit Organization to address transit and employee transportation issues.

Business Park, Office Park and Commercial Performance Criteria

In order to ensure proper siting and development of commercial, office and industrial uses within the designated areas all projects should be evaluated based on the following criteria:

1. The project is planned as an integral element of the larger community with interconnecting streets, paths and greenways.
2. The project is planned to minimize conflicts between non-business/industrial uses (for example parking lots and loading docks should be located away from or adequately buffered from residential neighborhoods).
3. Opportunities to minimize infrastructure and other elements of the built environment are incorporated into the design (for example shared parking and driveways or decked parking).
4. The project displays elements that enhance or build upon the identity and image of the Ramsey Community and the project.

f) Mixed-Use

Mixed Use includes retail, commercial, entertainment, office, institutional, high density residential, transit hubs and park and recreation uses. The Comprehensive Plan anticipates two areas of Ramsey to be designated as Mixed Use; the first area stretching from the west side of Armstrong Blvd. to the west side of Ramsey Blvd. and a second area south of State Highway 10 west of Feldspar St.

Town Center Mixed Use Area: The Town Center Mixed Use area is proposed to be located in portions of Section 28 and 29 stretching from the west side of Armstrong Blvd. to the west side of Ramsey Blvd., north of the railroad. Mixed Use was chosen for this site because of the proximity to major employment areas, major transportation corridors and a future commuter rail station serving the Northstar Commuter Rail Corridor⁵. The area east of Armstrong Boulevard is governed by the Town Center Master Plan, which provides specific land use and design guidance for this area. The purpose of the Town Center Mixed Use Area is to establish a community hub that integrates places to work, play and live and embraces transit oriented design in anticipation of the potential future commuter rail station.

Mixed-Use enhances the functionality of a transit hub at this location because it creates efficiencies by being able to send and receive people who might work or live in the area. Because a large portion of the area is undeveloped, it has the opportunity to be organized in a pedestrian friendly environment that supports mass transit. A commuter rail station in this location would be spaced approximately 3-5 miles from stations to the north near downtown Elk River and south in Anoka near 7th Avenue. It will take advantage of good accessibility from the north via Armstrong Boulevard and from the east and west via Industry Avenue and Highway 10, all arterial roadways. Mixed use development would be transit oriented to support the station. Development should be intense with multi-story buildings rather than one level building. Commercial and residential buildings should be linked by a pedestrian-way so people can park at the station and stroll through commercial shops. It should be directly connected to areas of major employment (Ramsey Business Park, AEC Energy Park, Anoka Enterprise Park and future places to work) and Anoka Hennepin Technical College. This could be done through a shuttle bus service, which would serve not only places to work but also residential neighborhoods. It also should make connections to the new hotel project south of Highway 10 near Sunfish Lake Boulevard and the Mississippi West Regional Park.

Ramsey does not have much choice for local shopping, eating out or doing business within its own community. Ramsey has no identifiable

⁵ The Northstar Corridor is a 70-mile long transportation corridor that runs along TH 10/47 from downtown Minneapolis to the St. Cloud and Rice areas. The Northstar Corridor Development Authority has been organized to study the feasibility of improved transit services along this corridor including the option of Commuter Rail.

downtown for its citizens. The downtowns of neighboring communities such as Elk River and Anoka and the many features of the Twin Cities Metropolitan Area are the primary sources of entertainment for Ramsey residents. There are two grocery stores in Ramsey, one is located in northern Ramsey along Highway 47 and the other is Coborn's at the western edge of the Town Center area near Armstrong Boulevard. The other commercial areas focus on special services like used car lots or recreational vehicle sales.

The Town Center is meant to identify a place in the community where a variety of social activities may occur more convenient to Ramsey residents. Its location should take advantage of being central to the Ramsey population base, connected through a strong pedestrian trail or sidewalk system, easily accessible by the automobile and visible to the shopper's eye. The Town Center is intended to receive a mix of land uses including:

- Civic places where people can gather or events can be held (a park, community center, library or history museum).
- Commercial/retail where people can take care of casual everyday shopping or sit down at a local restaurant (grocery, hardware, restaurant, or hair salon).
- Professional Offices/places to work or take care of everyday business (real estate, banking, accounting, legal services and local post office).
- High-density residential/places to live including senior housing (owner and renter occupied).

By mixing high density residential with civic, commercial and office uses, a vibrant Town Center can be created where life goes on all day and into the evening. Housing is located within walking distance to jobs and shopping. Sidewalks and trails link neighborhoods to the Town Center and link civic facilities with commercial and housing facilities creating a pedestrian oriented environment within the Town Center. Civic places are well lit and aesthetically pleasing, inviting the public into a defined public space. Buildings are well designed and areas of landscaping reflect the identity of strong natural features in the Ramsey Community. These characteristics create the Town Center of Ramsey's future.

An important decision will need to be made in the future about whether to construct a new bridge over the Mississippi River and what alignment it should follow. This potential connection will have a significant impact on the future of the Mixed-Use site because a future bridge corridor will likely alter traffic patterns in this general area. If a bridge is constructed near the Mixed-Use site, Ramsey must be able to influence the design of the roadways so that the Mixed-Use area can survive and benefit. However, should a bridge crossing not be constructed, the Mixed Use area must be designed to function on existing surrounding land use patterns. Furthermore, if development of this area should come to

fruition prior to the establishment of a definitive alignment for a future bridge that crosses the Mississippi River, the City of Ramsey should work with Anoka County and MnDOT to ensure a future alignment to satisfy local and regional needs.

Careful design and planning for the Mixed-Use site can offer a wonderful image to Ramsey that will serve residents, workers and travelers using Highway 10. The location along the BNSF Railroad Tracks is highly visible from Highway 10 and demands high quality design. Specific standards and design elements for the Town Center area have been developed through amendments to the Zoning Code, the creation of a zoning overlay district and adoption of Town Center design guidelines.

Mixed Use Area – South of Highway 10: Another area of mixed use is located south of Highway 10 just east of Mississippi West Regional Park. The intended mixed-use pattern on this location is to provide opportunity for higher density housing integrated with commercial uses which are supported by both the higher density housing and the traffic from Highway 10.

General Goals for Mixed Use

The following are the goals of the City relative to Mixed Use:

1. To provide an area where people can live, work and play, which supports alternative modes of transit while still accommodating the automobile.
2. To ensure adequate service and retail opportunities to meet the needs of major employment areas and businesses.
3. To enhance the local labor supply through provision of high density housing in close proximity to major places to work.
4. To create an attractive high quality, community oriented development that positively reflects on the image and identity of the Ramsey Community.

Mixed-Use Policy

Within the areas designated for Mixed-Use, it is the policy of the City to:

1. Work with the landowners to develop a master plan consistent with the intent of the Mixed-Use designation.
2. Encourage consistent design standards based on transit orientated development practices that serve as a framework for both public and private improvements addressing streets, lighting, landscaping, and building materials and placements.
3. Allow higher density residential development within the Mixed-Use area.

4. Provide safe walkway and trail linkages from the Town Center Mixed-Use area to other public facilities, major employment centers (such as Ramsey Business Park 95) and residential neighborhoods.
5. Encourage the Northstar Corridor Development Authority to consider the Town Center Mixed-Use area site for a commuter rail station site and work with the corridor to plan for such a facility.
6. Communicate with Anoka County and MnDot regarding development impacts associated with a potential bridge crossing.
8. Encourage all high-density residential developments to include a commercial/retail component within the same building at street level.

5. Staging of Development--MUSA Expansion

Future expansion of Urban Services must be done in a manner consistent with the provisions and process outlined in the City Charter.

Between 2008 and 2030, sewered development will continue in a contiguous fashion from the existing sewered areas. However, since large portions of the city have already been developed at in a very low density pattern, it is unlikely that many of these areas will be served by municipal services before 2030.

Based on extensive public input, it was determined that it was logical to extend services north of Trott Brook with the understanding that private development would likely bear the cost of any future extension. This area is the last area of the city that has significant undeveloped larger lots, which provide the opportunity for development concepts which incorporate key elements such as density transition and natural resources protection and still allow for economic feasibility.

Table 5-4 demonstrates the staging of sewered development in 5-year increments to 2030 consistent with the 2030 Land Use Plan map.

Table 5-4 Land Use Staging in 5-Year Increments (By Sewer District)

North Trott Brook Sewer District (in acres)

Within Urban Service Area	Allowed Density Range Housing Units/Acre		Existing (2008) acres	2010 acres	2015 acres	2020 acres	2025 acres	2030 acres	Change 2008-2030 acres
	Minimum	Maximum							
Residential Land Uses			0	124	248	372	496	621	621
Low Density Residential	3	4	0	120	241	361	482	602	602
Medium Density Residential	3	7	0	4	7	11	15	18	18
High Density Residential	7	15	0	0	0	0	0	0	0
Mixed Use Primarily Residential*	10		0	0	0	0	0	0	0
C/I Land Uses	Est. Employees/Acre		0	1	2	3	4	5	5
Commercial	15		0	1	2	3	4	5	5
Industrial	8								0
Office	10								0
Mixed Use Primarily C/I*									0
Extractive									0
Public/Semi Public Land Uses			0	185	186	186	186	186	186
Public/Semi Public Land Uses			0	0	1	1	1	1	1
Parks and Recreation									0
Open Space									0
Roadway Rights of Way									0
Vacant/Agricultural									0
Vacant/Agricultural									0
Wetlands and Open Space			0	185	185	185	185	185	185
Subtotal Sewered			0	310	436	561	687	812	812
Outside Urban Service Area	Minimum lot size	Maximum lot size	Existing (2008)	2010	2015	2020	2025	2030	Change 2000-2030
Rural Residential 2.5 acres or less	2.5		1973	2104	2234	2365	2496	2626	654
Public/Semi Public Land Uses									0
Public/Semi Public Land Uses			12	12	11	11	10	10	(2)
Parks and Recreation			56	65	75	84	93	102	46
Subtotal Unsewered			2041	2181	2320	2460	2599	2739	698
Vacant/Agricultural									
Vacant/Agricultural	40		1325	1060	795	530	265	0	(1325)
Wetlands and Open Space			1557	1372	1372	1372	1372	1372	(185)
Total			4923	4923	4923	4923	4923	4923	

* For Mixed Use categories include information regarding the estimated minimum and maximum housing density ranges and acres/percentage of residential use.

Table 5-4 Land Use Staging in 5-Year Increments (By Sewer District)-Cont.

Mississippi River Sewer District (in acres)

Within Urban Service Area	Allowed Density Range Housing Units/Acre		Existing (2008) acres	2010 acres	2015 acres	2020 acres	2025 acres	2030 acres	Change 2008-2030 acres
	Minimum	Maximum							
Residential Land Uses			468	586	704	822	940	1058	590
Low Density Residential	3	4	357	386	415	443	472	501	143
Medium Density Residential	3	7	111	120	130	139	148	157	46
High Density Residential	7	15	0	13	27	40	53	66	66
Mixed Use Primarily Residential*	10		0	67	133	200	267	334	334
C/I Land Uses	Est. Employees/Acre		738	798	858	918	978	1038	301
Commercial	15		205	228	250	273	296	319	114
Industrial	8		422	448	474	500	526	553	131
Office	10		0	33	67	100	133	167	167
Mixed Use Primarily C/I*									0
Landfill			111	89	67	44	22	0	(111)
Public/Semi Public Land Uses			1546	1368	1184	1001	817	633	(912)
Public/Semi Public Land Uses			10	43	75	108	141	173	163
Parks and Recreation			293	301	309	317	324	332	39
Open Space									0
Roadway Rights of Way									0
Vacant/Agricultural									0
Vacant/Agricultural			1120	896	672	448	224	0	(1120)
Wetlands and Open Space			123	128	128	128	128	128	5
Subtotal			2752	2752	2746	2741	2735	2729	
Outside Urban Service Area	Minimum lot size	Maximum lot size	Existing (2008)	2010	2015	2020	2025	2030	Change 2000-2030
Rural Residential 2.5 acres or less	3		1517	1560	1603	1646	1689	1732	215
C/I Land Uses									
Commercial			56	45	34	22	11	0	
Industrial/Business Park									
Public/Semi Public Land Uses									0
Public/Semi Public Land Uses									0
Parks and Recreation			210	219	228	237	246	255	45
Subtotal			1782	1823	1864	1905	1946	1987	261
Vacant/Agricultural									
Vacant/Agricultural	40		176	141	106	70	35	0	(176)
Wetlands and Open Space			364	358	358	358	358	358	(6)
Total			5074	5074	5074	5074	5075	5074	

* For Mixed Use categories include information regarding the estimated minimum and maximum housing density ranges and acres/percentage of residential use.

Table 5-4 Land Use Staging in 5-Year Increments (By Sewer District)-Cont.

Rum River Sewer District (in acres)

Within Urban Service Area	Allowed Density Range Housing Units/Acre		Existing (2008) acres	2010 acres	2015 acres	2020 acres	2025 acres	2030 acres	Change 2008-2030 acres
	Minimum	Maximum							
Residential Land Uses									
Low Density Residential	3	4	1568	1645	1722	1799	1875	1952	384
Medium Density Residential	3	7	1389	1462	1534	1607	1679	1752	362
High Density Residential	7	15	129	136	143	150	157	164	35
Rural Residential	0		0	7	15	22	29	37	37
			50	40	30	20	10	0	(50)
C/I Land Uses									
	Est. Employees/Acre		91	83	75	67	59	51	(39)
Commercial	15		51	51	51	51	51	51	0
Industrial	8								0
Office	10								0
Mixed Use Primarily C/I*									0
Landfill			40	32	24	16	8	0	(40)
Public/Semi Public Land Uses									
Public/Semi Public Land Uses			881	876	847	817	788	758	(123)
Parks and Recreation			108	115	122	129	136	143	35
Open Space			127	127	126	126	126	126	(1)
Roadway Rights of Way									0
Vacant/Agricultural									
Vacant/Agricultural			181	145	109	73	36	0	(181)
Wetlands and Open Space			465	489	489	489	489	489	24
Subtotal			2540	2604	2643	2683	2722	2762	
Outside Urban Service Area									
	Minimum lot size	Maximum lot size	Existing (2008)	2010	2015	2020	2025	2030	Change 2000-2030
Rural Residential 2.5 acres or less	3		2032	2083	2134	2184	2235	2286	254
C/I Land Uses									
Commercial			14	14	14	14	14	14	
Industrial/Business Park									
Public/Semi Public Land Uses									
Public/Semi Public Land Uses			154	126	98	70	42	14	(139)
Parks and Recreation			270	289	308	327	347	366	96
Subtotal			2470	2512	2554	2596	2638	2681	211
Vacant/Agricultural									
Vacant/Agricultural	40		409	327	245	163	82	0	(409)
Wetlands and Open Space			791	767	767	767	767	767	(24)
Total			6210	6210	6210	6210	6210	6210	

* For Mixed Use categories include information regarding the estimated minimum and maximum housing density ranges and acres/percentage of residential use.

