SHOREVIEW PLANNING COMMISSION
MEETING MINUTES
January 28, 2014

CALL TO ORDER

Chair Solomonson called the January 28, 2014 Shoreview Planning Commission meeting to order at 7:00 p.m.

ROLL CALL

The following Commissioners were present: Chair Solomonson, Commissioners, Ferrington, McCool, Proud, and Thompson.

Commissioner Schumer arrived at 8:10 pm.

Commissioner Wenner was absent.

APPROVAL OF AGENDA

MOTION: by Commissioner Proud, seconded by Commissioner Ferrington to approve the January 28, 2014 Planning Commission meeting agenda as submitted.

VOTE: Ayes - 5 Nays - 0

APPROVAL OF MINUTES

MOTION: by Commissioner Proud, seconded by Commissioner Ferrington to approve the December 3, 2013 Planning Commission meeting minutes, as submitted.

VOTE: Ayes - 5 Nays - 0

MOTION: by Commissioner Ferrington, seconded by Commissioner McCool to approve the December 10, 2013 Planning Commission meeting minutes.

VOTE: Ayes - 3 Nays - 0 Abstain (Proud, Thompson)

REPORT ON CITY COUNCIL ACTIONS:

Presentation by City Planner Kathleen Castle

The City Council took action on the following applications as recommended by the Planning Commission:

- Denial of the Minor Subdivision for Saint Marie, LLC
- Approved Rezoning and Preliminary Plat for Pulte Homes of Minnesota, LLC at 5878 Lexington Avenue

- Approval of Rezoning, Comprehensive Guide Plan, Preliminary Plat, Planned Unit Development - Development Stage for United Properties Residential, LLC, 4785 Hodgson Road and 506 Tanglewood Drive
- Concept Review of Osterbauer/Zawadski Homes - concerns were expressed about the use of private drives and use of alleyways
- Approved Conditional Use Permit for Vishal and Holli Sookhal, 1001 Island Lake Avenue
- Approved Conditional Use Permit Amendment for Beth Sipe and Donna Garbowski, Paulson Addition, Inluding 218 Galtier Place
- Approved Verizon Wireless Telecommunications Facility Permit at 5880 Lexington Avenue
- Approved Text Amendment to Section 211.070 Housing Code

OLD BUSINESS

VARIANCE EXTENSION

FILE NO.: 2495-13-22
APPLICANT: KEVIN & SARA OUSDIGIAN
LOCATION: 5107 ALAMEDA STREET

Presentation by City Planner Kathleen Castle

The City Council approved a minor subdivision with a lot width variance at its October 7, 2013 meeting. The request to reduce required building setbacks for Parcel B was tabled by the Planning Commission and the review period extended 120 days to January 22, 2014. The applicant is requesting the Planning Commission to table the setback variance and additional 120 days in order to develop a building plan for Parcel B.

MOTION: by Commissioner Proud, seconded by Commissioner Ferrington to extend the review period for an additional 120 days, subject to the recommendation of staff and request by the applicant.

VOTE: Ayes - 5 Nays - 0

NEW BUSINESS

VARIANCE

FILE NO.: 2512-14-02
APPLICANT: MICHAEL MORSE
LOCATION: 1648 LOIS DRIVE

Presentation by City Planner Kathleen Castle

The request is for three variances regarding a garage on his property. This application is similar to the requests heard by the Planning Commission in 2011 and 2012. The structure was

constructed without a permit. A Stop Work Order was issued. Variances were requested to complete the structure and were denied both by the Planning Commission and City Council based on lack of practical difficulty. In December 2011, the City Council ordered abatement and removal of the structure. The structure remains. The City filed a complaint with the District Court and prevailed. The applicant has appealed the decision, but the Appellate Court has not yet heard the case.

The Development Code allows an applicant to file the same or similar application 6 months after denial. The variances requested to keep a constructed garage on the property are:

- To exceed the maximum area permitted from 576 square feet to 1100 square feet
- To exceed the combined area permitted from 691 square feet to 1100 square feet
- To reduce the required 5-foot side setback to 2.3 feet

The applicant states practical difficulty is present and that the proposed structure and variances support Section 201 Purpose and Intent. Economic considerations support a variance. There are unique circumstances present due to limited visibility of the garage from the street, and there are other large garages in the neighborhood.

