

PROCEEDINGS OF THE ST. CLOUD PLANNING COMMISSION

A meeting of the St. Cloud Planning Commission was held on July 10, 2012, at 6:00 p.m. in the City Hall Council Chambers. Members present were Anderson, Andzenge, DeVine, Holtberg, and Radaich. Chirhart was absent. City Council representative Goerger was present.

Open Forum: No one was present to speak at the open forum.

Consent Agenda: Holtberg moved to approve the consent agenda as follows:

Acceptance of staff reports for July 10, 2012, as part of the official record.

Approval of minutes from the April 10, 2012 and June 12, 2012 Planning Commission meetings

Andzenge seconded the motion which carried unanimously.

Vacation Request/Jim Schiffler: Matt Glaesman, Planning Director, stated that applicant wishes to vacate the drainage easement located between the two undeveloped lots in the Water's Edge at Donovan Lake plat to allow a large building window for the site. The City has no need for the easement, and there are no private utilities located within the easement. Holtberg moved to recommend to the City Council approval of the vacation of the 10' wide drainage and utility easement located between Lots 4 and 5, Block 12, Water's Edge at Donovan Lake (Location: 4713 and 4717 9th St. NE) (VAC-2012-3). The motion was seconded by DeVine and carried unanimously.

Request from the St. Cloud Park and Recreation Department to Construct a Storage Building in Pineview Park: Matt Glaesman, Planning Director, explained the request from the Park & Recreation Dept. to construct a 1,200 sq. ft. storage building in Pineview Park. The City is acting as the applicant. The improvement would be constructed by the Pineview BMX organization for their storage with no monetary contribution by the City. The use is allowed by right. Glaesman noted that the proposed location of the building in a flood hazard area will either require the building to be raised

with fill to the required flood protection elevation but would not require floodproofing the building, or the building could be constructed at the current grade but would have to be floodproofed. Holtberg asked if BMX leases the property from the City. Glaesman said that is correct and explained that if the use ceases, the improvements to the site become the property of the City. Holtberg questioned if the floodplain issue coincides with the updated FEMA maps, and Glaesman answered that it does. Goerger pointed out that the memo from Scott Zlotnik, Park & Recreation Director, states that "The Planning Department has suggested that non-residential uses without water orientated needs the minimum setback can be 75' from Ordinary High Water Mark if the building is substantially screened from view by vegetation or topography." He then asked if that is a suggestion or a requirement. Glaesman answered that it is a requirement. Radaich moved to approve the construction of the 1,200 sq. ft. utility building in Pineview Park. The motion was seconded by Andzenge. Anderson asked for the definition of "floodproofed." Glaesman explained that it relates to the foundation of the building that would keep the building in place and prevent it from floating away and causing damage downstream. Anderson inquired if the building would be inspected to be assured that it is floodproofed; Glaesman responded that it would. The motion carried unanimously.

Presentation of the Proposed CSAH 75 Roadway Design from 33rd Street South to 41st

Street South: Matt Glaesman, Planning Director, stated that the project is scheduled for construction in 2013. The project only includes the Co. Rd. 75 from 33rd St. to 40th St. improvements. There have been relatively few concerns from property owners because the primary purpose of the improvement is to install the median divider in Co. Rd. 75 because of traffic volumes and speed. The only median opening would be at 36th St. So. That corridor is designed to access the North Star Collision property to the west and commercial development on the east side of the corridor. Holtberg asked about access to/from the Fire Station. Glaesman responded that when the Fire Station was located at 3850 Clearwater Rd., the City was aware of this road plan even though there was no median opening at 38th St. The reason for that decision by the Fire Dept. was because the median opening at 38th St. provides no benefit because it only services a limited number of properties due to the large wetland