Consolidated/All Districts

Within Urban Service Area	Allowed Density Range Housing Units/Acre		Existing (2008)	2010	2015	2020	2025	2030	Change 2008-2030
	Minimum	Maximum							
Residential Land Uses			2037	2355	2674	2993	3312	3631	1594
Low Density Residential	3	4	1747	1988	2190	2412	2633	2855	1108
Medium Density Residential	3	7	240	280	280	299	319	339	99
High Density Residential	7	15	0	21	41	62	82	103	103
Rural Residential	0.4		50	40	30	20	10	0	-50
Mixed Use Primarily Residential*	10		0	67	133	200	267	334	334
C/I Land Uses	Est. Employees/Acre**		828	882	935	988	1042	1095	266
Commercial	15		256	280	304	328	352	376	120
Industrial	8		422	448	474	500	526	553	131
Office	10		0	33	67	100	133	167	167
Landfill			151	121	90	60	30	0	-151
Public/Semi Public Land Uses			2427	2429	2218	2004	1791	1578	-849
Public/Semi Public Land Uses			118	158	198	238	279	318	200
Parks and Recreation			420	428	435	443	450	458	38
Open Space									0
Roadway Rights of Way									0
Vacant/Agricultural									0
Vacant/Agricultural			1301	1041	781	520	260	0	-1301
Wetlands and Open Space			587	802	802	802	802	801	214
Subtotal			5292	5666	5826	5985	6144	6303	
Outside Urban Service Area	Minimum lot size	Maximum lot size	Existing (2008)	2010	2015	2020	2025	2030	Change 2008-2030
Rural Residential 2.5 acres or less	2.5		5521	5746	5971	6195	6420	6644	1123
C/I Land Uses									
Commercial			70	59	48	37	26	14	-58
Public/Semi Public Land Uses									
Public/Semi Public Land Uses			166	137	109	81	53	24	-141
Parks and Recreation			536	573	611	648	686	723	188
Subtotal			6293	6516	6738	6981	7184	7406	1113
Vacant/Agricultural									
Vacant/Agricultural	40		1910	1528	1146	764	382	0	-1910
Wetlands and Open Space			2712	2497	2497	2497	2497	2497	-215
Total			16207	16207	16207	16207	16207	16207	

* For Mixed Use categories include information regarding the estimated minimum and maximum housing density ranges and acres/percentage of residential use.

** Values shown for estimated employees per acre are the anticipated 2030 densities and represent an increase in employment density over the 2008 actual. Over the 2008-2030 time period, steadily increasing employment density estimates are used for each decade to forecast anticipated increase in employment density.

Table 5-4 also contains information on the planned density levels of households and employment per acre. The Metropolitan Council uses this calculation to determine how much of the planned regional growth can be accommodated by a particular community. Development typically occurs at range of densities in a community and therefore, in order to maintain consistent application across the region, the Metropolitan Council directs communities to calculate a community's growth capacity using the lowest density in the planned range. A summary of the Ramsey planned household and employment capacity are in Tables 5-5 and 5-6.

Table 5-5 Planned Household Capacity (2030) (By Sewer District)

North Trott Brook SD

	Min. Density	Net Acres	Household Capacity
Within 2030 MUSA			
Low Density Residential	3	602	1,807
Medium Density Residential	3	18	54
Outside 2030 MUSA			
Rural Residential	0.4	2,626	1,051
Total Household Capacity			2,912

Mississippi River SD

	Min. Density	Net Acres	Household Capacity
Within 2030 MUSA			
Low Density Residential	3	501	1,502
Medium Density Residential	3	157	472
High Density Residential	7	66	465
Mixed Use	10	334	3,337
Outside 2030 MUSA			
Rural Residential	0.4	1,732	693
Total Household Capacity			6,469

Rum River

	Min. Density	Net Acres	Household Capacity
Within 2030 MUSA			
Low Density Residential	3	1,752	5,255
Medium Density Residential	3	164	491
High Density Residential	7	37	256
Outside 2030 MUSA			
Rural Residential	0.4	2,286	914
Total Household Capacity			6,916

Not in a Sewer District

	Min. Density	Net Acres	Household Capacity
Outside 2030 MUSA			
Rural Residential	0.4	0	0
Total Household Capacity			0
TOTAL HOUSEHOLD CAPACITY			16,297

Table 5-6 Planned Employment Capacity (2030) (By Sewer District)

North Trott Brook SD

	Employment Density	Net Acres	Employment Capacity
Within 2030 MUSA			
Commercial	15	5	80
Total Employment Capacity			
			80

Mississippi River SD

	Employment Density	Net Acres	Employment Capacity
Within 2030 MUSA			
Commercial	15	319	4,783
Industrial/Business Park	8	553	4,421
Office	10	167	1,668
Total Employment Capacity			
			10,872

Rum River SD

	Employment Density	Net Acres	Employment Capacity
Within 2030 MUSA			
Commercial	15	50	771
Outside 2030 MUSA			
Commercial	15	16	215
Total Employment Capacity			
			986

Not in a Sewer District

	Employment Density	Net Acres	Employment Capacity
Outside 2030 MUSA			
None	0	0	0
Total Employment Capacity			
			0

TOTAL EMPLOYMENT CAPACITY			11,938
----------------------------------	--	--	--------

These planned capacities appear to be in general compliance with the Metropolitan Council’s published forecasts of 16,500 households and 11,300 employment by 2030. It should be noted that the density of employment can be highly variable due to the wide range of business and structure types in each commercial and industrial category.

6. Net Density of New Planned Residential Land

The Metropolitan Council requires a calculation of the net density of areas of new *planned* residential development that have changed since the last Comprehensive Plan. They require a minimum density of three units per net developable acre. Net density is calculated by dividing the total number of planned units by the acres of land guided for residential use (minus wetlands and road right-of-way). Table 5-7 shows the net density of the areas guided for a residential land use within the MUSA between 2008 – existing development – and the new 2030 Land Use Plan.

Table 5-7 Net Density of New Planned Residential Land

Land Use Change - 2008 (Existing) to 2030 Plan	Additional Net Acres	Min Density	Total Units	Avg Density
Low Density Residential	1,108	3.0	3,324	3.0
Medium Density Residential	99	3.0	297	3.0
High Density Residential	105	7.0	735	7.0
Mixed Use (Residential portion)	334	10.0	3,340	10.0
Total	1,646		7,696	4.7

C. Historic Preservation

Historic preservation is an important element of Ramsey’s identity even though there are not many historically significant buildings or sites in Ramsey. In fact the Town Hall is the only building on the National Registrar of Historic Places. However, any time a community is located on a major transportation route such as the Mississippi River, it is bound to be rich with stories and adventures of early settlement. Many of these stories are important because they begin to tell us how Ramsey became the community that it is today.

Although Ramsey does not have a historic preservation district or an official body that responds to issues of historic significance, Anoka County has an active Historical

Society that responds to countywide issues. Located in the City of Anoka, the Anoka County Historical Museum maintains historical materials such as letters, photos, books and legal documents. The Museum is currently short on space and is looking to expand. The Oliver J. Kelly Farm, a Minnesota State Historical site, provides a regional resource for historic information. It also provides a recreational and educational source at its real life living history farm. The site is located approximately 3 miles north of Ramsey along the Mississippi River and is an excellent source of historical information for the City of Ramsey.

Historic Preservation Policy

It is the policy of the City of Ramsey to:

1. Review local building permit applications, site plan proposals and PUDs for historic significance through consultation and communications with the State Historical Preservation Office (SHPO) and the Anoka County Historical Society and other historic preservation resources and agencies.
2. Encourage restoration efforts of historic structures to use compatible building materials and styles to the era of the structure.
3. Promote the use and conservation of historic properties for the education, inspiration, pleasure, and enrichment of the citizens of this community and state.
4. Require future trail development along the Mississippi River, within the MNRRA corridor, to plan for or consider historical markers that explain the significance of the river corridor.
5. Work with federal, state, and local organizations including the Anoka County Historical Society, the State Historic Preservation Office, the Secretary of the Interior and local citizen groups in planning and designing for historic preservation projects.

D. Solar Access Protection

Solar energy provides an alternative means to energy that has less impact on the natural resource base of the world. Use of solar energy reduces the need for fossil fuels and nuclear power to heat or cool our homes and businesses or fuel our automobiles. State legislation enacted in 1978 requires local Comprehensive Plans to address solar access protection to ensure that direct sunlight access to solar panels is not subjected to shading from nearby trees, buildings or other structures.

Policies for Solar Access Protection

It is the policy of the City of Ramsey to:

1. Ensure existing levels of solar access are maintained in developed neighborhoods.
2. Encourage the use of solar energy in future housing developments through such programs as the “Energy House”.

3. Ensure future site and building plans maximize efforts to design for efficient use of solar energy including such elements as the location of windows, shade trees (and types), windrows, and driveways.
4. Use where possible solar energy design elements for future public facilities and infrastructure development.
5. Encourage and support educational programs and research that focuses on alternative or renewable energy systems.
6. Work with the League of Minnesota Cities, University of Minnesota Extension Services, Minnesota Office of Environmental Assistance, Anoka County and other agencies to develop programs that increase usage of solar energy systems.

Regular Planning Commission

6. 1.

Meeting Date: 11/12/2015

By: JoAnn Shaw, Community Development

Information

Title:

Zoning Bulletins

Purpose/Background:

Enclosed are zoning periodicals for your review.

Notification:

Observations/Alternatives:

Funding Source:

Recommendation:

Action:

Attachments

Zoning Bulletins

Form Review

Inbox

Tim Gladhill

Form Started By: JoAnn Shaw

Final Approval Date: 11/05/2015

Reviewed By

JoAnn Shaw

Date

11/05/2015 12:27 PM

Started On: 11/04/2015 10:57 AM

Zoning Bulletin

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Validity of Ordinance—Housing center seeks enforced compliance with city's affordable housing ordinance for developers who obtain zoning relief conditioned upon ordinance compliance

Contributors

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Meanwhile, developers challenge validity of the ordinance based on its lack of approval from state affordable housing agency

Citation: *Fair Share Housing Center, Inc. v. Zoning Board of City of Hoboken*, 2015 WL 4530656 (N.J. Super. Ct. App. Div. 2015)

NEW JERSEY (07/28/15)—Generally, this case addressed the enforceability of an affordable housing ordinance adopted by the City of Hoboken (the “City”). More specifically, this case addressed the issue of whether the involvement of New Jersey’s Council on Affordable Housing (“COAH”) was required in all matters affecting affordable housing—and thus since COAH had not approved the City’s affordable housing ordinance, whether that left the ordinance invalid and unenforceable. It also addressed whether a provision in the ordinance, which allowed “payment in lieu of” setting aside a percentage of development as affordable housing, needed COAH approval as a condition of enforcement.

The Background/Facts: In the City, each of four developers—Advance at Hoboken, LLC (“Advance”), 1415 Park Avenue, LLC (“1415 Park”), 9th Monroe, LLC (“9th Monroe”), and New Jersey Casket Company, Inc. (“NJ Casket”) (collectively, the “Developers”)—received “significant” relief from the City’s zoning laws in the form of variances from the City’s Zoning Board of Adjustment (“Zoning Board”). That relief was conditioned upon the Developers’ compliance with the City’s affordable housing ordinance (the “Ordinance”).

Fair Share Housing Center (“Fair Share”) filed four individual actions seeking declaratory and injunctive relief against the Zoning Board and the Developers. Fair Share sought compliance with the Ordinance in the form of a judicial declaration that any zoning approvals that the Developers received should be deemed void or enjoined unless each Developer filed a “plan of compliance” with the Ordinance.

The Developers filed cross-claims and third-party complaints against the Zoning Board and the City. Among other things, the Developers argued estoppel (i.e., to bar the enforcement of the Ordinance because it would result in an inequitable result) based on the City’s failure to enforce the Ordinance and the Zoning Board’s failure to condition prior zoning approvals upon compliance with the Ordinance.

The trial court ultimately found that the City’s Ordinance was inconsistent with New Jersey’s Fair Housing Act (the “FHA”) and the related procedures and guidelines promulgated by COAH. The trial court held that every municipality with an affordable housing obligation must submit to COAH for approval of its plan to meet that affordable housing obligation. Here, the City had submitted the Ordinance to COAH

for substantive certification but COAH had found the submission did not meet necessary criteria and that therefore the Ordinance was not under COAH jurisdiction. The trial court invalidated the City's Ordinance as "null, void, and unenforceable as a matter of law." The court enjoined the City from enforcing "any requirement" of the Ordinance on the Developers to construct affordable housing units and/or collect from the Developers "any monetary contribution" related to affordable housing.

Fair Share and the City appealed. The appeals were consolidated. On appeal, they argued that the trial court erred in holding that all municipal affordable housing ordinances require review by COAH whether or not the municipality is under COAH jurisdiction seeking substantive certification. Fair Share and the City maintained that the trial court "failed to appreciate the voluntary nature of COAH's jurisdiction, and the alternative route the FHA provides to municipalities" (under N.J.S.A. 52:27D-313(a)).

On the other hand, on appeal, the Developers argued that COAH's involvement was required in all matters affecting affordable housing, and that since COAH had not approved the City's Ordinance, the Ordinance was invalid and unenforceable against them.

DECISION: Judgment of Superior Court, Law Division, reversed and matter remanded.

The Superior Court of New Jersey, Appellate Division, concluded that the trial court erred in invalidating the City's zoning approval conditions related to compliance with the City's affordable housing Ordinance's provisions as to the Developers. The appellate court held that "[t]here is no provision in the FHA or regulations promulgated by COAH requiring municipalities to submit all ordinances that impact a municipality's affordable housing obligation to COAH for approval." Rather, found the court, the "substantive certification" provided by COAH to those municipalities seeking its protection from builder's remedy suits is "entirely voluntary."

The trial court's decision had invalidated the section in the City's Ordinance that provided for voluntary payments by developers in lieu of compliance with the Ordinance's affordable housing requirements. In the interest of clarity, the appellate court also expressly reversed that portion of the trial court's decision. The court held that "payment in lieu" provisions in affordable housing ordinances do not need COAH approval. The court found that although COAH has jurisdiction over "development fees," COAH has regulatory oversight of "payments in lieu" only when a municipality seeks substantive certification. The court found support for its holding under both the FHA (see N.J.S.A. 52:27D-329.3(a)) and COAH regulations (see N.J.A.C. 5:97-8.3(b)). In summary, the court concluded that the payment in lieu section of the

City's Ordinance did not require approval by COAH as a condition of enforcement.