Staff does not believe practical difficulty exists. The applicant can use the property in a reasonable manner. The proposed detached garage does not meet City standards for height, size and location. The foundation area of the home is less than the 1100 square feet proposed for the garage. It is the intent for accessory structures to remain secondary to the principal dwelling structure. The size of the proposed garage is not reasonable for the property. The impact of its size cannot be mitigated from the west because of the proposed setback. Staff does not find unique circumstances that would warrant the variances. There are some garages in the neighborhood that exceed current standards, but most are in compliance. The mass of the structure and impact to nearby properties is a concern. There are also concerns about maintenance of the western wall that is so close to the property line. The request is based on personal needs and the fact that no application was made for a permit for the structure.

Commissioner Proud asked for information on the original garage that was on the subject property. Ms. Castle stated that the first garage was 360 square feet and set back 6 feet from the lot line.

Mr. Zorislav Leyderman, 222 S. 9th Street, Suite 1600, Minneapolis, MN 55412, stated that he is an attorney representing Mr. Morse. He stated that he is familiar with what has happened in the past. Before construction, Mr. Morse did look at other garages in the neighborhood. One neighbor told him that he built a garage without a permit. Mr. Morse then began construction on the garage in question. The decision should be different in resolving a problem for one who already has a garage than one who is planning to build a garage. He requested that all pictures and documents be reviewed and that Commissioners tour the neighborhood. He requested that all documents and photographs be entered into the record for this case. Mr. Morse has children in sports. The house is small, and they have no space. The basement is used as living space. The garage is for storage.

There are residents who were in similar situations as Mr. Morse, but the situations were resolved with variances while Mr. Morse was ordered to take his garage down. The Code requires the accessory structure be 75% of the square footage of the house, and the setback from the property line needs to be 5 feet.

The character of the neighborhood is filled with small homes with many strange structures on the lots with additions, garages, garages with additions, sheds and sheds with additions. This is a result of houses being small and residents have no space for storage. The proposed garage will fit in the neighborhood. It is not a giant structure that sticks out on the street.

Mr. Morse cannot use his property in a reasonable manner without the garage for storage. The size of the house is a unique circumstance. The drainage ditch on the east side of the property is a unique circumstance which impacts use of the property. The new garage was set in the same location as the old one using the same driveway. Moving the garage to a 5-foot setback would mean a new driveway. The Commission and staff have used the reasons of the amount of disturbance of landscaping and existing driveways to grant similar variances. The large garage is not unusual in the neighborhood and will not impact the neighborhood. Dominant structure does not only mean size but how a structure looks and is used. The plans have been modified to eliminate the second floor of the garage.

The property at 1601 Lois Drive is a 901 square foot home, according to Ramsey County records. In 2001, a permit was issued for a 924 square foot garage, although prior to recent changes to the Code.

At 1656 Lois Drive is the next door neighbor who built a garage without a permit. The house is 768 square feet. City records show the house at 928 square feet. The new garage without a permit is 768 square feet. No matter the size of the house, the garage exceeds the size allowed by the Development Code. The property owner applied for a permit after Mr. Morse's lawsuit. A permit was granted with no variance.It is not unreasonable to purchase property and demolish an old garage that is in need of repair to put up a new and bigger one and without a permit, since his neighbor did.

Mr. Leyderman then cited several other properties in the City where garages were approved with variances similar to those requested by Mr. Morse: 5405 Carlson Road, 1000 Oakridge and on 5186 Lexington, 5555 Wood Duck Court, 266 Owasso Lane. Some had not been built with permits but were granted permits with variances after the fact. These examples were found in City records and submitted as exhibits.

It is a standard feature in the neighborhood for garages/sheds to be too close to property lines and structures built without permits that are not being asked to be torn down. Examples include 1620 Hillview Road, two houses at 1620 and 1614 Lois Drive, 1633 Hovey Lane, 1687 Hovey Road, 1688 Lois Drive, 1698 Lois Drvie, 1715 and 1707 Lois Drive, 1729 and 1723 Lois Drive, 1741 and 1735 Lois Drive, 1746 Pinewood Drive, 1768 Pinewood Drive, 1774 Pinewood Drive, 1881 Hillview Road, 1811 County Road I, 5577 Schutta Road, 5592 Schutta Road,5600 and 5608 Schutta Road, 5615 Fairview Avenue, 5645 Schutta Road--barn-like structure that has a permit and does change the character of the neighborhood), 5655 Schutta Road, 5100 Alameda, 1658

Oakwood, 1637 Lois Drive, 1608 Lois Drive, 1691 Terrace Drive, The question is why these properties are allowed oversized garage and encroachments into setbacks, but Mr. Morse is not.

