

PROCEEDINGS OF THE ST. CLOUD PLANNING COMMISSION

A meeting of the St. Cloud Planning Commission was held on Tuesday, November 13, 2012, at 6 p.m. in the City Hall Council Chambers. Members present were Anderson, DeVine, Holtberg, Andzenge, Chirhart and Radaich. 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 November 13, 2012, as part of the official record.

Approval of minutes from the October 9, 2012 Planning Commission meeting.

The motion was seconded by Chirhart and carried unanimously.

**Johnson/Jubilee Worship Center Rezone at 3125 and 3143 Co Rd 74:** Matt Glaesman, Planning Director, reminded board members of the tabled rezoning request from the October 9, 2012 meeting. Staff recommended to table the request so further discussion could take place regarding the requirement of platting the property. Discussions have continued and the applicant has explored the costs and processes associated with platting. In light of the discussions and new information, three options are being presented to the board for consideration. Option One is to rezone the property to C5, highway commercial, and require a developer's agreement stating that no developments could occur until the property is platted. Staff is supportive of this option and believes the developer's agreement must be clear that it applies not only to the current property owner but also subsequent owners if the property were sold. Option Two is to deny the rezoning request and require consideration of a plat along with a new zoning application. Staff is not supportive of this option as commercial development is desired for this property. Option Three is to amend the Comprehensive Plan to allow for commercial use of the property, thereby taking a policy position in support of a future zoning request. Staff is supportive of this option.

Chirhart asked which method would be easiest to administer and what the desire of the applicant is. Glaesman stated it would be most appropriate from a historic approach to change the Comprehensive Plan but it is not necessarily marketable for a developer. It is staffs' understanding that the applicant is in favor of Option One to rezone the property and enter into a developer's agreement. The concern with Option One is that any party can argue the legality of the document and it puts the City in a position to defend the rights that were given away.

Anderson opened the public hearing and invited testimony. The following persons testified:

Mark Johnson  
3125 Co Rd 74  
Jubilee Worship Center

We would like to request the first option. When we initially bought the property we knew that the 33<sup>rd</sup> Street South/Trunk Highway 15 Interchange would be constructed. We were hoping that at some point the Southern portion would be sold for commercial purposes. Now that the road has been approved, we feel it would put us in a better position if the property were rezoned commercial so that when a potential developer approaches us, the rezone is already complete. We looked at possibly getting the plat done but were not able to answer many questions without a developer already negotiating. We would be willing to agree not to sell the property until the plat is complete and could then engage the developer in that process.

There being no one else wishing to speak, the public hearing was closed. Glaesman added that a meeting was held last week to begin the final design process for the interchange. There is time between now and when the interchange may be available for commercial development projects. Holtberg asked if a property without specific plans has been rezoned in the past. Glaesman stated this is a unique situation where construction is imminent but not yet ready. Holtberg asked if we were to rezone the property to commercial, could the owner ask for another rezone to something such as high-density housing. Glaesman stated that the owner could change their mind and ask for another zoning destination but the request would be opposed. Funds were awarded through MNDOT and DEED because jobs were going to be created with this interchange. Andzenge asked if there is any existing opposition for C5 zoning. Glaesman stated there is no known opposition; it is just a matter of how soon that rezoning should take place. Radiach asked how long it would take to change the Comprehensive Plan. Glaesman stated if the Board was in favor, a recommendation could be made

and forwarded to City Council to change the Comprehensive Plan as an alternative to the rezoning request. DeVine stated she would move to approve Option Three because a change in the Comprehensive Plan should still benefit a sale to a developer since the property can then be marketed as commercial. With there still being so many unknown factors, it would allow to get the first step out of the way and let the developer do the rest.

DeVine made a motion to approve Option Three to change the Comprehensive Plan to a C5 zone. The motion was seconded by Chirhart. Holtberg stated there are other properties in the area that are zoned agricultural (AG) and asked if those areas could also be included in the Comprehensive Plan change. Glaesman stated he would hesitate to include those properties at this time but that steps should be taken in the near future. Holtberg agreed that changing the Comprehensive Plan would be the best first step and stated he would vote in support of the motion. Anderson asked if this property would be those commercial properties most south as you travel north on Highway 15. Glaesman confirmed as the Comprehensive Plan exists today it is the Southern most commercial property. The other property guided for commercial use is the Southwest quadrant of the I-94/Highway 15 interchange but the reality of that site becoming a large scale commercial development is uncertain. Anderson stated he would be in favor of the motion and thinks it is important to make sure this area is a gateway to the community. DeVine asked if this area is on the gateway overlay. Glaesman stated it is one of the gateways on the Comprehensive Plan and the design of how to treat the interchange is in discussion with MNDOT. Anderson stated we are often criticized for being parking lots and big boxes. He is supportive of commercial in this area but not necessarily a big box with a parking lot. Anderson called for a vote and the motion carried unanimously. Radiach asked if a motion was needed to include the remaining AG zoned properties in the Comprehensive Plan change. Glaesman stated the Board could direct staff to schedule a hearing for the remaining portions around the interchange to be included.