See also: *Holmdel Builders Ass'n v. Township of Holmdel*, 121 N.J. 550, 583 A.2d 277 (1990).

See also: *Toll Bros., Inc. v. Township of West Windsor*, 173 N.J. 502, 803 A.2d 53 (2002).

Constitutionality of Zoning Ordinance/Sexually-Oriented Business/Jurisdiction—Owner of adult entertainment establishment challenges zoning ordinance governing adult entertainment overlay districts as unconstitutional

Owner argues that despite later amendments to ordinance, given unconstitutional original ordinance, its adult entertainment use is legally nonconforming

Citation: *Green Valley Investments v. Winnebago County, Wis.*, 794 F.3d 864 (7th Cir. 2015)

The Seventh Circuit has jurisdiction over Illinois, Indiana, and Wisconsin.

SEVENTH CIRCUIT (WISCONSIN) (07/27/15)—This case addressed the issue of whether a zoning ordinance governing adult entertainment overlay districts constituted prior restraint that violated the First Amendment to the United States Constitution. It also addressed a federal district court's jurisdiction over supplemental state law claims that remain after the federal issue is resolved.

The Background/Facts: In 2006, Green Valley Investments, LLC ("Green Valley") opened Stars Cabaret ("Stars"), a nude dancing establishment in Neenah, Wisconsin in Winnebago County (the "County"). At the time that Stars opened, the County Zoning Ordinance required adult entertainment establishments to locate within "adult entertainment overlay [AEO] district [s]." An AEO district could be

established only if the County issued a conditional-use permit to the would-be adult entertainment operator. The zoning committee responsible for this process would issue such a permit only if it found that the proposed use complied with several requirements, including that it would: “not be a detriment to the public welfare;” and “in no way [would] contribute to the deterioration of the surrounding neighborhood”; or “have a harmful influence on children residing in or frequenting the area.” The application also had to demonstrate (among other things) that no intoxicating beverages would be sold within the AEO district, and that any “adult use” within the district would be located at least 1,500 feet from any other adult use and at least 2,000 feet from land zoned residential or institutional (i.e., a setback provision).

In its operation of Stars, Green Valley never attempted to satisfy the requirements of the County Zoning Ordinance 17.13. It never sought a permit to establish an AEO district encompassing its location. Stars openly featured nude dancing and served alcoholic beverages. Rather, in 2006, Green Valley sued the County for declaratory and injunctive relief. Green Valley alleged that Ordinance 17.13 was an unconstitutional restriction on expression in violation of the First Amendment to the United States Constitution.

While that suit was pending, the County amended the ordinance, and Green Valley agreed to a dismissal without prejudice. In 2008, Green Valley again sued, this time challenging the constitutionality of a 2007 amendment to the ordinance. The district court permanently enjoined the County from enforcing the provisions of the 2007 ordinance relating to conditional use permits, but it found that the remainder of the ordinance once the unconstitutional parts were severed could operate effectively on a standalone basis. Green Valley appealed, but while the appeal was pending, the County again changed the ordinance. Believing that this mooted the appeal, Green Valley voluntarily dismissed it on June 1, 2012. Finally, in 2013, Green Valley again sued the County. This time it argued that the 2006 version of the ordinance violated the First Amendment, and that since Stars operated before that invalid ordinance was modified, its use was a valid nonconforming use that was legally grandfathered despite later amendments to the ordinance.

The district court agreed that parts of the 2006 ordinance were unconstitutional prior restraints (i.e., prohibiting speech or other expression before it could take place). However, the court also held that the unconstitutional provisions of the 2006 ordinance could be severed (under a severability clause in the County’s general zoning law), leaving a constitutionally permissible law that, from the time before Stars opened, had regulated alcohol sales at adult establishments and established setback limitations on the location of such businesses. Since Stars has never complied with those requirements, its operation (the court reasoned) had never been lawful.

Green Valley appealed.

DECISION: Judgment of district court reversed, and matter remanded.

The United States Court of Appeals, Seventh Circuit, first agreed with the district court that the “permissive use scheme laid out in the County’s ordinance” was unconstitutional. The court found that the 2006 version of County Zoning Ordinance 17.13 “unquestionably” imposed an unconstitutional prior restraint that violated the First Amendment to the United States Constitution. The court found that the ordinance required applicants such as Green Valley to apply to the County for permission to undertake their selected mode of expression—nude dancing. The County’s committee would then decide whether applicants received permission to make their proposed communication based on the content of that communication. That required the committee to review such “amorphous points” as whether the proposed use was “a detriment to the public welfare,” “[would] in no way contribute to the deterioration of the surrounding neighborhood,” or “[would] not have a harmful influence on children” in the area. The ordinance, found the court, left it to the County’s discretion to decide yes or no on each of those criteria. Finally, the County had to affirmatively grant permission for the use to occur. That, concluded the court, was a “quintessential prior restraint.”

The court explained that prior restraints are generally unconstitutional, in violation of the First Amendment, unless fitting one of the narrow exceptions: (1) where there is a presence of “a powerful overriding interest” such as national security, obscenity, or incitement to violence and overthrow of the government; (2) where the prior restraint “takes place under procedural safeguards designed to obviate the dangers of a censorship system” (e.g., limitation on the prior restraint for during judicial review); and/or (3) where the restraints imposed are valid time, place, and manner restrictions. The court here found that the first exception had “nothing to do with [the instant] case,” and that the County’s ordinance included none of the safeguards from the second exception. The court also found that the ordinance did not fit an exception for valid time, place, and manner restrictions, given the fact that a proposed adult use could not occur at all under the ordinance without permission from the County to establish an AEO district for it. In short, the court concluded that the 2006 ordinance created an unconstitutional prior restraint and could not be enforced.

After confirming that portions of the ordinance were unconstitutional, the court next held that the district court erred in severing the unconstitutional portions and slightly modifying the remaining language in order to have a remaining ordinance that made sense. The Seventh Circuit found it was not clear as a matter of Wisconsin law

that the power to sever included the power to modify, nor was it clear whether what remained of an ordinance after severance could serve as a standalone law if modifications or additions were necessary. In other words, the Seventh Circuit found that the ability of a court to do more than excise the unconstitutional portions of the ordinance did not appear to be settled in Wisconsin. While the case presented a federal issue as to the constitutionality of the 2006 ordinance, the issues of severance and of whether remaining provision of the ordinance could stand alone were state law questions, found the court. Thus, the court held that the federal district court should have relinquished its jurisdiction over those supplemental state claims and dismissed them without prejudice.

See also: *Barnes v. Glen Theatre, Inc.*, 501 U.S. 560, 111 S. Ct. 2456, 115 L. Ed. 2d 504 (1991).

See also: *Cantwell v. State of Connecticut*, 310 U.S. 296, 60 S. Ct. 900, 84 L. Ed. 1213, 128 A.L.R. 1352 (1940).

Validity of Zoning Ordinance— Amendment to county’s overlay district zoning ordinance exempts a certain class of property owners from the ordinance

Nonexempt property owner challenges
amendment as unconstitutional special
legislation

Citation: *Dowd Grain Company, Inc. v. County of Sarpy*, 291 Neb. 620, 867 N.W.2d 599 (2015)

NEBRASKA (08/14/15)—This case addressed the issue of whether an amended overlay district zoning ordinance imposing design requirements for new development, which exempted a certain class of property owners from the ordinance, was an unconstitutional special law (under the Nebraska Constitution).

The Background/Facts: In March 2004, the Sarpy County Board of Commissioners (the “Board”) adopted an overlay district zoning ordinance. In 2007, the Board amended the overlay ordinance to exempt properties platted before the effective date of the original (2004)

ordinance. Thus, under the 2007 exception, any land platted prior to March 9, 2004 did not have to comply with the design guidelines contained in the overlay ordinance.

Dowd Grain Company, Inc. (“Dowd Grain”) owned property in the County that was not exempt from the overlay ordinance. Dowd Grain sued Sarpy County (the “County”), claiming that the 2007 exemption was unconstitutional as special legislation.

Under the Nebraska Constitution, Neb. Const. art. III, § 18, municipalities cannot pass municipal ordinances, including zoning ordinances, that are “special laws” in that they grant “any special or exclusive privileges, immunity, or franchise whatever.”

The district court entered judgment in favor of the County. It found that the 2007 overlay district zoning ordinance amendment was not an unconstitutional special law.

Dowd Grain appealed.

DECISION: Judgment of district court affirmed.

The Supreme Court of Nebraska agreed that the 2007 amended overlay district zoning ordinance, which created exceptions from enforcement of design guidelines for a certain class of property owners (those with land platted prior to March 9, 2004), was not an unconstitutional special law.

In so holding, the court explained that the focus of the constitutional prohibition against special legislation was the prevention of legislation which arbitrarily benefits or grants special favors to a specific class. The court further explained that a legislative act, including the amended overlay district zoning ordinance here, would constitute unconstitutional special legislation if it either: (1) created an arbitrary and unreasonable method of classification (rather than being based on some substantial difference of circumstances or situation or being based on a public purpose); or (2) created a permanently closed class.

Here, the court found that the ordinance’s exception for land platted prior to the effective date of the ordinance did not meet either of those criteria. The court determined that the exception did not create a closed class because the number of parcels within the fixed geographic area was subject to change and the owners composing the class could change via a sale of real property. The court further determined that the class that benefited from the exemption (i.e., owners of land platted prior to March 9, 2004) was not arbitrarily selected, but rather was exempted from enforcement of the overlay ordinance on a reasonable basis; those property owners who had submitted a plat for their property prior to the enactment of the overlay ordinance incurred significant expenses and time planning and were thus in a substantially different situation from property owners who had not yet completed a plat for their property.

See also: *Steven Banks v. Heineman*, 286 Neb. 390, 837 N.W.2d 70 (2013).

See also: *City of Ralston v. Balka*, 247 Neb. 773, 530 N.W.2d 594 (1995).

Special Permit/Discretion—Zoning board of appeals denies special permit application for residential retirement community

Board's denial is based on subjective finding that proposed project was "out-of-character with its surroundings"

Citation: *Buccaneer Development, Inc. v. Zoning Bd. of Appeals of Lenox*, 35 N.E.3d 737 (Mass. Ct. App. 2015)

MASSACHUSETTS (08/11/15)—This case addressed the issue of whether a zoning board of appeals acted within its discretion when it denied a developer's application for a special permit to build a residential retirement community.

The Background/Facts: Buccaneer Development, Inc. ("Buccaneer") sought to build a residential retirement community for individuals 55 years of age and older on a 23-acre parcel of land (the "Property") in a residential zoning district in Lenox, Massachusetts (the "Town"). The proposed development would consist of 23 single-family townhouses. Surrounding the Property were: 68 acres of protected open space to the north and northeast; four single-family homes to the west; a cul-de-sac development to the east of 17 single-family homes; and a resort and associated properties, including a golf course, 10 condominium units, and a 37-unit housing development to the south.

Under § 6 ("Use Regulations") of the town's zoning bylaw, as in effect at the relevant time, a special permit was required to build a retirement community in a residential zone. Thus, in furtherance of its proposed project, Buccaneer submitted an application for a special permit to the Town's zoning board of appeals (the "ZBA").

The ZBA unanimously voted to deny Buccaneer's application for the special permit. The ZBA members found, among other things, that the proposed development project was "simply too dense and too out-of-character with its surroundings."

Buccaneer appealed the ZBA's determination. The land court judge affirmed the ZBA's denial of the special permit.

Buccaneer again appealed.

DECISION: Judgment of land court affirmed.

The Appeals Court of Massachusetts, Suffolk, held that the ZBA acted within its discretion when it denied Buccaneer's application for a special permit to build the proposed residential retirement community.

The appellate court noted that in applying for the special permit to build the "retirement community," Buccaneer had met all minimum requirements outlined under § 9.6 of the Town's zoning bylaw. In that regard, the court concluded that the density of the proposed project was "well within" the bylaw's requirements and that the ZBA therefore "had no basis to deny the special permit under the [dimensional] provisions included in [the bylaw]." However, noted the appellate court, "[e]ven if the record reveals that a desired special permit could lawfully be granted by [a] board because the applicant's evidence satisfied the statutory and regulatory criteria, the board retains discretionary authority to deny the permit." Thus, said the court, here, the ZBA's denial of the special permit application would be affirmed unless the denial was "on a legally untenable ground" or was "unreasonable, whimsical, capricious or arbitrary."

Here, in addition to the dimensional requirements of the bylaw (under § 9.6, which had been met), the court found that under the bylaw's Use Regulations (§ 6.1.1), the ZBA had to consider five factors in determining whether to grant a special permit. Of those five factors, noted the court, three were subjective: the ZBA could not grant a special permit unless it found the proposed use "(a) [was] . . . in harmony with [the bylaw's] general intent and purpose; (b) [was] essential or desirable to the public conveniences or welfare at the proposed location; [and] (c) [would] not be detrimental to adjacent uses or to the established or future character of the neighborhood." Here, the appellate court found that the ZBA's denial of Buccaneer's special permit application "was firmly grounded in its assessment that the proposed use failed to meet these criteria." The court found that the facts provided support for the ZBA's determination in that the now 23 acres of open land of the Property would become a cluster development of single-family homes, representing a "substantial change in the appearance and 'feel' of the area."

Accordingly, the court concluded that the ZBA in denying Buccaneer's special permit application acted "within its discretion, consistent with the facts on the ground, and conformably with the applicable by-law."

See also: *Subaru of New England, Inc. v. Board of Appeals of Canton*, 8 Mass. App. Ct. 483, 395 N.E.2d 880 (1979).

Case Note:

In its decision, the court noted that in exceptional cases a board can be ordered to grant a special permit—such as where the board fails to provide an adequate statement of its reasons for denying the special permits and commits numerous errors of law in the process, or where the board's findings are inadequate and amount to "little more than a mere recitation of the statutory and by-law standards," or where the board fails to apply its own standards "rationally." Here, however, the court did not consider this case to be one of those exceptional cases where the ZBA could be ordered to grant the special permit.

Zoning News from Around the Nation

LOUISIANA

The New Orleans City Council was expected to look at a proposed zoning law amendment that would change the definition of a "standard restaurant," deleting a current requirement that says alcoholic drink sales must be "incidental" to the serving of food. Supporters of the proposed amendment say it would appease restaurant concerns about being forced to keep kitchens open when their bars are serving alcohol or closing up shop all together, when food is not being served. Opponents worry it will "open the door for restaurants to morph into more bars."