There are also a number of properties that were shown to illustrate outside storage that normally would not be allowed because of the small houses and garages in the neighborhood. All of the properties listed and illustrated were described in the Commissioners' packet. The examples were presented to indicate the character of the neighborhood. Allowing the applicant a large garage for storage

The cost of the applicant's garage is $40,000, and it would be another $40,000 to move it and bring it into compliance. The applicant is not able to afford moving it or demolishing it or paying for demolishment expenses, if the City were to take it down. A letter was submitted by Darlene Lund, Mr. Morse's neighbor, 1643 Lowes Drive, which is in Commission's records.

In summary, the applicant's garage will not be dominant and is 10% of the lot, not 25% that was previously presented. The garage does not impact the appearance of the neighborhood or open space. The unique circumstance is the small size of the home. Moving is not an option because of the expense. The lot is small and the drainage easement is a unique circumstance and justifies a variance. All the examples of other violations shown are the key to this case. There is not an issue of precedent. The precedent has already been set. There is a pattern of illegal buildings and noncompliant setbacks for many years.

The applicant's garage has been determined to be a public nuisance. The question is why these other properties are not declared public nuisances. The applicant would like to be treated like everyone else

Chair Solomonson noted that Commissioner Schumer arrived at the meeting at 8:10 p.m. At this time in the meeting it is 8:45 p.m.

Commissioner McCool asked what process the applicant has been denied. Mr. Leyderman answered that the applicant has been granted opportunity to present applications. Commissioner McCool asked the Mr. Leyderman to cite the authority pertaining to a different legal standard to apply. Mr. Leyderman stated that the Commission has the discretion to make a decision based on a property owner's need. It is important to look for reasonable solutions.

Commissioner McCool asked how the drainage ditch impacts the size of the garage. Mr. Leyderman stated that the City has suggested a shed. However, the drainage ditch takes away from the property that can be used.

Commissioner Proud asked for a statutory citation that would support consideration of the applicant's economic justification. Mr. Leyderman stated that significant resources and expense have been invested. That is a condition that should be considered. Commissioner Proud asked if there is a solution without demolition. Mr. Leyderman stated that attempts have been made to get quotes on a solution that does not demolish the whole garage, but the applicant has not been able to obtain such quotes.

Commissioner Proud stated that he would like to see continued effort for an architectural solution. Mr. Leyderman stated that several contractors have indicated the garage would have to be demolished first. That solution would be a cost that the applicant is unable to incur.

Commissioner Ferrington noted that many of the examples shown are situations created before 2006. It is not fair for the public to hear of an example dated back to 1993. Further, the variance granted at 5186 Lexington is a property with over an acre of land. The example of Wood Duck Court is also a large lot, and the house is 3000 square feet. The garage is not the dominant structure. At 226 Owasso Lane, the application was to extend the garage 2 feet to allow storage of a vehicle and a boat.

Ms. Janelle Ziniel, 1648 Lois Drive, stated that the property at 1658 was issued a permit after the fact for a garage 83% of the dwelling and that a variance would be required if there was construction in 2013. The City followed 2000 standards and did not ask for proof of when the garage was built. The property at 5555 Wood Duck also received a permit after the fact and staff did not determine when the slab was placed on which the garage was built. Staff concluded practical difficulty as a result of the slab. The problem is the wording that qualifies others to have a variance but not them. As to reasonable use, staff has cited the Code that states that detached garages are a reasonable use of property for storage.

Ms. Ziniel then used a number of exhibits described by Mr. Leyderman to show that justification for a variance granted other properties is the same justification for their request. Exhibit 3 is a property with a width of 75 feet with a drainage easement of 1200 square feet of unusable land. It is logical that the house, garage and driveway were shifted east as a result of that easement and the same with their property.

In Exhibit 4, staff justifies not moving a slab surface because of the site disturbance that would result. It would be the same for their project. Yet they are being asked to move it. In Exhibit 5, a variance was granted because construction was on the same location as the previous structure. That is what the applicant is doing. Moving the garage closer to the house would mean curving the driveway to enter a garage that extends into the back yard.