**Request from the St. Cloud Planning Commission to amend Article 15:** Matt Glaesman, Planning Director, reminded the board members of a tabled amendment request from the October 9,

2012 meeting regarding Article 15, Section 15.5, B. Staff presented two ordinance drafts to permit fences greater than 4' in height within the front yard setback area under certain conditions. Board members directed staff to conduct additional research to show how many properties would be affected by each option. Glaesman introduced Jim Flaaen, Planning Technician, for further information. Flaaen stated the research began with identifying all residential zoned properties, which is approximately 14,700 properties. The first ordinance option included residential properties adjacent to principal and minor arterials which would affect approximately 1,900 properties, or about 13% of all residential properties. Data was further narrowed to eliminate approximately 100 properties that have non-residential uses or vacant uses. Then the properties were narrowed down to those with a front yard adjacent to arterials, which were approximately 1,100 properties, or 8% of all residential properties. There was a comment made last month to further identify properties within a certain distance of another feature such as an intersection or distances from commercial or industrial properties. Properties were narrowed down to those within 500' of a commercial or industrial property, which were approximately 350 properties or 2½% of all residential properties. The ordinance calls for properties with excess front yards were which narrowed the number of properties affected to 104, or less than 1% of all residential properties. Option Two identified four arterial roadways: Roosevelt Road, 8<sup>th</sup> Street North, County Road 134 and 3<sup>rd</sup> Street North with the same criteria of Option One. There are approximately 75 properties, or ½% of all residential properties, that would be affected by the ordinance change.

Anderson opened the public hearing and seeing no one who wished to speak the public hearing was closed. DeVine noted that about 20 property owners had come forward to the Zoning Board of Appeals (ZBA) for this type of a change and asked where those properties were located. Glaesman stated the most recent requests were located within the standards for Option Two. DeVine asked how recently those requests were made. Glaesman stated the 20 property owner requests have been made within the last 18 months. Radiach asked if there are any anticipated problems with Option Two. Glaesman stated he believes Option Two is a good first step to amending the ordinance.

If the ordinance change works well, then a second amendment could be discussed to broaden the definition. Anderson noted that some of the sidewalks north of Centennial Plaza on Veterans Drive (8<sup>th</sup> Street North) are inconsistent and asked if a fence would create a problem for right-of-way. Glaesman stated the first 25 feet beyond the sidewalk would be required to be maintained so there is a place to shovel snow from the side walk, etc. That is the importance of the excess front yard provision in the ordinance. Holtberg stated he does not see a reason to change the existing ordinance for so few properties. Property owners have the ability to go to the ZBA if they would like to request a 6' high front yard fence. Glaesman stated that property owners could go to the ZBA for a variance, however the ZBA asked the Planning Commission to consider amending the ordinance. Holtberg commented that the ZBA was looking at the ordinance on a case by case basis. The ZBA may have denied a request for a 6' high fence for a reason the Planning Commission is not aware of. Glaesman stated it is possible to return to the ZBA with this new information to show them how many people would be affected by the change. Holtberg stated it is his opinion the Board would be making a big ordinance change for only a few properties and thanked Flaaen for compiling the information. DeVine agreed that it would be a good idea to send this information back to the ZBA so they can see how many properties would be affected by the change. Chirhart stated he does not like the concept of the 6' high fence and is not in favor of changing the ordinance. DeVine commented that the ZBA could look at this information and then the Planning Commission could make a decision, or the Planning Commission could make a decision now. Chirhart noted that Glaesman could take the decision to the ZBA and let them know the basis of the decision, but he did not think the ZBA could present any information that would sway him to be in favor of the change. DeVine agreed.

Chirhart moved to maintain the current language of the ordinance. The motion was seconded by Andzenge. Anderson commended the amount of work that was put into presenting this information. Anderson called for a vote and the motion carried unanimously. DeVine thanked staff for bringing the information to the Board and stated that it clearly showed what the change would mean.

**Discussion of revising Article 15, Section 15.5 – Accessory Structures and Uses:** Matt

Glaesman, Planning Director, explained that staff maintains an ongoing list of issues that come up, such as recurring requests from property owners or confusing language in an ordinance. Staff is asking for direction to decide if the language is poor and if a formal amendment and public hearing is necessary. There are three issues that staff believes could be improved. The first is language regarding the number of structures allowed. The second is the size of accessory structures allowed. Some zones require calculations to be done to determine what is allowed. The third is the design standard for accessory structures. Staff interprets the language on a daily basis and believes there could be a clearer standard of what needs to be consistent between the principal and accessory structures.