Source: *4 WWL*; www.wwltv.com

NEW YORK

Under language inserted in the state budget passed in July, counties are now prohibited from keeping shoreland zoning ordinances that are "more stringent than the looser state rules."

Source: *News Watch 12*; www.wjfw.com

RHODE ISLAND

Bristol Town Council Chairman Nathan Calouro is proposing changes to the town's zoning regulations to limit where recreational marijuana stores and cultivation centers may open. Calouro is also proposing special use permits that require a public hearing. Medical marijuana has been legal in Rhode Island since 2006.

Source: *Portland Press Herald*; www.pressherald.com

Zoning Bulletin

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Conditional Use Permit/ Preemption/Noise—County denies conditional use permit based on use's negative noise impact on neighborhood

Permit applicant argues that basis fails since
noise levels do not exceed state standards

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Citation: *August v. Chisago County Bd. of Com'rs*, 2015 WL 4877658 (Minn. Ct. App. 2015)

MINNESOTA (08/17/15)—This case addressed the issue of whether, in deciding to deny a landowner a conditional use permit, a county board could consider the effects of noise from a landowner's desired use of the property even if the noise level did not surpass state statutory noise standards.

The Background/Facts: Jeffery August ("August") owned a 20-acre tract of land (the "Property") located in Sunrise Township (the "Township") in Chisago County (the "County"). The Property was zoned for agricultural use and was generally surrounded by property developed in "a rural, residential manner, with farm fields or residential lawns."

In 2013, August began hosting mounted shooting competitions and clinics on his Property. Mounted shooting competitions consist of 10 to 15 contestants who ride on horseback while attempting to shoot balloons on mounted posts in the center of the arena. Contestants shoot at the balloons with .45 caliber blanks.

August typically held the mounted shooting competitions on Saturdays from 10:00 a.m. to dusk and on Sundays from noon until 6:00 p.m. In connection with the competitions, contestants and spectators camped overnight in either tents or RVs in an adjacent pasture on the property. In addition to the competitions, August hosted "major shoots," which typically spanned the course of a three-day weekend. August also offered one-day clinics where club members could train and learn safety skills. The 2014 schedule listed two clinics, five shoots, and five major shoots.

After receiving complaints about the property, in 2014, the County Department of Environmental Services and Zoning (the "Zoning Department") determined that August's use of the Property did not conform to its zoned use. August was advised to apply for a conditional-use permit ("CUP"). August applied for a CUP and agreed to have his CUP application processed as "rural retail tourism/commercial outdoor recreation use." Ultimately, the County Planning Commission recommended denial of August's CUP application because it would violate "Section 4.15, part D, part five [of the rural tourism criteria,] [in that it would] 'create[] negative impact on the neighborhood by intrusive noise.' "

Incorporating the County Planning Commission's findings, the County Board of Commissioner's (the "County Board") denied the CUP "based upon its conflict with the required performance characteristics cited in Section 4.15 of the Chisago County Zoning Ordinance governing rural retail tourism uses." Essentially, the County Board concluded that intrusive noise from August's proposed use would negatively impact the neighborhood.

Under the County zoning ordinance, "[e]xisting nearby properties shall not be adversely affected by intrusion of noise, glare or general unsightliness." (§ 8.04, subd. C.) In addition to the CUP requirements, ru-

ral retail tourism uses—such as that proposed by August—were required by the County zoning ordinance to remain “small-scale and low-impact,” which required the use to “not negatively impact the neighborhood by intrusion of noise . . .” (§ 4.15, subd. D.)

August appealed the denial of his CUP application. August argued that the County Planning Commission “failed to provide a proper and sufficient legal basis for the denial of his CUP.” He also argued that the County Board erred in considering the effects of noise from his use of the property for mounted shooting competitions because the “noise created by the mounted shooting [did] not rise above the sound pressure levels promulgated by the [Minnesota Pollution Control Agency].”

DECISION: Determination of county board of commissioner’s affirmed.

The Court of Appeals of Minnesota rejected August’s arguments and upheld the County Board’s denial of August’s CUP application.

In upholding the denial of the CUP application, the court explained that county zoning authorities have wide latitude in making decisions on CUPs but cannot base their decisions on “unreasonably vague or unreasonably subjective” standards. In other words, the denial of a CUP cannot be arbitrary—such as where the applicant establishes that all of the standards specified by the zoning ordinance as conditions of granting the permit are satisfied.

Here, the court upheld the County Board’s decision finding it (1) was based on legally sufficient reasons; and (2) based on reasons that had a factual basis in the record.

The court found that the County Board denied the CUP application based on the conflict of August’s proposed use with the rural retail tourism use standards, specifically the small-scale/low-impact requirement of the zoning ordinance and the impact the use would have on the neighborhood “by intrusion of noise, glare, odor, or other adverse effects.” Thus, the court concluded that, in denying the CUP, the County Board “relied on the criteria enumerated in the [C]ounty zoning ordinances and thereby provided legally sufficient reasons for denying the CUP.”

The court also found that the County Board’s denial had a factual basis. The court disagreed with August’s contention that the Board could not consider the effects of noise since the noise from his use did not meet or exceed the sound pressure levels promulgated by the Minnesota Pollution Control Agency (“MPCA”). The court found that the County zoning ordinance did not conflict with the MPCA. The County zoning ordinance provided that noise from any use must be in compliance with MPCA rules. Minnesota statutory law prohibited local governments from setting more stringent sound pressure levels. The County zoning ordinance did not conflict with the statutory law—as it did not establish more stringent noise standards; nor did it establish noise standards different from those promulgated under the MPCA. Rather, the pertinent sections of the County

zoning ordinance simply required; that a CUP applicant show that the noise from a proposed use would not adversely affect neighboring properties; and that the use would not impact the neighborhood by intrusion of noise.

Furthermore, the court refused to adopt—as August had urged—the proposition that a governing body could consider the effect that noise would have on surrounding properties only if the noise level surpassed the sound level limits promulgated by the MPCA. Such a proposed rule of law would place a governing body or property owner at risk for a Minnesota Environmental Rights Act (“MERA”) violation, said the court. The court reasoned that if a government entity could only consider noise from a proposed use that meets or exceeds the limits enumerated in the administrative rules or statutes then the entity could, by definition, only consider noise levels that establish a prima facie MERA violation.

See also: *Minnesota Public Interest Research Group v. White Bear Rod and Gun Club*, 257 N.W.2d 762, 8 Env'tl. L. Rep. 20002 (Minn. 1977).

Case Note:

August had also argued that the County Board of Commissioners had erroneously considered neighborhood comments. The court rejected that argument, finding a “a municipal entity may consider neighborhood opposition when it is based on something more concrete than non-specific neighborhood opposition”—such as detailed factual complaints from the neighborhood like August’s neighbors’ descriptions of their personal experiences with the noise caused by all of the rounds being fired each weekend.

Procedure/Comprehensive Plan— County municipal development commission adopts comprehensive plan for neighborhood

Landowner and commission dispute whether commission was required to establish township advisory committees when adopting the plan

Citation: *Fifty Six LLC v. Metropolitan Development Com'n of Marion County*, 2015 WL 4753802 (Ind. Ct. App. 2015)

INDIANA (08/12/15)—Among other things, this case addressed the issue of whether a metropolitan development commission was required, under state statutory law, to establish township advisory committees when adopting a comprehensive plan for a neighborhood.

The Background/Facts: In May 2012, the Metropolitan Development Commission of Marion County (the “MDC”) approved a resolution amending the County’s Comprehensive Plan by adopting the “Millersville Plan,” which applied to Millersville—a neighborhood located on the north-east side of Indianapolis and located in both Lawrence and Washington Townships in Marion County (the “County”). 56, LLC (“Landowner”) owned an approximately 21-acre parcel of land in Millersville (“Landowner’s Parcel”). Landowner apparently took issue with the Millersville Plan’s characterization, land use, and development recommendations that were adopted for Landowner’s Parcel. Landowner filed a legal action challenging the adoption of the Millersville Plan. In that action, Landowner alleged: (1) that the MDC failed to adhere to the state statutory law (Ind. Code § 36-7-4-504.5) requiring the establishment of township advisory committees when preparing or revising a comprehensive plan for a township; and (2) that the MDC failed to adhere to public notice requirements for amendments to the comprehensive plan provided under state statutory law (Ind. Code §§ 36-7-4-507 and -511(a)).

Indiana law (Ind. Code § 36-7-4-504.5) requires that “[i]n preparing or revising a comprehensive plan for a township, the legislative body of the consolidated city shall adopt an ordinance requiring the plan commission to establish an advisory committee of citizens interested in problems of planning and zoning for that township, a majority of whom shall be nominated by the township legislative body.” The County had adopted the required ordinance (Marion County Ordinance § 231-401), which required the MDC to “establish an advisory committee of township citizens interested in problems of planning and zoning in that township to provide advice in preparing or revising the comprehensive plan for any township in Marion County.”

The MDC maintained that township advisory committees were not required here because: (a) the Millersville Plan amended the County Comprehensive Plan, which did not require the formation of township advisory committees; (b) the Millersville Plan did not revise the comprehensive plans for Lawrence and Washington Township; and (c) neither Ind. Code § 36-7-4-504.5(a) nor County Ordinance § 231-401(b) required the formation of township advisory committees in preparing a comprehensive plan for a neighborhood, small community, or sub-area. The MDC also asserted that it actually or substantially complied with the statutory notice requirements.

Eventually, finding there were no material issues of fact in dispute, and deciding the matter on the law alone, the superior court issued summary judgment in favor of the MDC.

Landowner appealed.

DECISION: Judgment of superior court reversed, and matter remanded.

The Court of Appeals of Indiana held that the MDC was not required to establish township advisory committees when adopting the Millersville

Plan. The court explained that the text of Ind. Code § 36-7-4-504.5(a) requires the formation of township advisory committees when “preparing or revising a comprehensive plan for a township” but does not include provisions requiring township advisory committees when a neighborhood or sub-area is the subject of a comprehensive plan. The court found that the Millersville Plan was prepared as a village and corridor plan for the Millersville neighborhood, and not as a revision to the comprehensive plans for either Lawrence or Washington Township. Although Millersville partially lay within both Lawrence and Washington Township, the court found that the evidence showed that the Millersville Plan was not prepared as a revision to the existing comprehensive plans for either Lawrence or Washington Township and that the process for adopting township comprehensive plans, including the formation of township advisory committees, was followed at the time comprehensive plans were adopted for those townships. Under the circumstances, the court declared that it could not “say that township advisory committees were required.”

The court did, however, also hold that the MDC failed to comply with statutorily required notice and hearing provisions. Statutory law applicable to comprehensive plan approval (Ind. Code § Ind. Code § 36-7-4-507) required that the “schedule must ‘state where the entire plan is on file and may be examined in its entirety for at least ten (10) days before the hearing.’ ” Substantial compliance (as opposed to strict compliance) with these requirements was not sufficient, said the court, because no statutory provision allowed for only substantial compliance with notice and hearing requirements in the context of amendments to comprehensive plans.

Here, the court found that the Millersville Plan was adopted just five days after publication of its final draft. Accordingly, the court concluded that the Millersville Plan did not comply with the requirement that the plan be published in its entirety 10 days prior to a hearing pursuant to Ind. Code § 36-7-4-507. On that basis, the court reversed the superior court order granting the MDC’s cross-motion for summary judgment.

Case Note:

In this case, the MDC had challenged Landowner’s standing (i.e., the legal right to bring the action). The court found that because a comprehensive plan “is one of several factors that determines future, binding land-use regulations,” Landowner would be directly impacted by the recommendations of the Millersville Plan and therefore had standing to challenge it.

Procedure/Comprehensive Plan— Entities object to town’s amendments to comprehensive plan

They contend the comprehensive plan failed to include supporting data and thus failed to comply with state law

Citation: *Friends of Frederick County v. Town of New Market*, 2015 WL 5021387 (Md. Ct. Spec. App. 2015)

MARYLAND (08/25/15)—This case addressed the issue of whether a comprehensive plan is required to include data to support the plan’s goals, policies and recommendations.

The Background/Facts: In 2005, the Town of New Market (the “Town”) adopted a comprehensive plan (the “Plan”). In November 2010, the Town amended the Plan by adding a water resources element and a municipal growth element (“MGE”). Of relevance here, the MGE proposed the annexation of various tracts of land adjacent to the present Town boundaries (“Annexation Areas”). The MGE also proposed that, upon annexation, the Town change the zoning classifications of the Annexation Areas from agricultural and low-intensity uses to higher-density residential and mixed commercial and industrial uses.

Several different entities—including Friends of Frederick County, the Audubon Society of Central Maryland, Inc.—as well as a number of individuals (collectively, the “Objectors”) disagreed with the proposal in the MGE that the Town annex and rezone the Annexation Areas. They filed a legal action contending that the Town failed to comply with state law requirements in several respects.

Among other things, the Objectors presented the following multistep argument: Under Maryland case law, “[c]omprehensive plans are more than mere guides consisting only of policy statements;” under state law they are actually “regulatory devices.” Because of the significance of comprehensive plans and in light of the “language and purpose of the relevant statutory provisions,” comprehensive plans must “contain substantive factual determinations, not merely policy statements.” The Objectors argued that because the Plan here did not include data to support its goals, policies, and recommendations, it failed to comply with state law.

Finding there were no material issues of fact in dispute, and deciding the matter on the law alone, the circuit court issued summary judgment in favor of the Town.

The Objectors appealed.

DECISION: Judgment of circuit court affirmed.

The Court of Special Appeals of Maryland concluded that the Town's Plan did comply with and satisfy the specific requirements of the Maryland Land Use Articles ("LU") with regard to the Plan's substantive content. In so holding, the court rejected the Objector's arguments and held that, under Maryland law, a comprehensive plan is not required to include data to support the plan's goals, policies and recommendations.

In support of its argument that a comprehensive plan was required to include data, the Objectors had pointed to LU § 3-112 and § 1-201. § 3-112 sets out the matters that must be addressed in a comprehensive plan's municipal growth element. § 1-201 articulates the visions that a local planning commission "shall implement . . . through the comprehensive plan[.]"

Looking at the texts of that statute both in isolation—particularly the definitions of the words "include" and "implement"—as well as the text in the context of the larger statutory scheme, the court determined that it did not support the Objectors' contentions. The court found "[i]nclude" was defined as "[t]o contain as a part of something," and "[i]mplement" was defined as "to carry into effect: to fulfill; to accomplish[.]" The court found that these dictionary definitions of "include" and "implement" failed to support the Objectors' contention that the statutes in question required a local planning commission to include detailed factual analyses as part of the plan.