A neighbor with the same size lot as theirs has a home of 2200 square feet and a side wall extending 60 feet in length. That is a visual impact and 18% of the property. Their house and garage combined is 10% of their lot. It is not fair to say their lot is overbuilt. The City believes the old garage was 6 feet from the property line. She believes that is incorrect as their driveway is 5 feet from the property line.

Although requested to remove it, the structure remains because of the investment put into it and they cannot afford to take a loss. There are multiple code violations in the neighborhood. They would like to know exactly who is calling with concerns that the garage is still there. It is frustrating to see other garages in the neighborhood that are in violation of Code when they are being asked to take theirs down.

Mr. Michael Morse, Applicant, stated that at 266 Owasso Lane, the point that they are trying to make is that the extension is for personal use. The shed on the County Road I property was

approved for a variance for height, square footage and setback--the same that he is requesting. The garage cannot be moved to make it smaller because of the integrity of the wall and how it is constructed.

Commissioner McCool said that he agrees with Commissioner Proud that there is a construction solution and asked if Mr. Morse has received quotes on moving the garage. Contractors he has talked to about moving it have stated that it is best to tear it down and start over because of the way it is constructed.

Commissioner Proud stated that there needs to be a discussion of compromise and creativity to get to a solution. To that end, he would recommend the matter be tabled. If the application is denied, there will be another six months before there could be review of the same application.

City Attorney Kelly stated that the City is under a timeline. City Planner Castle stated that the application was completed January 10, 2014. Staff has met with Mr. Morse to discuss compromise. Unfortunately, no compromise has been reached and she is not hopeful that a different application would be submitted to the Commission.

Commissioner Ferrington expressed disappointment that an application reaches such an impasse. She agreed with tabling the matter to allow everyone to step back and take time to negotiate and consider what needs to be done.

Chair Solomonson stated that this would be an example of the smallest home with the largest garage. He would like to see a compromise but understands that may not be possible structurally.

Commissioner McCool stated that this is not a good situation, but he does not favor the variance. There is resistance to reducing the size. The long presentation is confusing. The question of reasonable use is not whether the applicants will be using their garage reasonably. The test is it reasonable for this parcel in Shoreview. Personal needs of storage cannot be solved with a variance. The size of the house is not necessitating the size of the garage. The drainage ditch may push the location of the garage, but it does not dictate the size. If completed, the garage would be the dominant structure on property. The examples shown in the presentation is a selection of bad situations in the City. To allow the variance because of other code enforcement issues does not make sense. There has been an implication that there is a vendetta against the applicant, which is offensive. The Commission works very hard. Each application is reviewed separately on its own merit. The Planning Commission and City did not create this situation. He would not have voted in favor of this structure had the application been submitted before construction. The criteria for the variances have not been met. He would not oppose tabling, but there would have to be a major reduction in size.

Commissioner Proud asked if the matter can be delayed without the applicant's permission. City Attorney Kelly responded that in order to extend review time, the applicant's consent is needed in writing. Commissioner Proud asked if the applicant would table the matter to the next regularly scheduled Planning Commission meeting. **Mr. Leyderman** responded that Mr. Morse would agree to table the matter to allow for negotiations.

Commissioner Ferrington asked if there is a willingness to work with the City to bring the structure into compliance. She does not want to allow a 30-day extension that is a waste of time. **Mr. Morse** stated that he does not see compromise if he has to bring the structure into compliance of 576 square feet. Then he does not agree. He is willing to talk to the City to see what may be allowed. The only compromise he has been offered is to bring the garage into compliance. Yet he sees so many other structures not in compliance, which makes it very difficult.

Commissioner Thompson stated that the fact of a lawsuit indicates that there has not been an ability to compromise. The request has not changed. She could support the reduced setback, but the structure is still too big. If the process is going to be delayed, she would want to know that there is potential to reach a compromise.

Mr. Morse stated that he would like to know what the starting point is.

MOTION: by Commissioner Proud, seconded by Commissioner Ferrington to table this application, based on the applicant's agreement in writing, to the next regular Planning Commission meeting February 25, 2014.

Discussion:

Chair Solomonson stated that there is no direction as to what would be acceptable except possibly the reduced setback would be allowed. His concern about the setback is that the distance from the neighbor's living space is very tight. Reduction of the overall size would be helpful, but he also would like to see compliance with the side yard setback.

Commissioner McCool stated that he sees no need to move the structure to comply with the side yard setback. He cannot determine a size that would be acceptable, but it would have to be closer to what would be permitted. There needs to be a better reason for a larger structure than the need for storage.