Chirhart clarified that the request was to change the language but not to remove the standard. Glaesman stated the request is not remove the standard but to clarify the details on what is of most importance. Holtberg stated the easiest structure would be an 8'x10' structure that could be purchased and most would not match. The next step would be building a garage and noted the differences associated between a metal pole shed versus a stick build garage. Glaesman stated both are excellent examples. A recent example was that of a yellow brick house. The owners wanted to build a new garage but based on the ordinance language, this would have required a yellow brick garage, which is not conceivable. The same is true for a house with steep roof pitches. Holtberg asked if the home owner would then be sent to the ZBA. Glaesman stated that staff interprets and makes decisions based on what is feasible. In the case of the yellow brick house, the owner was allowed to use the same color and similar roof pitch. Radiach commented on the aesthetics of matching color, siding, roof pitches, etc. but he agrees with the decision on the yellow brick house. One of the design standards should be a color match. Goeger gave an example for a farm wanting to build a new barn and suggested that situations must be treated differently and there would be challenges in coming up with a standard. Holtberg asked if the ordinance applies only to residential or to residential and commercial. Glaesman stated the ordinance is mostly for residential but there are

some provisions that apply to both. Holtberg suggested having different rules for different districts. Glaesman stated the sign ordinance is structured in that way and the accessory ordinance could be arranged similarly. Holtberg stated there should be some sort of design standard but is not sure how to determine it. Anderson seconded Holtberg's comments and asked how the questions differ between old townships versus core neighborhoods. He asked if the old township questions are more about building sheds and possibly garage replacement in the core neighborhoods. Holtberg commented that he thinks questions from core neighborhoods would be mostly of setbacks because of the lot sizes. Glaesman stated that rural/old township districts have more questions on secondary accessory structures whereas in the core neighborhoods it is more about replacing garages, etc. Anderson stated that if someone wants to move into a core neighborhood it should be made easier to revitalize their property while continuing to keep aesthetics. Goerger commented on the idea of a metal pole shed and asked if that would be allowed with the current ordinance. Glaesman stated the question comes with finished versus unfinished metal. There are finished metals that are made to look like lap siding, etc. so it is not quite as simple. Holtberg asked about buildings with frames and fabric wrapped around them and whether it would be considered a temporary or permanent building. Glaesman stated there is a provision used to not allow structures such as those. DeVine asked if other community ordinances were looked at for their definition. Glaesman stated there are many definitions and they are varied; some are very strict and detailed and some are vaguely described. DeVine asked if there was enough direction from the Board to put together a draft for approval. Glaesman stated that sample language could be put together in a few different options and a public hearing could be set for input. Chirhart noted that nine of the 20 variances this year were related to accessory structures and asked how many were granted. Glaesman stated that there is not a summary for how many were approved or denied but one could be compiled for review. Chirhart asked if it was desired for more guidance on the design standards or to dispose of the design standards. Glaesman suggested that staff assemble some language samples and will then ask for more guidance but it is not desired to dispose of the standards. Radiach asked if there is any

historical data on what the ZBA allows and does not allow. Glaesman stated that the ZBA decisions vary significantly and offered an example of a variance request for more than 2,000 square feet of accessory space and suggested the difference in a request for a 2' variance for a property that is much smaller. Radiach commented that there was good discussion with regard to agricultural zones and suggested it was possible to clean up the more detailed section. Holtberg gave an example of an attached deck and an applicant wanting to enclose the area. He asked if that would be considered an accessory dwelling or attached. Glaesman stated he thinks it would be considered living space. Anderson stated he would be in favor at looking to change the language and wondered if feedback should be obtained at the same time or sectioned off. Glaesman stated that was an excellent point and it would be addressed when the process is defined.

**Discussion of Capital Improvements Program Structure and 2014 - 2019 CIP process:**

Matt Glaesman, Planning Director, presented the 2014 - 2019 Capital Improvements Program (CIP) structure. It has remained relatively similar for the past five years, starting in November with public input. A comment was made by Anderson before the meeting suggesting to try incorporating social media to obtain public input. Two unique issues will be addressed to the Board for input during the process. The first issue is that of project classifications, the two current classifications being 5 Programmed Years and Unprogrammed Priority Projects (UPP). The question has come up recently asking if the UPP is too broad and there have been thoughts to create a third category with the intention of a longer time range. The other issue involves the Transportation Infrastructure Advisory Board (TIAB) and Planning Commission coordinating a working session to discuss a prioritized list of projects that will take place.

Holtberg asked if the working session would include department heads and suggested possibly having two working sessions. Glaesman stated it would be something to look at and thought it would be a good idea to have two working sessions. Chirhart asked if the TIAB was established through the City Council. Glaesman stated the TIAB was created by ordinance to City Council. Chirhart asked if the TIAB is strictly advisory to the Planning Commission and City Council.