The court also found that the only provision in the LU addressing the means by which comprehensive plans should be prepared required only "careful and comprehensive study;" it did not mandate use of particular methodologies or analytical techniques. The court looked at another applicable LU § —LU § 3-202(b)(1). Section 3-202(b)(1) required that the elements of a comprehensive plan "may be expressed in words, graphics, or any other appropriate form." The court similarly found that this section fell short of a requirement that a plan must contain data-based analyses to support the plans' conclusion and recommendations.

The court concluded that the relevant statutory provisions did not support the Objectors' contentions that the LU required planning commission to use specific analytical techniques or that comprehensive plans, in their final and adopted forms, must contain discussions of data.

Finally, the court noted that because the Town's planning commission and the Town council were acting, respectively, in quasi-legislative and legislative capacities, "neither body was obligated to create a record to provide a basis for its decision." "If the planning commission and the town council were not obligated to create an evidentiary record to support their decisions to adopt the Plan, then a fortiori, the text of the Plan itself need not contain such information," concluded the court.

See also: *Lewis v. Gansler*, 204 Md. App. 454, 42 A.3d 63 (2012).

Validity of Zoning Decision/ Nonconforming Use—Convenience store seeks to authorization to sell high-alcohol content beverages

City denies request, saying it is an impermissible expansion of its sale of low-alcohol content pursuant to a nonconforming use status

Citation: *Mannino's P & M Texaco Service Center, Inc. v. City of New Orleans*, 2015-109 La. App. 4 Cir. 8/19/15, 2015 WL 4965885 (La. Ct. App. 4th Cir. 2015)

The Fourth U.S. Circuit has jurisdiction over Maryland, North Carolina, South Carolina, Virginia, and West Virginia.

LOUISIANA (08/19/15)—This case addressed the issue of whether a board of zoning appeals acted arbitrarily and capriciously in denying authorization to sell high-alcohol content beverages to a convenience store that had previously sold low-alcohol content beverages pursuant to a nonconforming use status. More specifically, the case addressed whether the sale of high-alcohol content beverages differed in nature, purpose, or character from the sale of low-alcohol content beverages such that the addition of high-alcohol sales to a store that sold low-alcohol content beverages as a nonconforming use would constitute an impermissible intensification of the nonconforming use.

The Background/Facts: Mannino's P & M Texaco Service Center, Inc. ("Mannino's") operated a gas station and convenience store in New Orleans in a historic commercial district ("HMC-2"). For many years, Mannino's sold low-content alcohol (i.e., beer) pursuant to a legal nonconforming use status. Mannino's sought to expand its sales to include high-alcohol content beverages.

The City's Department of Safety and Permits (the "Department") found that pursuant to the City's zoning ordinance, Mannino's business, located in the HMC-2 district was required to have at least 5,000 square feet of floor area in order to sell high-alcohol content beverages. Mannino's business had less than 2,000 square feet of floor area. The Department also determined that Mannino's enjoyed "legal, non-conforming status as to low-content alcohol sales and that this nonconforming [status] [could] not be expanded to include high-content alcohol." The Department differentiated the types of alcohol license for which a location can be considered legally nonconforming. The Department concluded that it could not approve Mannino's request for high-alcohol content beverage sales because

that would be an impermissible intensification of the nonconformity in direct conflict with the clear language of the City's zoning ordinance.

Mannino's appealed the Department's decision to the BZA. The BZA denied the appeal and upheld the decision of the Department.

Mannino's again appealed. The trial court affirmed the BZA's decision. It concluded that the sale of high-alcohol content beverages was neither a permitted use nor an accessory use for a retail store located in HMC-2 having less than 5,000 square feet of floor area. It also agreed that allowing Mannino's to sell high-content alcohol would be an intensification of the nonconforming use of low-alcohol content beverages, which the City zoning ordinance did not allow.

DECISION: Judgment of district court affirmed.

The Court of Appeal of Louisiana, Fourth Circuit, held that the BZA did not act arbitrarily and capriciously in denying authorization to Mannino's to sell high-alcohol content beverages. Reviewing the City's zoning ordinance the court also concluded that the sale of high-alcohol content beverages was neither a permitted use nor an accessory use for a retail store located in HMC-2 having less than 5,000 square feet of floor area. The court further affirmed that it would be an intensification of Mannino's nonconforming use to permit the sale of high-alcohol content beverages.

Mannino's had argued that the law did not distinguish between low-alcohol content beverages and high-alcohol beverages. Mannino's had further argued that the sale of high-alcohol content beverages was the same character, nature, and purpose as the original use (of selling low-alcohol content beverages), and it would have no adverse effect on the neighborhood. The appellate court disagreed.

While the court acknowledged that the City's zoning ordinance did not define the types of alcohol, it found it clear that governing case law made a distinction as it applies to zoning disputes. The distinction, noted the cited case law, was "reasonably related to promoting the public's health, safety, and/or general welfare." Moreover, the court found that when considering the use of property located in a historic zoning district, such a distinction was not unreasonable.

The court also found that case law supported the conclusion that the sale of high-alcohol content beverages was an illegal intensification of a nonconforming use because it was in fact different in character, nature, and kind from the original use. The court found it clear that the BZA's decision was consistent with governing case law, as well as with promoting health, safety, morals, and/or general welfare of the community. Accordingly, the court concluded that the BZA's decision was not arbitrary and capricious, and should therefore be upheld.

See also: *Toups v. City of Shreveport*, 60 So. 3d 1215 (La. 2011).

Zoning News from Around the Nation

MASSACHUSETTS

Reportedly, Air BnB locations in Winthrop have been told to cease and desist “after several officials questioned the safety and set up of these rooms.” Winthrop officials say that such locations will not operate until a related ordinance is passed, in light of concerns over “licenses, safety issues, building code violations, health code violations and sanitation,” as well as “taxes and fees.”

Source: *Winthrop Transcript*; www.winthroptranscript.com

MARYLAND

Baltimore County has approved zoning rules for medical marijuana. Under the new rules, “growing and manufacturing facilities would be limited to industrial areas around the county with dispensaries located in business districts, . . . [and] [d]ispensers . . . locate[d] in commercial revitalization districts, with special exemptions.”

Source: *WBALtv*; www.wbaltv.com

WEST VIRGINIA

Charleston City Council recently passed an ordinance “that will require businesses in certain parts of the city, including convenience stores that sell single bottles and cans, to have a special permit. The conditional-use alcohol permit will allow police to pinpoint where the alcohol is being purchased, as well as if the sales from that store are contributing to the problem.

Source: *WSAZ*; www.wsaz.com

Zoning Bulletin

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Use Permit—Company Conditional use permit for well on property in Agriculture zoning district

The proposed use is similar and
 other uses in the zoning district

*Board of Supervisors of Fairfield Township, 2015
 (14, 2015)*

Contributors


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PENNSYLVANIA (09/14/15)—This case addressed the issue of whether a proposed conditional use of a natural gas well met the threshold requirements for a conditional use permit in a township's zoning ordinance.

The Background/Facts: Inflection Energy, LLC ("Inflection") sought to construct and operate a natural gas well on land it leased from Donald and Eleanor Shaheen (the "Shaheens"). The Shaheens' property (the "Property") was located on land in a Residential Agriculture zoning district (the "RA District") in Fairfield Township (the "Township"). The Township's zoning ordinance did not specifically authorize natural gas wells, so Inflection applied to the Township for a conditional use permit ("CUP") under the zoning ordinance's "savings clause." That savings clause authorized the Township's Board of Supervisors (the "Board") to grant a CUP where a proposed use was not specifically authorized anywhere in the Township, provided that the applicant showed that the proposed use was consistent with: the uses that were permitted in the zoning district; and with the public health and safety.

Brian and Dawn Gorsline and Paul and Michele Batowski and other neighbors (collectively, the "Neighbors") opposed Inflection's CUP application. They expressed concerns about: well water contamination; truck traffic; noise; light pollution from nighttime operations; the possible criminal record of employees at the site; and the effect of the natural gas well on their property values.

The natural gas well operation was to include a level pad, a well head, a water impoundment for 2 million gallons of water, and sediment and erosion controls. The well pad was to be located on the Shaheens' 59-acre Property and within 1,000 feet of one home and 3,000 feet of a residential development. During the 90-day construction period, an average of 35 trucks would visit the Property per day, with more trucks required for graveling the road. A total of 120 trucks would enter the Property during the drilling phase and 225 during the completion phase. Once each well became operational, it was to be unmanned, with one pick-up truck per day visiting the well. However, if water could not be provided to the Property by pipeline, thousands of water trucks would need to visit the Property for fracking operations.

In evaluating the CUP application, the Board focused on whether Inflection satisfied the standards for a CUP under the zoning ordinance. In general, the zoning ordinance required conditional uses not to: adversely affect the neighborhood; create an undue nuisance or serious hazard; adversely impact the area economically; or create excessive noise, glare or odor. Further, the zoning ordinance required that conditional uses must satisfy standards for traffic, parking, and waste disposal. Under the savings clause of the zoning ordinances, all conditional uses had to be "similar to and compatible with other uses permitted in the [RA] zone"

The Board concluded that Inflection met its burden on each of those factors. That conclusion created a presumption that Inflection's proposed use was consistent with the general welfare and safety of the public.

The Neighbors disagreed and expressed their concerns, however, the Board found that their concerns were based on speculation, and that the

Neighbors failed to meet their burden of rebutting the Board's presumptive conclusion with their own evidence.

The Neighbors appealed to court. Disagreeing with the Board, the trial court held that Inflection failed to satisfy each factor in the zoning ordinance section governing CUPs. The court found that Inflection had failed to show that its proposed well was: (1) similar to other uses expressly permitted in the RA District; and (2) compatible with other uses permitted in the RA District. The court found that there was too much uncertainty in Inflection's CUP application (i.e., uncertainty as to how many wells would be drilled; how much water would be used; how long the Property would be used for natural gas extraction) to compare it to other expressly permitted uses. Moreover, the court found that the truck noise and fracking activities would create much noise, which was not compatible with the quiet residential and farming uses of the RA District. The trial court granted the Neighbors' appeal and nullified the Board's decision to grant Inflection's CUP.

Inflection appealed. On appeal, Inflection's primary argument was that it had proven that its well would be similar and compatible with uses permitted in the RA District, as required for CUP approval under the zoning ordinance's savings clause. Inflection pointed to other uses allowed either as a matter of right or as conditional uses in the RA District, including: forestry operations; hunting camps; hospitals; retirement homes; and commercial recreation. More specifically, Inflection maintained that its proposed well was similar to a "public service facility," which was expressly permitted under the zoning ordinance in an RA District. Inflection claimed that its proposed well would serve the general public by producing natural gas for its use and consumption.

DECISION: Judgment of Court of Common Pleas reversed.

Disagreeing with the trial court and agreeing with the Board, the Commonwealth Court of Pennsylvania held that Inflection's proposed use satisfied the requirements of the savings clause of the Township's zoning ordinance, which governed Inflection's proposed conditional use. The court found that, based on the evidence presented, the proposed natural gas well was "similar to and compatible with other uses permitted in the [RA] zone"

In so holding, the court recognized that the zoning ordinance permitted a "wide range of conditional uses in the RA District." The court agreed with Inflection's argument that in contrast to the size of a hospital—which was a permitted conditional use in the RA District—a natural gas well would present a low physical profile and involve a small footprint on the land. The court agreed with Inflection that Inflection's proposed well was similar to a public service facility, which was expressly allowed in the RA District. In fact, noted the court, the Board had already authorized other natural gas wells owned by Inflection in the RA District. Moreover, the court found that the evidence about Inflection's well at this Property "was in no way rebutted"; the Neighbors had presented speculated concerns but no evidence.

The court further noted that, in addition to proving that its proposed use was similar and compatible with uses expressly permitted in the RA District, Inflection also had the burden of showing that its proposed use did not

“conflict with the general purpose of [the Township’s zoning ordinance.” The court found that Inflection also met that burden. The zoning ordinance expressly authorized the extraction of minerals.

See also: *MarkWest Liberty Midstream & Resources, LLC v. Cecil Tp. Zoning Hearing Bd.*, 102 A.3d 549 (Pa. Commw. Ct. 2014), appeal denied, 113 A.3d 281 (Pa. 2015).

Case Note:

In its holding, the appellate court noted that the trial court had focused on noise and compatibility of truck deliveries during the construction phase of the natural well development project. The appellate court said that focus was in error because “[z]oning regulates the use of land and not the particulars of development and construction.”

Preemption—City rejects outdoor advertising sign registrations for signs on metropolitan transportation authority property

Outdoor advertising companies challenge city jurisdiction over signs, arguing state law preempts local law as to signs on such property

Citation: *CBS Outdoor, Inc. v. City of New York*, 16 N.Y.S.3d 411 (Sup 2015)

NEW YORK (09/08/15)—This case addressed the issue of whether Metropolitan Transportation Authority facilities were exempt, under the Public Authorities Law, from local laws restricting the placement of outdoor advertising signs. The case also addressed whether local zoning laws were preempted under the federal Interstate Commerce Commission Termination Act of 1995 (“ICCTA”)—which preempts all local laws managing or governing rail transportation.

The Background/Facts: CBS Outdoor, Inc. (“CBS Outdoor”), Lamar Advertising of Penn, LLC (“Lamar”), and Clear Channel Outdoor, Inc. (“Clear Channel”) (collectively, the “Outdoor Advertising Companies” or “OACs”) are each engaged in the business of outdoor advertising. The City of New York (the “City”) regulates outdoor advertising under its zoning laws. The City’s Building Code requires outdoor advertising companies to register with the City’s Department of Buildings (“DOB”), and to provide DOB with an inventory of their outdoor advertising signs, sign structures, and sign locations that are within 900 feet and within view of an arterial highway.

Each of the OACs submitted registrations for signs on property owned or under control of the Metropolitan Transportation Authority (“MTA”). CBS Outdoor had also submitted registrations for signs on property owned by CSX Transportation Inc. (“CSXT”).

In 2012, the DOB issued Notice of Sign Registration Rejection letters denying registration for those signs on the MTA property and on the CSXT property. The DOB rejected the sign registrations, finding the signs were not allowed because they were too close to an arterial highway or in a residential or low-density commercial zoning district.

The OACs each appealed the denials to the City’s Board of Standards and Appeals (“BSA”). The BSA reviewed the appeal applications together. The BSA ultimately denied the appeals of the OACs with respect to the total 13 signs on MTA property. The BSA also denied CBS Outdoor’s application with respect to CBS Outdoor’s 12 signs on CSXT property.