complex. However, a median opening and signal lights at 40th St. would provide a full 3- lane corridor across south St. Cloud. It is probable that in the future, a backage road will be constructed that would service all development on the east side of the corridor which would also service the Fire Dept. Chairperson Anderson inquired if the intersection with 36th St. includes a traffic signal. Glaesman answered that at this time, it does not; but it will probably be required when development occurs on the North Star Collision site and to the east in the future. He further explained that the Lenmzeier preliminary plat shows a connection west across the wetland. However, the City Council's position was that until there is a proven need for another outlet from 33rd, they will not put in a 36th St. reliever. Chairperson Anderson asked if the corridor incorporates any Complete Streets multi-modal elements. Glaesman stated that discussion occurred as to whether the trail that eventually leads to Warner Lake Park should be along the roadway or a separated trail using the former railroad corridor. The City is planning to purchase the railroad property; therefore, there will be a good connection for non-motorized traffic to Mississippi River Bluffs Regional Park up to Beaver Island Trail and eventually to Warner Lake Park. DeVine asked if the traffic flow change is acceptable to the affected business owners. Glaesman responded that the Gaetz Brothers Partnership who owns the hotel and the potential development site to the north sees the benefit of having access to their property as well as a backage road which removes the need for them to access Co. Rd. 75. He has had discussions with a limited number of owners, but he has had generally positive feedback on the improvements. Jodie Teich, Stearns County Engineer, stated that a public meeting was held in May to which all adjacent property owners were invited. All of them admitted the ideal situation would be direct access with a full median opening and a traffic signal; but at the very least, they need to have full access to their properties. They met with the Gaetz Brothers regarding their hotel and a connection to 38th St. So. There was a concern about the connection on the east side of Co. Rd. 75 with 41st St. So. The County has attempted to bring it in at more of a 90 degree angle to Co. Rd. 75 rather than what currently exists. There currently is no plan for a signal at that intersection, but may be a full intersection at some point in the future with 40th St. So. improvements. Goerger asked if the project

would involve any improvements to the intersection of Co. Rd. 75 and 33rd St. Teich stated there will not be any improvements to that intersection as the improvements will stop 200 to 300 feet short of that intersection. Holtberg asked what determines when a traffic signal is warranted. Teich answered that it is determined by traffic volumes and turning movements. She added that the County will monitor the intersection as development occurs, but typically does not install traffic signals until an intersection meets 8 hour warrants. Holtberg inquired if the project will include any landscaping. Teich stated that current plans are for a concrete median in the center of the roadway for maintenance purposes and 10 foot paved shoulders and turf on the outside of the roadway because of the separated roadway for the trail. Relative to beautification elements, the County would work with the City staff to determine what the City would like to include. Teich added that the County's policy is that they pay for everything from back of curb to back of curb. Anything additional would be at City cost. Holtberg asked if it would be appropriate for the Arts Commission to be involved with placemaking. Glaesman said the City will hire someone to assist the City in the placemaking analysis including wayfinding. Chairperson Anderson asked if the project includes any street lighting, and Teich responded that would be at City cost. Andzenge moved to approve the proposed CSAH 75 roadway design from 33rd St. So. to 41st St. So. The motion was seconded by Radaich and carried unanimously.

Glaesman commented that County and City staff have met with some of the property owners and business owners regarding the 33rd St. So. improvements and will continue those discussions, but have a good understanding of what those owners want to achieve with the redesign. Holtberg asked about phases of the improvements beyond the improvements approved tonight for 2013. Teich stated that at this time, the County does not have reconstruction plans continuing along Co. Rd. 75 other than possible resurfacing. The intersection at 33rd St. So. would only need to be worked on enough to accommodate the 33rd St. widening. Anderson asked if the realignment of 16th St. So. to Co. Rd. 75 is a City project. Glaesman answered that it would be, but not have come to a final decision on it.

2013 Planning and Zoning Department General Fund and Development Fund Budget

Proposals: Matt Glaesman, Planning Director, stated that the City's 2013 budget process is just beginning. He said that slightly higher revenues are anticipated in 2013, and there should be a significant balance of \$1,274,300 at the end of 2013. Glaesman said he expects that one of the recommendations that will be forthcoming from the Zucker study will be for an on-line permitting system that would increase efficiency across departments. It would be appropriate for a portion of that cost to come from the Development Fund. He also noted that mid-year parkland acquisitions could impact the fund balance as well as updated aerial photography. DeVine asked for an explanation of the Miscellaneous Planning Initiatives of \$40,000. Glaesman answered that money would be used for operating expenses such as the Zucker study or smaller expenses. Holtberg asked if the work plan is considered when planning the budget, and Glaesman said it is. Holtberg stated that there has been discussion about Comprehensive Plan and regional plan updates. Glaesman said that based on the direction of the Planning Commission, it was not included in the 2013 budget as it may not be done for several years. Holtberg asked if a reserve line for those items should appear in the budget. Glaesman answered that has been discussed, but believes there would be sufficient funds available in the balance to undertake those processes. He added that the expense would be limited due to in house resources and because only specific portions of the Plans may have to be updated. DeVine commented that she would be hesitant to approve this budget without Zucker Systems' recommendations and moved to table the budget until the August meeting. Glaesman said staff will have some more specific estimates for some of the larger anticipated expenses. The motion was seconded by Holtberg and carried unanimously.