Commissioner Proud stated that he is not convinced the side wall could not be moved. Creative landscaping could mitigate the visual impact. The height could be reduced, and the overall size could be reduced by shortening the length with a concrete deck on the end of it.

Commissioner Ferrington suggested shifting the structure further back in the front to give neighbors a less oppressive view.

Commissioner Schumer agreed and stated that the garage would look smaller if it were not extended so far in front.

VOTE: Ayes - 6 Nays - 0

Chair Solomonson called a 10-minute break and reconvened the meeting.

PUBLIC HEARING - PLANNED UNIT DEVELOPMENT DEVELOPMENT STAGE - COMPREHENSIVE PLAN AMENDMENT

FILE NO.: 2513-14-03
APPLICANT: LUGENE OLSON/HUMMINGBIRD FLORAL & GIFTS
LOCATION: 4001 RICE STREET

Presentation by City Planner Kathleen Castle

The proposed Comprehensive Plan Amendment is to change the land use of the subject property from mixed office/residential to retail/commercial. This would also amend the PUD zoning of the property. The property is being offered for sale. The applicant has entered a purchase agreement and plans to locate her business, Hummingbird Floral & Gifts at this location. This means converting the main level to retail use. The upstairs would be used for storage.

The property is at Hodgson and Rice Street. Adjacent land uses include institutional, high and low residential and commercial. The entire building consists of 5,400 square feet with 2400 square feet designated for office use and 3000 square feet designated for residential us. There is off-street parking available with 25 stalls, which complies with code requirements. Access is from Rice Street and Hodgson Road.

Staff finds that converting to retail use may be appropriate, if the level of intensity can be controlled to low intensity commercial uses. It is recommended that a condition be approved that would require a PUD amendment if the use or occupancy of the space is changed.

Property owners within 350 feet were notified. One comment was received expressing concern about taxes and traffic on a local roadway. Two comments were received to support the proposal. Staff finds that the proposed low intensity use sis compatible and that future retail use requests can be defined within the PUD. A recommendation of approval by the City Council is requested.

Commissioenr Ferrington asked the reason for concern about the intensity of use when it is adjacent to a church and gas station. Ms. Castle stated that it relates to the restricted parking and two road frontages. There are limited opportunities to expand parking.

Chair Solomonson asked if County expansion of Hodgson Road would impact access to this site. He asked if Ramsey County has been contacted regarding this request. Ms. Castle stated that such road project has not been scheduled, and she is not sure that road right-of-way would be needed. This is not a plat and does not require notification of the County, which would allow the County designation of right-of-way.

Chair Solomonson asked if the types of uses are specified in the motion. Ms. Castle stated that the Development Agreement would specify types of uses that would be acceptable and not acceptable.

Commissioner McCool suggested that the motion stipulate that there is any change of use, a PUD amendment would be required.

Commissioenr Proud suggested changing No. 1 under Comprehensive Plan Amendment to read, "...Commercial for purposes of...".

City Attorney Kelly stated that proper notice has been given for the public hearing.

Chari Solomonson opened the public hearing.

Ms. Olson, Applicant, stated that this is a great low intensity use. Much of her business is through the internet. Sometimes local artists are showcased. She would like to see added landscaping and more flowers that would be a welcoming corner.

MOTION: by Commissioner Schumer, seconded by Commissioner McCool to close the public hearing.

VOTE: Ayes - 6 Nays - 0

MOTION: by Commissioner Ferrington, seconded by Commissioner Schumer to recommend the City Council approve the following requests submitted by Lugene Olson, Hummingbird Floral and Gifts, to convert the existing mixed use office/residential building at 4001 Rice Street to a retail use. Said recommendation for approval is subject to the following conditions.

Comprehensive Plan Amendment

1. The amendment changes the land use designation from O, Office to C, Commercial.
2. Review and approval of the amendment by the Metropolitan Council.
3. The amendment will not be effective until the City grants approval of the PUD - Final Stage request.

Planned Unit Development – Development Stage

1. The PUD permits the use of this property as C, Commercial for a retail floral and gift store.
2. Vehicles used for the retail use may be parked outside. The maximum number of vehicles permitted is one.
3. The structure and uses must comply with the Building Code. A Building Permit is required prior to commencing any remodeling work.
4. The property owner shall enter a PUD – Development Agreement prior to occupancy of the building. This Development Agreement shall identify low intensity retail uses that would be permitted in the building, prohibited uses and change of use or occupancy.