The three OACs brought legal actions, seeking to vacate and annul the DOB’s rejection of their applications to register their outdoor signs and the resolution of the BSA, which upheld the DOB’s rejection. The OACs also asked the court to declare that local laws governing outdoor signs do not apply to property or facilities owned, leased, or controlled by the MTA. They maintained that the local laws conflicted with the Public Authorities Law, which exempted MTA facilities from local regulation.

CBS Outdoor also argued its signs on CSXT property were legal nonconforming uses. CSXT also brought a “cross claim” under which it argued that the local zoning laws did not apply and were preempted under federal law—the Interstate Commerce Commission Termination Act of 1995 (“IC-CTA”)—which preempts all local laws managing or governing rail transportation.

DECISION: Petitions challenging determination of Department of Buildings granted in part and denied in part.

The Supreme Court, New York County, New York, held that the City regulations restricting the placement of outdoor advertising conflicted with the Public Authorities Law. The court concluded that the City’s laws governing outdoor sign placement did not apply to property or facilities owned, leased, or controlled by the MTA.

In so concluding, the court found that, by its terms, the Public Authorities Law § 1266(8) expressly provides that local laws and rules that are “in conflict” with the Public Authorities Law are inapplicable to MTA facilities, except for “facilities that are devoted to purposes other than transportation or transit purposes.”

The Public Authorities Law discusses, in part, jurisdiction of municipalities over MTA facilities. Public Authorities Law § 1266(8) provides in relevant part that:

“Except as hereinafter specially provided, no municipality or political subdivision, including but not limited to a . . . city . . . shall have jurisdiction over any facilities of the authority and its subsidiaries, and New York city transit authority and its subsidiaries, or any of their activities or operations. The local laws, resolutions, ordinances, rules and regulations of a municipality . . .

conflicting with this title [Title 11 of the Public Authorities Law] or any rule or regulation of the [MTA] . . . shall not be applicable to the activities or operations of the [MTA] . . . or the facilities of the [MTA] . . . except such facilities that are devoted to purposes other than transportation or transit purposes.”

Here, the court found that, insofar as the application of the City’s laws governing sign placement would result in a loss of revenue to the MTA from outdoor advertising, the City’s laws were “in conflict” with Public Authorities Law § 1266(8). In other words, the court found that “the loss of revenue from compliance with the local laws and regulations at issue would interfere with the accomplishment of the MTA’s function and purpose of, among other things, generating revenue to fund public regional transportation.”

Finding a conflict existed, the court next had to determine whether the MTA facilities at issue were “devoted to purposes other than transportation or transit purposes.” The City had argued that the MTA facilities were not devoted to transportation or transit purpose because the outdoor signs on the facilities were not about transportation or transit. On the other hand, the OACs had argued that generating revenue for the MTA was, in itself, a “transportation or other transit purpose” under Public Authorities Law § 1266(8). The court found that “[t]he outdoor signs did not render the railroad facilities here unusable as railroad rights of way, trestles, and overpasses; [those] facilities continue[d] to function as part of a system for moving trains and transit equipment.” Thus, the court found that it could not be said that the MTA facilities at issue were devoted to purposes other than transportation or transit purposes. Accordingly, the court concluded that the MTA facilities at issue—i.e., the railroad rights-of-way, railroad trestles and overpasses upon which the 13 subject signs were affixed or erected—were not facilities devoted to purposes other than transportation or transit purposes. Therefore, the court held that those MTA facilities were exempt from the city’s zoning laws regulating sign placement. Accordingly, the court concluded that the DOB’s rejection of the sign registrations for those 13 signs and the BSA’s resolution as to those 13 signs must be vacated and annulled.

With regard to CBS Outdoor’s signs on CSXT property, the court determined that the BSA’s determination, which upheld the DOB’s rejection of the registration of those outdoor signs, must be vacated to permit the DOB to consider whether those signs had the status of legal nonconforming use. Moreover, the court rejected CSXT’s cross claim. The court found that the ICCTA preempts all state laws that may reasonably be said to have the effect of managing or governing rail transportation, but permits the continued application of laws having a more remote or incidental effect on rail transportation. Disagreeing with CSXT, the court held that zoning regulations barring advertising signs located on railroad rights-of-way or overpasses, which consequently limit the raising of advertising revenue for a commuter train system, do not have the effect of “managing or governing rail transportation,” and cannot be said to have an effect, if any, on “the movement of passengers or property, or both, by rail.” Thus, the court concluded that the local laws and regulations with respect to outdoor advertising on CSXT property or rights of way were not preempted by the ICCTA.

See also: *People v. Long Island Railroad*, 90 Misc.2d 269, 397 N.Y.S.2d 846 (App Term, 2nd Dept. 1976).

See also: *Tang v. New York City Transit Authority*, 55 A.D.3d 720, 867 N.Y.S.2d 453 (2d Dept. 2008).

See also: *Terranova v. New York City Transit Auth.*, 49 A.D.3d 10, 15, 850 N.Y.S.2d 123 (2d Dept. 2007).

See also: *Echevarria v. New York City Transit Authority*, 45 A.D.3d 492, 847 N.Y.S.2d 38 (1st Dept. 2007).

See also: *Metro. Transp. Auth. v. City of New York*, 70 A.D.2d 551, 416 N.Y.S.2d 612 (1st Dept.), lv denied 48 N.Y. 607 (1979).

Case Note:

The OACs had urged the court to declare that every outdoor sign on all MTA property is exempt from local law and regulations. The court refused, noting that Public Authorities Law § 1266(8) does not exempt from local law and regulations “facilities that are devoted to purposes other than transportation or transit purposes.” Here, on the record before it, the court could not find, as a matter of law, that there were no facilities that existed that were “devoted to purposes other than transportation or transit purposes”; neither could the court find, as a matter of law, that every MTA facility with an outdoor sign was devoted to a transportation or transit purpose.

Jurisdiction/Authority—Intervenor in zoning appeal claims proposed development would result in environmental resource damage

Court enjoins development, and developer claims state Environmental Protection Act does not give court authority to enter an injunction in the context of a zoning appeal.

Citation: *Hunter Ridge, LLC v. Planning and Zoning Commission of Town of Newtown*, 318 Conn. 431 (Sept. 1, 2015)

CONNECTICUT (09/01/15)—This case addressed the issue of whether Connecticut’s Environmental Protection Act of 1971—Conn. Gen. Stat. §§ 22a-18 and 22a-19—empowers or allows a trial court to enter an injunction in an administrative appeal of a zoning decision brought pursuant to § 8-8 in which an individual has intervened pursuant to § 22a-19.

The Background/Facts: Seeking to develop a parcel of land, Hunter Ridge, LLC (“Hunter Ridge”) applied for a subdivision permit from the

Planning and Zoning Commission (the "PZC") of the Town of Newtown (the "Town"). The PZC denied the application, finding that Hunter Ridge failed to meet the open space requirements in the Town's subdivision regulations. Hunter Ridge appealed to the trial court.

Spencer Taylor ("Taylor") intervened in the appeal pursuant to Connecticut's Environmental Protection Act of 1971 (the "Act"). The Act provides any person seeking to prevent unreasonable pollution two separate avenues for bringing their concerns before a court: (1) an independent cause of action under § 22a-16; or (2) intervention in an existing administrative, licensing, or other proceeding pursuant to § 22a-19. Here, Taylor intervened under § 22a-19(a).

Section 22a-19(a)(1) allows a person to intervene in an existing proceeding relating to conduct that may impact the natural resources of the state. In relevant part, the statute provides that, "[i]n any administrative, licensing or other proceeding," any person or legal entity "may intervene as a party on the filing of a verified pleading asserting that the proceeding or action for judicial review involves conduct which has, or which is reasonably likely to have, the effect of unreasonably polluting, impairing or destroying the public trust in the air, water or other natural resources of the state." Section 22a-19 (b) also directs agencies to consider the allegations of likely harm to the environment and provides that no conduct shall be approved if there exists a "feasible and prudent alternative" to the harmful conduct.

Here, Taylor raised concerns related to the environmental impact of the proposed subdivision. Taylor sought and received permission from the trial court to present additional evidence that was not included in the administrative record. After receiving the evidence, the trial court concluded that Taylor made out a case, on its face, on his environmental claims. The court remanded the matter back to the PZC for fact-findings relative to Taylor's claims.

The PZC responded to the trial court's request for fact-finding, concluding that Hunter Ridge's proposed subdivision would not "unreasonably pollute, impair or destroy the natural resources on the property."

Ultimately, with the matter returning to the trial court, the court set aside the PZC's findings, adjudicated the factual issues itself, and found that the proposed subdivision would have an unreasonable impact on the natural resources of the property. The court enjoined Hunter Ridge from developing a portion of its property without prior court approval or without meeting certain conditions in the court's order.

Hunter Ridge appealed. Hunter Ridge claimed, among other things, that the Act did not give the trial court authority to enter an injunction in the context of a zoning appeal. Hunter Ridge maintained that the grant of power in § 22a-18(a)—which authorizes a court to enter temporary and permanent equitable relief as necessary to protect natural resources from unreasonable destruction—applied only to independent actions for declaratory and equitable relief brought under § 22a-16, and not to interventions brought under § 22a-19(a)(1).

Taylor countered that the court did have power to enter an injunction in the context of a zoning appeal, pursuant to § 22a-18(a).

The Supreme Court of Connecticut transferred the appeal to itself.

DECISION: Judgment of superior court reversed, and matter remanded.

The Supreme Court of Connecticut agreed with Hunter Ridge, finding the trial court erred in issuing an injunction in the context of this zoning appeal. The court held that the Act—specifically § 22a-18(a)—does not give a trial court independent authority to enter an injunction in an administrative appeal involving an intervention under § 22a-19. Instead, the court declared, an intervenor under § 22a-19 must take the proceeding as he or she finds it at the time of the intervention. In other words, the Act does not permit the intervenor to expand the remedies allowed in the underlying proceeding; it only allows the intervenor to raise those claims for relief otherwise permitted in the existing proceeding. Thus, only where the underlying proceeding would permit the use of equitable remedies by the court may the court issue an injunction in a proceeding in which someone intervenes. Otherwise, a person who seeks an injunction to prevent conduct that would violate the Act must seek such relief through an independent action brought under § 22a-16.

In so holding, the court found the language of the relevant statutes was “ambiguous as to whether the grant of equitable power in § 22a-18(a) applie[d] in actions in which a party has intervened pursuant to § 22a-19.” The court did find that, in permitting the recovery of costs and attorney’s fees when a party obtains declaratory and equitable relief against a defendant in an intervention under § 22a-19, the Act clearly contemplated that equitable relief may be available in certain interventions, including: in enforcement proceedings brought by town zoning officers or by the Commissioner of Energy and Environmental Protection.

Still, after analyzing related, prior case law, the court found that § 22a-18(a) (equitable relief) does not apply to all interventions, but only to some types of proceedings covered by § 22a-19. The court found that prior case law showed that “an intervention under § 22a-19 is not intended to displace or expand the statutes that govern agency powers and procedures. Instead, § 22a-19 simply allows an intervenor to raise environmental concerns within the statutory limitations placed on the agency.” Thus, said the court, “[i]f the environmental concerns that a party wishes to raise are not within the scope of the agency’s statutory power, the party must bring a separate action under § 22a-16.” (Although the cases that the court reviewed addressed the impact of § 22a-19 on the powers of an agency, the court found that they applied “with equal force to the powers of a trial court.”)

Thus, although § 22a-19(a)(1) allows some types of equitable relief, the court emphasized that a trial court hearing a zoning appeal ordinarily does not have the authority to enter equitable relief, “but rather, is extremely limited in its powers.” The court explained that “[p]ermitting an intervenor to raise claims for injunctive relief in an administrative or zoning appeal would entirely change the character of the proceedings by potentially requiring the trial court to engage in fact-finding and empowering it to grant sweeping relief not otherwise permitted in such a limited proceeding.”

Accordingly, the court concluded that the legislature did not intend for

§ 22a-18 (a) to enlarge the powers of a trial court hearing an action in which a party has intervened under § 22a-19. Rather, the court found that § 22a-19 allows intervenors to seek only those forms of relief that otherwise are permitted in the underlying proceeding. Again: “Courts hearing an intervention claim under § 22a-19 can enter an equitable remedy only if the underlying proceeding otherwise allows for such relief remedy.”

See also: *Connecticut Fund for the Environment, Inc. v. Stamford*, 192 Conn. 247, 470 A.2d 1214 (1984).

See also: *Middletown v. Hartford Electric Light Co.*, 192 Conn. 591, 473 A.2d 787 (1984), *overruled in part on other grounds by Waterbury v. Washington*, 260 Conn. 506, 800 A.2d 1102 (2002).

See also: *Connecticut Water Co. v. Beausoleil*, 204 Conn. 38, 526 A.2d 1329 (1987).

See also: *Nizzardo v. State Traffic Commission*, 259 Conn. 131, 788 A.2d 1158 (2002).

Case Note:

Hunter Ridge had also argued that the court improperly substituted its judgment on issues of fact for that of the PZC. For the reasons that the court had found § 22a-18(a) (equitable relief) did not apply to an action in which a party had intervened, the court concluded that §§ 22a-18(b) through (d)—which give a trial court the discretion to remand a matter to an agency for consideration of environmental issues and allow the court to adjudicate the environmental issues itself—also did not apply to proceedings with interventions. “Permitting a trial court to entirely reject an agency’s decision and render its own findings on an intervenor’s environmental claims would eviscerate [statutory] limitations and would convert the trial court’s role from that of an appellate tribunal to a court of general jurisdiction,” said the court. The court concluded that a trial court can adjudicate facts relating to environmental matters raised by an intervenor only if the underlying proceeding gives the trial court authority to adjudicate such factual issues. If the proceedings the intervenor intends to join do not allow him or her to present new claims or obtain the relief sought, the intervenor must address the environmental concerns through an action under § 22a-16, declared the court.

Thus, held the court, in the case at hand, the trial court could not properly have relied on § 22a-18 (b) through (d) to remand the matter back to the PZC for consideration of Taylor’s claims or to independently adjudicate the factual issues raised in those claims. “If the trial court hearing a zoning appeal is to consider additional evidence not found in the administrative record, it may do so only pursuant to the statutes controlling the procedures on appeal.” (See, e.g., Conn. Gen. Stat. § 8-8(k).) Because the trial court in this case based its decision to reject the PZC’s findings on § 22a-18 (b) through (d), its decision had to be reversed and remanded for further consideration of Hunter Ridge’s appeal and the Taylor’s claims, concluded the court.