Glaesman stated the TIAB is an advisory board to administration and the Council. Chirhart clarified the Planning Commission handles the CIP and transportation issues due to the City Charter. Glaesman confirmed. Radiach asked if the TIAB will be connected with the Planning Commission through the entire CIP process or just for their transportation recommendations. Glaesman stated it has not been defined how the two bodies will fit together but they should be informed by each other's discussions. The documents that establish the two entities give them separate responsibilities. The hope is to arrive to similar conclusions, or if there are different conclusions, determine reasoning behind them. Radiach asked if the TIAB would come to conclusions on transportation projects or the whole CIP concept. Glaesman stated the Planning Commission will balance transportation with other expenditures while the TIAB may have a different list of project priorities. DeVine asked if there would be a member of the TIAB on the Area Planning Organization (APO) or at least attending as a member of the public. Glaesman stated there is opportunity for a TIAB member to be on the APO. DeVine asked what TIAB's part would be on the public hearing portion. Glaesman stated that the meetings are televised and members are welcome to come and testify or listen. DeVine asked if they would be present for additional support. Glaesman stated that it is an important part of the December working session to have discussions on what part each body will play and where they fit in. DeVine stated she is supportive of adding a category for future projects and it is appropriate in order to keep projects on the radar. Anderson asked how many projects are anticipated to be in the third category. Glaesman stated approximately 10-20 projects. Holtberg asked Glaesman to let the Planning Commission know the dates of any future meetings. Glaesman stated there will be a meeting to decide a December schedule. Anderson noted some projects will need to be completed while others are more of a wish list and there may be a way to sub-categorize capital expenditures.

#### **Discussion of Community Development Block Grant (CDBG) program year 2013**

**process:** Matt Glaesman, Planning Director, explained the CDBG pre-application phase in December beginning the five to six month process to decide on applicants. The issue is presented to the Board to discuss what did and did not work in previous years.

DeVine asked how the Planning Commission and the City Council aligned on applicant decisions last year. Goerger stated it was approved almost exactly as the Planning Commission had recommended although some of the dollar amounts had changed. DeVine commented that a lot of work was put into the first year and the second year was much more streamlined. If it is appropriate, it would be nice to invite the Council members to the meetings so they have more experience with the applicants. Goerger commented the City Council pays very close attention to the CDBG due to the allocating of Federal funds and they are notified of the progress of the application process. DeVine stated it is known that the Council is involved but so much work is put into the application and presentation process. Goerger agreed it would be a good idea to notify the Council members to request their attendance. Holtberg commented the presentations took place during a regular meeting and a separate meeting was held to decide the dollar amounts. He believes the system worked very well last year. Chirhart asked if the 2013 dollar amount is known. Glaesman stated the estimate has not yet been received. Chirhart asked if in 2012, the MTC used the entire amount of \$75,000 or if some was allocated to other organizations. Glaesman stated that some program income came back in since the annual plan was adopted. It has been redistributed to organizations such as the Boys and Girls Club and TriCap. Andzenge asked how the amount of money that comes to the committee is determined. Glaesman stated the number is typically received as the process begins. Last year the number had increased significantly due to the census numbers that were released. A significant drop is not anticipated. Andzenge asked if there are other local resources contributing to the fund. Glaesman stated the federal grant is the sole funding for the CDBG program. Chirhart commented that a decrease in funds would affect the planning office staff. He asked if the grant goes down, if the dollars to administer the program would also go down. Glaesman stated the obligations of the recipient will remain the same. There is a great deal of work that goes into tracking expenditures. There will need to be a discussion but there is not an answer at this time. Anderson commented the process last year worked well. He asked if CDBG dollars go to organizations that affect the community directly and if there is strict language or guidance. Glaesman stated there are a number of

ways establish the benefit – by regional need or area of benefit. It is not an easy answer but there are a number of ways to define it. In the end, applicants are asked to talk about race/ethnicity, income levels and where they live. Anderson commented that a regional benefit may be difficult for us to recoup the costs. Glaesman stated that we cannot accept applications for projects beyond our boundaries and the program has many pieces that require the benefit of the entire community.

**Proposed 2013 Planning Commission Schedule:** Matt Glaesman, Planning Director, presented the 2013 Planning Commission Schedule. Holtberg moved to approve the schedule for 2013. The motion was seconded by Radiach and carried unanimously.

**Other Business:** Holtberg asked about funds allocated for placemaking. Anderson stated there were a series of proposals reviewed and four candidates were interviewed. The Lakota Group was chosen out of Chicago, IL.

**Adjournment:** There being no further business, the meeting was adjourned at 7:27 p.m.

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Emil Radaich, Secretary