Review of Quasi-Judicial and Procedural Due Process, and Religious Land Use and

Institutionalized Persons Act (RLUIPA): Matt Glaesman, Planning Director, explained that this item is intended to be an open discussion topic regarding how meetings are conducted and due process. DeVine noted that the Planning Commission's position as opposed to the City Council's position is sometimes confusing. For example, the Planning Commission is directed not to have ex

parte contacts, but the City Council may. Glaesman stated that the information included in the packet is basically applicable to the Planning Commission, City Council and Zoning Board of Appeals, e.g., preparation for a public hearing and what can be considered at a public hearing. City Attorney Matt Staehling agreed and emphasized the importance of transparency in public hearings. Any information received by a board/commission/council member from a citizen or citizen group must be shared with the entire body. Staehling acknowledged that it is probably more likely that an interested party would contact their elected officials (Council members) as opposed to Planning Commission or Zoning Board members who are appointed. Chairperson Anderson asked if there is a method for staff to notify the Planning Commission prior to the meetings on what items are considered quasi-judicial. Glaesman stated that is a good suggestion, and staff will send out a draft agenda to the Commission members at the same time notices are sent to property owners (10 days prior to the meeting) to inform the Commission of agenda items that require quasi-judicial decisions. Anderson asked staff to address appropriate/relevant and inappropriate/irrelevant public comments at public hearings. Staehling explained that it basically relates to fairness and removal of bias in decision making. For example, if someone indicates a gender bias, the Chair should remind the person of the real issue and that bias is inappropriate and will not be considered in a decision. Rules of decorum could be announced prior to the public hearing. Glaesman stated that in the past, public hearing rules have been placed on the overhead prior to the public hearings as a general policy. That could become the standard practice at each meeting. Chairperson Anderson and DeVine supported that practice. Holtberg suggested that the public hearing rules could be included with the mailed notice of public hearing to property owners. Holtberg commented that from his standpoint, some of the most difficult issues are rezoning requests to allow different uses than were allowed when the neighbors purchased their properties. Glaesman stated that the LDC should be referenced in those instances. Staff report also includes the staff's analysis. Andzenge referred to a Planning Commission public hearing involving a large immigrant group who wished to participate in the public hearing but needed to leave at a certain time for prayers. That was accommodated by the Commission, and he asked what is

considered reasonable accommodation. Glaesman explained that staff has discretion in setting the agenda and where items are placed on the agenda. Staehling commented that the City is under no obligation to accommodate everyone for everything. However, in the instance cited by Andzenge, he believed it was the right thing to do and was reasonable. The City does have an obligation to the public to accommodate reasonable requests. Chairperson Anderson asked if the public hearing protocol document and quasi-judicial information are available on the City's website. Glaesman answered that it does not appear on the City's website or on the application forms, but staff will explore ways to make the information available. Council representative Goerger asked how the public could be informed of an item on the agenda (other than those items requiring mailed property owner notice) to which they may be opposed. Glaesman stated that staff attempts to reach out to individuals that may have a concern about a topic. The agendas are also available on the City's website. Staehling cited the example of notifying the local hospitality association for ordinances that would affect them. Glaesman explained that community input can be sought on legislative issues, but not quasi-judicial issues. DeVine asked staff to address religious zoning/land use. Glaesman noted that the Land Development Code was updated to be in compliance with RLUIPA (Religious Land Use and Institutionalized Persons Act). Staehling stated that RLUIPA ties into quasi-judicial discussions regarding bias. At the beginning of a public hearing, the audience should be reminded that religion will not be considered in making a decision. He added that if a particular zoning allows non-religious assembly, it must also allow religious assembly. DeVine noted that in the industrial zones a large place of assembly may not be allowed; however, a place of worship is allowed. Glaesman stated that he believes places of worship in the industrial zoning districts require a CUP, but he will check to be sure the LDC language has been changed to address that issue. Chairperson Anderson suggested that applications from religious organizations or for religious uses should not indicate a specific religion but be general in nature. Staehling emphasized the need to avoid any expression of negative bias at a public hearing. If a request is denied, it needs to be based on non-biased, neutral reasoning.

Adjournment: There being no further business, the meeting was adjourned at 7:08 p.m.

Emil Radaich, Secretary