This approval is based on the following findings:

1. The proposed plan supports the policies stated in the Comprehensive Plan related to land use and economic development.
2. The proposed development plan will not adversely impact the planned land use of the surrounding property provided the intensity of commercial uses is limited through the PUD.

Discussion:

Commissioenr Proud offered an amendment to condition No. 1 under Comprehensive Plan Amendment to read, "The amendment changes the land use designation from O, Office to C, Commercial for the purposes of a flower and gift shop." Commissioners Ferrington and Schumer accepted the amendment.

Commissioner McCool suggested that the motion amendment would be better suited to the PUD rather than the Comprehensive Plan and is covered under condition No. 1 of the PUD.

Commissioner Proud agreed and withdrew his amendment.

Commissioner McCool offered an amendment to condition No. 1 of the PUD that would add, "Any future use would require an amendment to the PUD." Commissioners Ferrington and Schumer accepted the amendment.

VOTE: Ayes - 6 Nays - 0

PUBLIC HEARING – TEXT AMENDMENT – SUBSURFACE SEWAGE TREATMENT SYSTEMS

FILE NO.: 2514-14-04
APPLICANT: CITY OF SHOREVIEW
LOCATION: CITY WIDE

Presentation by Senior Planner Rob Warwick

A text amendment is proposed to comply with state statute and administrative rules of the Minnesota Pollution Control Agency (MPCA) that regulate subsurface sewage treatment systems, or septic systems. The legislature also revised statutes and the regulatory framework for counties and municipalities that must provide local enforcement. There are 11 septic systems in Shoreview. This number is not expected to increase because subdivision regulations require municipal sewer and water services. However, there is one corner in the northeast part of Shoreview where it would be difficult to connect to City services.

The text amendment provides technical standards for design and construction as specified in MN Rules 7080 and 7081, which are adopted by reference. The revisions do not change the requirements regarding maintenance of existing systems for pumping and compliance inspections. All systems in the City serve individual dwellings with a capacity of up to 2500 gallons a day. A mid-size system could be allowed in the City, but at this time there are none.

Property sellers must provide buyers with a disclosure describing the method used to treat sewage generated on the property. State statute does not require a Certificate of Complaince showing that the system operates within state requirements, but the City amendment requires a

Certificate of Compliance. The amendment includes administrative procedures for permits, enforcing regulations and maintaining existing systems.

The City's Building Official has obtained the necessary training to oversee these regulations.

Notice was mailed to current property owners who are system users. Two phone calls were received from residents wanting assurance that the regulations will not affect use of the existing system. Staff is requesting a public hearing and a recommendation to the City Council to approve the text amendment.

City Attorney Kelly stated that proper notice for the public hearing.

Chair Solomonson opened the public hearing. There were no comments or questions.

MOTION: by Commissioner Schumer, seconded by Commissioner Thompson to close the public hearing.

VOTE: Ayes - 6 Nays - 0

Commissioner Proud asked who would be exempt from licensing as referenced on page 5. Mr. Warwick explained that the MN Rules stipulate that licensed workers can supervise unlicensed workers and certain workers are exempt from licensing for certain tasks.

Commissioner Proud asked if there are technical standards that address termination of use. Mr. Warwick that those standards are covered by state Rules, but counties and municipalities are required to have an ordinance. Ramsey County does not have an ordinance which means the City must have an ordinance.

MOTION: by Commissioner Schumer, seconded by Commissioner Proud to recommend the City Council approve the text amendment to Chapter 209.090, Subsurface Sewage Treatment Systems of the Municipal Code pertaining to subsurface sewage treatment systems (septic systems).

Discussion:

Commissioner Proud stated that he does support the enhanced disclosure.

Commissioner McCool expressed concern about enhanced disclosure because property changes hands among those who do not read these codes. This means a huge education component. It also makes it cumbersome to sell property. Most people purchase property with a septic system that has been inspected. He would support eliminating the enhanced disclosure. He would strike 1-8 under N on page 6.

Commissioner Proud stated that he could accept deleting the enhanced disclosure as recommended by Commissioner McCool.

Commissioner Ferrington verified that the City Council would review the stricken language to make their own determination.

MOTION: by Commissioner McCool, seconded by Commissioner Proud to amend the motion by eliminating Section N, 1 through 8 on pages 6 through 8, under 209.090.