Zoning News from Around the Nation

CALIFORNIA

“Developers in California are taking their fight against the state’s inclusionary zoning laws to the U.S. Supreme Court.” The California Building Association opposes the inclusionary zoning law which is soon to become effective. The law mandates that developers discount a percentage of units in new housing projects for low-income families. Opponents claim the law constitutes an illegal “taking” of private property by the government. California’s Supreme Court rejected that argument in June. The California Building Association is appealing that ruling to the United States Supreme Court.

Source: *The Atlantic*; www.citylab.com

MASSACHUSETTS

The state Senate is considering proposed legislation that would require local review of all state projects, with hearings before local zoning officials. Currently, under a state Supreme Judicial Court ruling, local zoning rules do not apply to state-owned property.

The proposed legislation reportedly would not give zoning boards a vote on state projects, or affect projects already underway. It would require a public vetting of projects and a written review by zoning officials of the size and height of structures, required setbacks, open space, parking and other local building requirements.

Source: *Gloucester Times*; www.gloucestertimes.com

Senate Bill 122, which seeks to “modernize the state’s zoning, subdivision and planning laws,” was recently “aired” at a legislative hearing

Source: *Daily Hampshire Gazette*; www.gazettenet.com

WISCONSIN

Senate Bill 104, which allows the Town of La Pointe on Madeline Island to enact a shoreland zoning ordinance that is more restrictive than county shoreland zoning, has passed the state Senate. “The need for this legislation came about as a result of an appellate court ruling [that] . . . established that a town has no standing to adopt a shoreland zoning ordinance if the county adopted shoreland zoning prior to the town.”

Source: *Ashland Daily Press*; <http://www.apg-wi.com>

ZONING PRACTICE

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AMERICAN PLANNING ASSOCIATION

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PRACTICE SHORT-TERM RENTALS



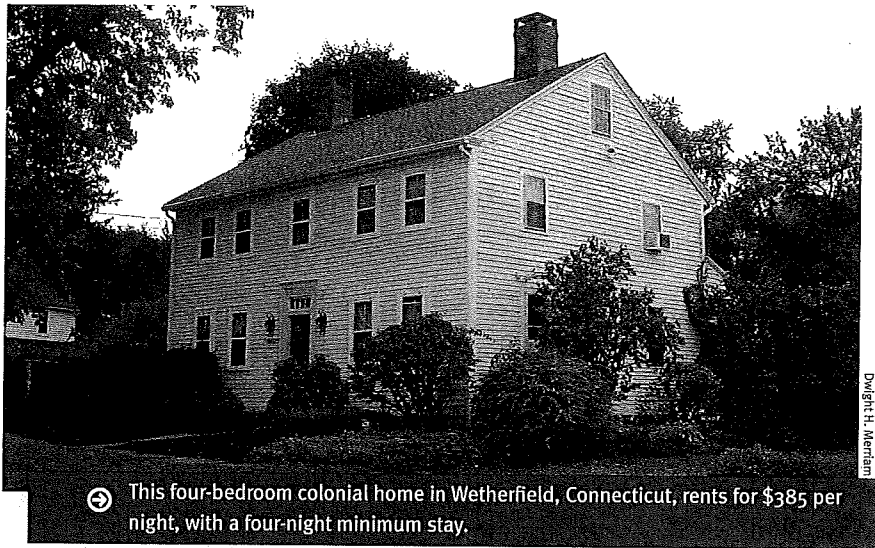
Peering into the Peer Economy: Short-Term Rental Regulation

By Dwight H. Merriam, FAICP

You will recall, or if you are a millennial (18 to 34 years old), you might have read about the mantra that James Carville dreamed up for President Bill Clinton's 1992 campaign: "It's the economy, stupid."

Today, for planners, thanks to the entirely new perspective brought to us by the millennials, our theme must be "It's the sharing economy, stupid." It is called variously collaborative consumption, the peer economy, and the sharing economy. More than half of millennials have used sharing services. It is permeating our daily lives in many ways.

This new ethic about our relationship to things, to transportation, to where we bed down, and even to other people has taken us away from owning and exclusively using, to not owning, not possessing, and not using alone. We see the sharing economy in three broad spheres—transportation, goods and services, and housing. While our focus here is on short-term rentals, it helps to understand the larger context for "home sharing."



This four-bedroom colonial home in Wetherfield, Connecticut, rents for \$385 per night, with a four-night minimum stay.

RIDE-SHARING REVOLUTION

Transportation may be the most obvious and most pervasive face of the sharing economy. Millennials own fewer automobiles than other age cohorts. Millennials purchased almost 30 percent fewer cars from 2007 to 2011 (Plache 2013). Why? Because they use short-term car rentals, public transportation, and ride-sharing services. They are less likely to get driver's licenses. One-third of 16 to 24 year olds don't have a driver's license, the lowest percentage in over 50 years (Tefft et al. 2013). At the same time, so we don't get too carried away with this trend, as the millennials age, they will buy more cars. Forty-three percent said they are likely to buy a car in the next five years (Kadlec 2015).

Ride sharing as a generic term encompasses short-term rentals, making your car available to others, sharing rides, and driving or riding in taxi-like services brokered online through companies like Uber.

Instead of owning a car, you can rent one on a short-term basis from companies such as Zipcar and Enterprise Rent-A-Car. Why own a car when you can conveniently pick one up curbside and use it to run errands for a few hours?

Sharing a ride and splitting the cost is made easier with services like Zimride (also by Enterprise Rent-A-Car), which links drivers with riders at universities and businesses. You boomers will remember the ride-share bulletin boards on campus. Same thing.

Got a car, not making much use of it, and interested in making some money? You can make it available to others on a short-term basis through peer-to-peer car-sharing services including Getaround, which presently operates in Portland, Oregon; San Francisco; San Diego; Austin, Texas; and Chicago. They will rent your car for you while you are away. Cars are covered with a \$1 million policy, and they even clean it for you. RelayRides connects neighbors to let them rent cars by the hour or the day, and if you're traveling more than 14 days, they will take your car at the airport, rent it for you, and pay you. You can even do it for boats with Boatbound. With the help of Spinlister, you can connect with others and rent a bicycle, surfboard, or snowboard.

Dwight Merriam, FAICP, founded Robinson & Cole's Land Use Group in 1978, where he represents land owners, developers, governments, and individuals in land-use matters. He is past president of the American Institute of Certified Planners and received his masters of Regional Planning from the University of North Carolina and his juris doctor from Yale.

Want to make some money by driving others around in your car, or are you a rider who wants to be driven? Just about everyone has heard of Uber, the leader in this form of ride sharing, which includes other services such as Lyft and now Shuddle for ferrying children around and Sidecar for both people and packages. Wireless communications, the Internet, and smartphones have made such ride-sharing and delivery services possible. This is a big deal. Lyft and Uber are worth \$2.5 billion and \$50 billion (more than FedEx and 405 companies in the S&P 500) respectively (Dugan 2015; Tam and de la Merced 2015). And want to be a driver but don't have a car? You can rent one from Breeze just for that purpose.

GOODS AND SERVICES PEER TO PEER

Beyond transportation, the sharing economy extends to relationships between people and service providers. There is peer-to-peer or collaborative consumption through services like TaskRabbit and Skillshare which provide help, paid or bartered, or sometimes free. Instacart will grocery shop for you and claims it will deliver to your door in an hour. You can be a shopper and delivery person for them, making up to \$25 an hour.

NeighborGoods lets you share all those things you have but use so little, from leaf blowers, to pressure washers, to . . . well, take a look in your garage, that place where you used to park your car. If you live in Austin, Texas; Denver; Kansas City, Missouri; Minneapolis; or San Francisco, Zearly seeks to create a marketplace

to help freelance home-service workers connect with home owners.

There seems no end to the sharing. Fon, touting over 7 million members, lets you share your home WiFi in exchange for access. The Lending Club connects borrowers and investors, enabling, so they say, better rates than credit cards and more return for lenders than what banks offer. Over \$11 billion has been borrowed since it started in July 2007, with investors earning a median of 8.1 percent. Poshmark lets you show your unneeded clothing in a virtual closet and get linked with people who share your sense of style. You can even share your dog, or become a sitter, with DogVacay and Rover helping you find a local dog sitter to care for your dog at your home or theirs.

The power of the Internet in facilitating collaborative consumption was probably best evidenced first when eBay and Craigslist provided an online marketplace never experienced before. Today, we have web-based services like Freecycle where people can post things they don't want, the remnants of our overconsumption, and others can take that flotsam and jetsam for free. Yes, for free. It solves the donor's solid waste disposal problem and provides free goods for the takers.

SHARING THE ROOF OVER OUR HEADS

That brings us to the subject matter of greatest interest to planners—the sharing of space.

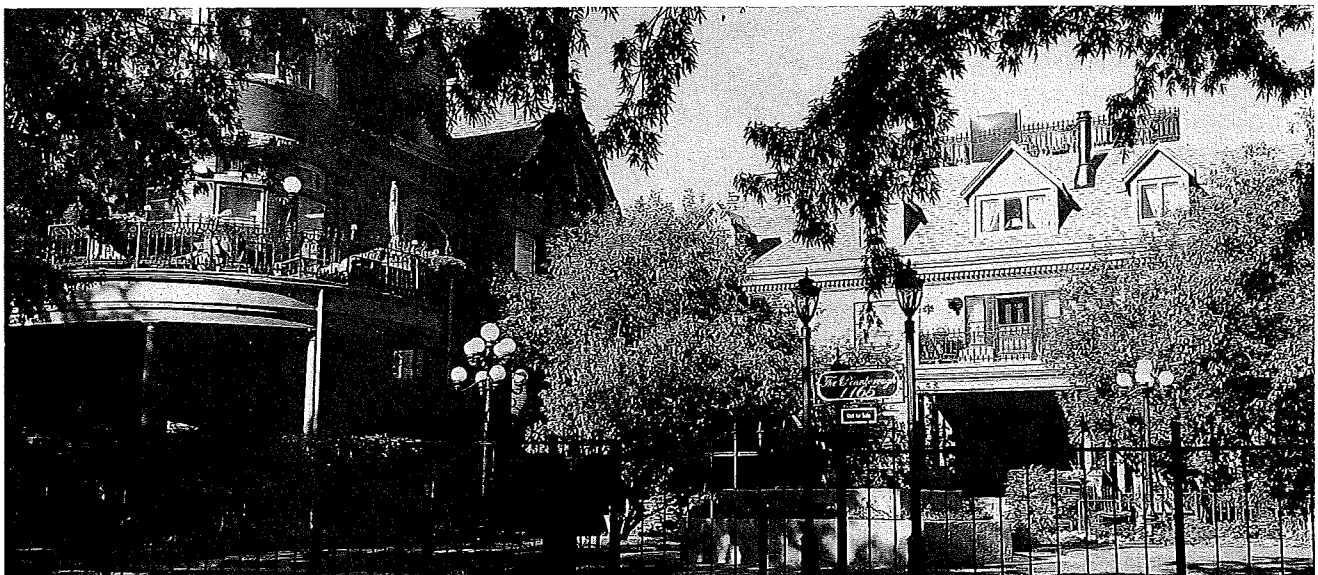
Maybe it began with the sale of timeshares in the United States in 1974. These fractional interests have proved difficult to sell. Short-term vacation rentals emerged as a better way for many, linking property owners with vacationers through companies like HomeAway and its numerous related entities, claiming over one million listings. FlipKey does much the same with what it says are over 300,000 listings in 179 countries.

But Airbnb goes beyond vacation rentals. You can rent a shared or private room for a night, a whole house, an apartment for your exclusive use for a week, a British castle (Airbnb says it has 1,400-plus castles), a teepee, an igloo, a caboose, or an eight-foot by 14-foot treehouse in Illinois (\$195 a night) if you wish.

The company, originally "AirBed & Breakfast," was founded in 2008 by Brian Chesky, Joe Gebbia, and later Nathan Blecharczyk. It began when Chesky and Gebbia, to help pay their rent, rented sleeping accommodations on three air mattresses in their San Francisco apartment living room and made breakfast for the guests (Salter 2012). The company is now worth \$25.5 billion and joins the ranks of the rest of the great ideas we wish we had thought of first (O'Brien 2015).

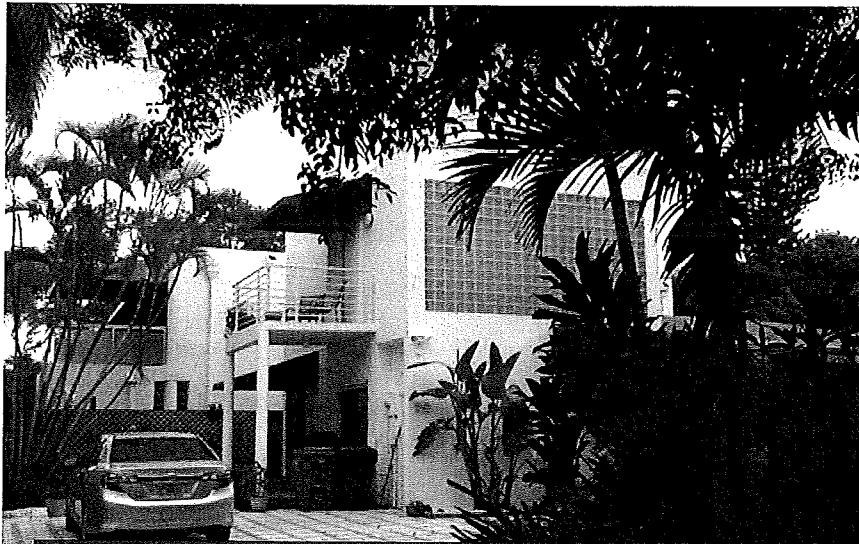
GOOD OR BAD?

Are short-term rentals good or bad for your community? Like so many things, it depends.



Brian J. Connolly

➡ A second-floor condominium in this converted mansion in Denver's Capitol Hill neighborhood offers a private bedroom and bath rental for \$105 per night, with a two-night minimum stay.



Sorell E. Negro

➡ This three-bedroom home near Miami's Coconut Grove rents for \$325 per night, with a five-night minimum stay.

Affordable Housing

Short-term rentals (STRs) increase the stock of furnished, short-term accommodations. Because many of the rentals involve renting a room in a permanently occupied dwelling, they are often less expensive than commercial lodging. The benefit for home owners or long-term tenants who host STR guests is additional income, which can help offset mortgage or rent payments.