VOTE ON THE AMENDMENT: Ayes - 6 Nays - 0

VOTE ON THE AMENDED MOTION: Ayes - 6 Nays - 0

WIRELESS TELECOMMUNICATION FACILITY PERMIT

FILE NO.: 2511-14-01
APPLICANT: CROWN CASTLE
LOCATION: 4615 NORTH VICTORIA STREET

Presentation by Senior Planner Rob Warwick

Crown Castle on behalf of Verizon Wireless LLC has submitted an application for collocation at the Crown Castle monopole at the City Maintenance Center behind the ice arena. The application includes antennas and an equipment shelter 12 feet by 30 feet with an emergency power generator at the north end of the site. The area is fenced with access by the driveway north of the ice arena. A total of 12 antennas would be added to the monopole at 105 feet. Antennas will be painted to match the pole. No operational problems will result for City operations or maintenance staff.

RF Emissions must comply with FCC emissions. OWL Engineering will verify compliance when the site is operational. A site lease agreement will be required with the City. The applicant is required to enter into a Wireless Telecommunications Agreement with the City.

Notices were mailed to property owners within 350 feet. Two responses were received supporting the application. Ramsey County Parks staff expressed some concern about potential construction impact on the ice arena operations. Xcel Energy noted an underground gas line nearby which needs to be located before construction.

Staff is recommending forwarding the application to the City Council for approval with the conditions listed in the staff report.

Commissioner Proud asked that staff verify that the fuel capacity equals the containment of the tank.

MOTION: by Commissioner Schumer, seconded by Commissioner McCool to recommend to the City Council approval of the Wireless Telecommunications Facility Permit application submitted by Crown Castle USA on behalf of Verizon Wireless LLC to collocate antenna on the

existing monopole located at 4615 Victoria Street, and to install an equipment shelter within a 20 by 30 leased area, subject to the following conditions:

1. The project must be completed in accordance with the plans submitted as part of the Wireless Telecommunications Facility Permit application. Any significant changes to these plans, as determined by the City Planner, will require review and approval by the Planning Commission.

2. This approval will expire after one year if a building permit has not been issued and work has not begun on the project.

3. This approval is contingent upon the City Council authorizing the ground lease with Verizon Wireless LLC, including the 20 by 30 foot equipment site and an easement for ingress and egress.

4. This approval is contingent upon Crown Castle, the monopole owner, authorizing and executing a site lease agreement for vertical space on the monopole with Verizon Wireless LLC.

5. The site is subject to confirmation that RF emissions conform to FCC requirements. Verizon shall notify the City when the system is installed, prior to operation. A City selected RF engineer shall be provided access to the site to test RF emissions.

6. A permanent emergency power generator may be installed within the equipment shelter. The emergency power generator shall be used for emergency power only, except the times it is being run for routine maintenance, which shall not exceed thirty (30) minutes once a week between the hours of 10:00AM and 5:00PM CST, Monday through Friday, holidays excluded. The operation of the emergency generator shall comply with City regulations pertaining to Noise (Section 209.020 of the Municipal Code).

7. The applicant shall enter into a Wireless Telecommunications Tower/Antenna Agreement with the City, as required.

Approval is based on the following findings of fact:

1. The site is located in the TOD-2 where wireless telecommunications facilities collocated on an existing tower is a permitted use.
2. The proposal complies with the adopted City standards for Wireless Telecommunications Facilities, as specified in Section 207.040 of the Municipal Code.

VOTE: Ayes - 6 Nays - 0

MISCELLANEOUS

City Council Assignments
City Council Assignments for February 3, 2014 & February 18, 2014 are respectively Commissioners Schumer and Chair Solomonson.

2014 Planning Commission Chair & Vice Chair recommendations

NOMINATION: by Commissioner McCool, seconded by Commissioner Proud to nominate Chair Solomonson and Commissioner Schumer respectively as Chair and Vice Chair for 2014.

VOTE: Ayes - 6 Nays - 0

Workshop

Chair Solomonson noted a Planning Commission Workshop at 6:00 p.m. before the next regular meeting scheduled February 25, 2014. After some discussion, there was consensus to move the workshop meeting to March.

ADJOURNMENT

MOTION: by Commissioner Ferrington, seconded by Commissioner Schumer to adjourn the meeting at 10:56 p.m.

VOTE: Ayes - 6 Nays - 0

ATTEST:

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Kathleen Castle
City Planner