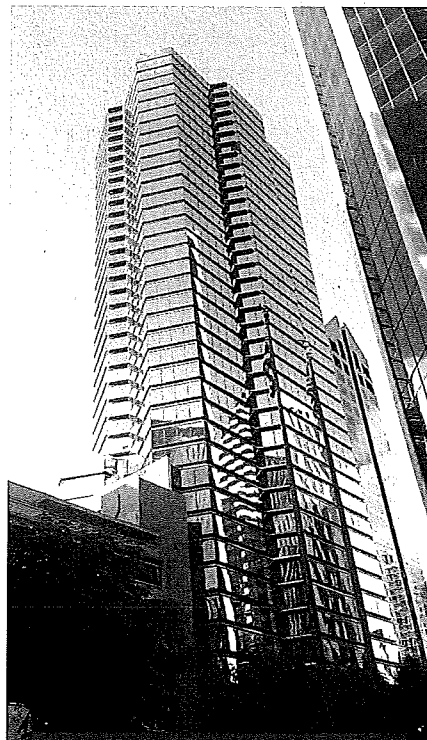
Some contend that STRs may exacerbate the shortage of lower cost rentals because landlords, attracted by the higher revenue stream from STRs, are taking apartments out of long-term rentals, especially in tight markets like New York and San Francisco (Monroe 2014; Moskowitz 2015). Others say high tenant demand and demographics are the cause of the problem, not STRs, which are a small share of the market (Lewyn 2015; Rosen 2013).

Aging in Place

Short-term rentals of rooms in homes and apartments not only provide additional revenue for those aging in place, but they may provide an opportunity for sharing of chores and bartering for services, just as accessory apartments do. This can enable older people to stay in their homes longer before transitioning to an independent or assisted living facility.

Commercial Lodging

The only possible benefit of STRs with regard to existing commercial lodging is that it may stimulate competition and lower prices for the consumer. The negatives are several. Short-



Robert H. Thomas

➡ This condo hotel in downtown Honolulu includes owner- and long-term renter-occupied units, privately owned units available for daily rental through the building's hotel operator, units owned by the hotel operators, and privately owned units available for short-term rental through Airbnb and similar sites.

term rentals may reduce commercial lodging revenues. In many situations STRs have an advantage over commercial lodging because the STRs do not pay the occupancy taxes paid by commercial lodging. Short-term rentals generally do not need the service workers employed in commercial lodging. Unions and service workers often oppose STRs.

State and Local Government

Revenues to state and local government may go down as a result of STRs because, as noted, such rentals usually do not pay the occupancy and other taxes levied on commercial lodging. Airbnb does provide 1099 forms to hosts to report their income, and it has begun collecting and remitting hotel and tourist taxes in San Francisco; San Jose, California; Chicago; and Washington, D.C. (Hantman 2015).

Health and Safety

Much of the STR market today is unregulated. Those who rent typically do not have their premises inspected to determine compliance with health, building, housing, and safety codes. For its part, Airbnb does clearly state in its terms of service that some localities have zoning or administrative laws that prohibit or restrict STRs and that "hosts should review local laws before listing a space on Airbnb."

Airbnb also provides a guide to responsible hosting on its website, and what they do address is good guidance for local planners and regulators, and thus worth reading. How many hosts read and follow up on the suggestions is another matter. Airbnb's list is still a good starting point for local action.

Many STR hosts do not have home owners and liability insurance to cover losses that may result from occupancy. There is a life safety issue here, and in the event of death, injury, or property damage, there may not be insurance coverage or sufficient assets available to cover the liability.

AN OUNCE OF PREVENTION IS WORTH A POUND OF CURE

So said Benjamin Franklin, and it is apt here. You need only take a few relatively easy steps to get out ahead of the potential problems with STRs and capitalize on the good that such rentals can provide your community.

Moratorium

This is not a recommendation, but something worth considering. As you work down this list of

steps you will have the sense that you need to do six things at once. You do. One way to get a grip on it is take a “planning pause” moratorium on all STRs for, say, six months, during which time no one can rent. However, given that the number of such rentals in many places is still relatively small, it is unlikely that much harm will come from letting them continue on while you plan and prepare to regulate. It may not be worth the effort to have a moratorium. A moratorium takes time—for drafting, maybe some legal advice, and the expenditure of political capital in most cases—and may cause some pushback from those already renting, all of which may cost more than the planning pause is worth. Moratoria sometimes serve only to delay the inevitable hard work and are often extended. Back to Ben Franklin: “Don’t put off until tomorrow what you can do today.”

Education

Learn what is available out there now by going to all of the websites and services that you can find, most of which are identified here. Look online to see what STRs are being offered in your community. You may be surprised at how many of your friends and neighbors are already in the STR business. Don’t forget to check Craigslist as well, and use an online search engine, such as Google, with a few key terms, like “rentals Anytown” and “house-sharing Anytown,” to find other STR activity.

Conduct educational sessions in your community (“Everything You Need To Know About Short-Term Rentals”) even before trying to regulate, to sensitize present and potential hosts to the need for proper code compliance, fire prevention, emergency response, following rules for rent controlled units, first aid, protecting privacy (e.g., disclosing security cameras), insurance coverage, parking, noise, smoking, pets, childproofing, operation of heating and ventilating systems (including fireplaces and heating stoves), safe access, occupancy limits, deciding what to tell neighbors, home owners association approval, tax obligations, and any required zoning approvals. These sessions may also provide an opportunity to learn who is renting and to connect with them. Consider establishing a section of your municipal website as a resource portal. You will not have all the answers to all the questions as you start, but you need to start.

Planning

Yes, planning. The rational planning model in its simplest terms is what do you have, what do

you want, and how do you get it. You need to know who is renting and what is being rented to whom for how long. You need to determine what you may expect in the future. What do you think the demand is for STRs, in what mix of accommodations, and for what length of tenancy? This will prove useful to deciding whether you need to limit the number of units available for STR and to regulate the length of occupancy.

Regulate

Regulation probably will come in two forms: licensing of individual hosts to insure code compliance and general regulation (either through zoning or licensing standards) as to location, number of units, and terms of tenancy. You will have to draw the line somewhere as to what is an STR and what is simply an unregulated rental.

Conduct educational sessions in your community even before trying to regulate, to sensitize present and potential hosts to the need for proper code compliance.

Is an STR a rental of less than 30 days or 90 days, or some other somewhat arbitrary number of days, and everything else is just an unregulated rental? It is for you to decide. You will also want to consider whether owner-occupied STRs might be regulated less strictly, given that the owner is present during the STR.

Austin, Texas, has a robust program with licensing. They carve out three types of STRs: owner-occupied single-family, multifamily, or duplex units (Type 1); single-family or duplex units that are not owner occupied (Type 2); and multifamily units that are not owner occupied (Type 3). There is a three percent limit by census tract on the Type 2 single-family and duplex STRs, a three percent limit per property on Type 3 STRs in any noncommercial zoning district, and a 25 percent limit per property on Type 3 STRs in any commercial zoning district. However, each multifamily property is allowed at least one Type 3 STR, regardless of these limits.

Austin has separate application forms for Type 1 primary, secondary, and partial STRs. All of these forms include owner and property identification information as well as insurance information, number of sleeping rooms, occupancy limit, and average charge per structure. To qualify as a Type 1 primary STR, the unit must be owner occupied at least 51 percent of the time and can only be rented out in its entirety and for periods of 30 days or less. To qualify as a Type 2 secondary STR, the unit must be accessory to an owner-occupied principal residence and can only be rented out in its entirety and for periods of 30 days or less. To qualify as a Type 1 partial unit, namely a room rental, the unit must provide exclusive use of a sleeping room and shared bathroom access. Only one partial unit can be rented out at a time, to a single party of individuals, and for periods of 30 days or less. Owners must be present for the duration of the rental.

The annual licensing fee for STRs in Austin is \$235. Applicants must also pay a one-time notification fee of \$50.

Of course, as with all regulation there are those with schemes to beat the regulation. There are sites online that advise potential STR hosts to avoid posting on Craigslist, use Airbnb’s community and social features to screen the reservations (presumably to avoid enforcement types), “hide your home” by using Airbnb’s public view that only shows a large circle within which the unit is located, use word of mouth (or social networking sites) to rent the unit, and “get lost in the crowd” in that there are thousands of listings in large places like Austin (but not in the rural counties, suburbs, and small towns). This advice to those interested in breaking the law suggests that it will not always be easy for code enforcement to find the STRs. Perhaps some notice to all property owners, maybe a note with the tax bill, telling them of the need to register would help. Free, simple, online registration might increase compliance. The critical issue is life safety—you need to find all of these STRs to make sure they are safe.

San Francisco has an Office of Short-Term Rental, and in 2014 the city adopted major revisions to its planning codes for STRs. Those amendments include some useful definitions of hosting platform, primary residence, residential unit, short-term residential rental, and tourist or transient use. The code requires registration, occupancy of the unit by the owner not less than 275 days a year, maintenance of records for two years, certain insurance coverage, payment of transient occupancy taxes, compliance with the

housing code, posting the registration number on the hosting platform's listing, and a clearly printed sign inside of the front door with the locations of all fire extinguishers in the unit and building, gas shut-off valves, fire exits, and pull fire alarms. The application fee and renewal fee every two years is \$50. The hosting platform has numerous responsibilities, and there are fines for violations. It is a good model from which to start.

Isle of Palms, South Carolina, regulates STRs through zoning, defining an STR to be three months or less. The city's STR standards limit the number of overnight occupants to six and daytime occupants to 40 (can we assume a wedding party or the like?), set a minimum floor area per occupant, and establish off-street parking requirements.

Monterey County, California, also regulates STRs in its zoning code, defining STRs as rentals between seven and 30 consecutive calendar days. The county considers stays of less than seven days to be a motel/hotel use. The regulation provided for administrative approval of all STRs in operation at the time of its adoption in 1997 if the property owners applied within 90 days. Most of the existing, legal STRs date from that initial round of approvals. Since then, there have been some discretionary approvals, and many STRs are believed to be operating without the required permits.

San Bernardino County, California, permits STRs, defined as rentals of less than 30 days, by zoning in the "Mountain Region" by special use permit exempting multifamily condominium units in fee simple and timeshares with a previous land-use approval. The development standards include code compliance, maximum occupancy based on floor area per occupant and the number of beds, off-street parking requirements, and signage specifications. Conditions of operations address the contents of the rental agreement, posting of the property within the unit with all the conditions of use, and details of fire safety and maintenance, even including a prohibition on the use of extension cords.

Miami Beach, Florida, prohibits STRs in all single-family homes and in many multifamily buildings in certain zoning districts.

Registering all these STRs can be burdensome. Since May 1, 2015, Nashville has issued 1,000 permits, and staff estimates the city still has 800 illegal hotels and motels (Bailey 2015). Wait times for all types permits went from 30 minutes to four hours because of all the STR registrations (Bailey 2015).

THE MAKINGS OF WORKABLE PROGRAM

Overarching issues to consider include the nature of the activity you aim to regulate, the management structure of the STR, and the limits on STR use.

What Is the Nature of the Activity You Will Regulate?

Presumably, hosting a STR is a private enterprise and almost certainly not a commercial lodging business. It is a type of lodging that is largely advertised online, through social media, and on bulletin boards. How will you draw the line between that modest, private activity and a commercial operation?

How Is It Managed?

Does the host have to be the owner, and does the host need to be there during the rental? If not, will you regulate differently in terms of numbers of units allowed, number of days per year, or terms of occupancy?

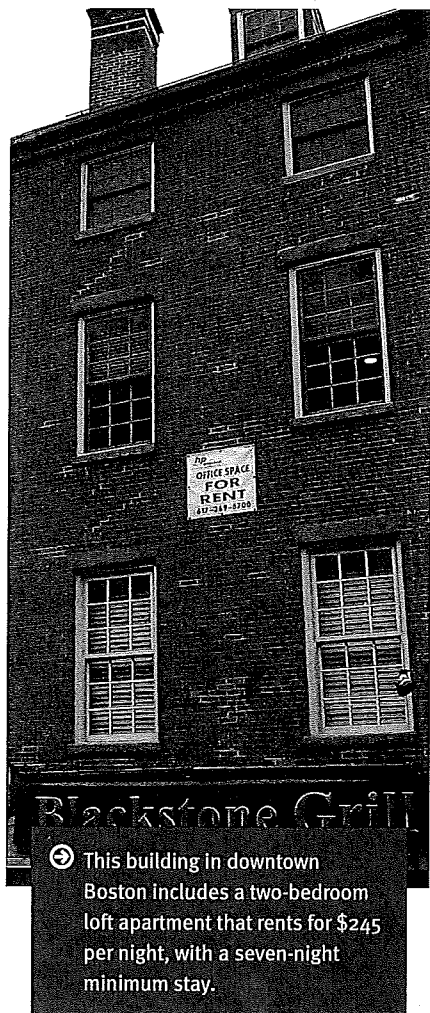
What Is the Limit of Use?

Will you require the host to live in the residence at least some minimum number of days per year? Will you limit rentals to some maximum number of days per year? Will you define STR as a rental of 30 consecutive days or less and not regulate longer rentals in any way? Will you regulate whole-house, exclusive-use rentals differently, for example by only regulating when the house is rented for less than a week or two weeks? And will you regulate renting of rooms on a different schedule, for example by including room rentals only if they are less than one month and otherwise not regulating longer room rentals, which may be covered by zoning anyway, possibly under the definition of a rooming house? There are so many questions to be answered and so many lines to be drawn.

A checklist of considerations for hosts and public officials for planning, regulation, and operation might include current zoning requirements; applicable codes (sanitation, health, building, occupancy among many); business licensing; business organization (none, limited liability corporation, general or limited liability partnership, Subchapter S, etc.); home owners association covenants and restrictions; other easements, covenants, restrictions on the land; lodging to be offered (room, whole house, host-occupied, length of stay); 911 marking at the street; emergency notifications; food service (permitted? licensed?); federal, state, and local taxes; safety inspections; fire, smoke, CO₂, and other detectors; fire extinguishers; child safety; parking; insurance; emergency notifications; water and septic; safe hot water temperature; electrical and plumbing in good repair; pest/vermin-free (especially bed bugs); ventilation, heat, air conditioning adequate; no hazards; no mold or excessive moisture; working doors, windows, and screens; adequate means of egress; linen sanitation; and pool and spa maintenance.

YOU'VE MADE YOUR BED . . .

So goes the idiom from the French as early as 1590: "Comme on fait son lit, on le trouve" (As one makes one's bed, so one finds it). In planning for and regulating STRs, you will indeed be the ones making the bed, and you will have to lie in it. There are benefits and burdens in how you permit STRs and many considerations to be weighed. If you start with life-safety issues first, you can be quite certain the most important aspect of this rapidly emerging sharing economy phenomenon will be addressed. After that, it is the usual planning and politics.



Karla L. Charfee

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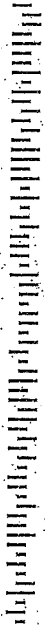
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DOES YOUR COMMUNITY
REGULATE SHORT-TERM
RENTALS?

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