

CITY OF MARINE ON ST. CROIX
PLANNING COMMISSION
REGULAR MEETING

Tuesday, November 29, 2022 - 7:30pm
121dd St. with Option to Attend Remotely

- Roll Call
- Approval of Agenda
- Approval of Minutes of October 25 Meeting

- **Old Business**
 - Zoning Code
 - Update on DNR Meeting
 - Wireless Infrastructure
 - 5G Draft Guidelines Update
 - Maggie Raedeke's Capstone Project
 - Update

- **New Business**
 - 2023 Work Plan

- Adjournment

*The Marine Planning Commission welcomes resident feedback.
Please direct comments through the city clerk: mosc@cityofmarine.org*



Marine on St. Croix Planning Commission

2022 Work Plan

- Major project: cell tower siting and application review
- Zoning ordinance revisions
- 5G design guidelines (budgeted for this year)
- Comp plan consistency and errors; meet w/ Bolton & Menk
- Lot area requirements, Q4 this year (need guidance from council)

2023 Priorities

- Solar
- Residential care facilities; start research in 2022

CITY OF MARINE ON ST. CROIX
PLANNING COMMISSION
MINUTES

Tuesday, October 25, 2022 - 7:30pm
121 Judd Street and Remotely

Present: Chair Scott Spisak, Commissioners Gerry Mrosla, Ed Sanderson, Kristina Smitten, Jennifer Henry, Tim Casey, Anna Hagstrom

Absent: None

Citizens Present: Glenn Mills, Dave Snyder (City attorney), Dana Anderson, Beth Richmond (City planner), Rita Trapp (City planner)

Chair Spisak called the meeting to order at 7:32 pm.

Approval of Agenda

Mrosla moved and Henry seconded approval of the agenda. Motion carried unanimously.

Approval of Minutes

September 27 Regular Meeting

Mrosla moved and Casey seconded to approve the minutes of the September 27 City of Marine on St. Croix Planning Commission meeting as drafted. Motion carried unanimously.

Old Business

Zoning Code

Planner Beth Richmond presented recommendations for handling the DNR's suggested changes in the St. Croix River Overlay.

- **Definitions:** The planners recommend moving definitions specific to the riverway ("structure," "screening") into a separate section within the Overlay District regulations in the code, so they aren't applied city-wide. The planners have seen this strategy work in other municipalities.

Regarding "appurtenances," the planners recommend keeping "garages" in the definition (struck earlier by commission). Commissioner Smitten suggested striking "permeable pavers" from the definition of "impervious surface."

- **Zoning Map Analysis.** Using Marine zoning codes from 1966 and 1971, Richmond compared zoning districts and uses over time. The planners recommend a "conditional use approach" to continue to allow uses pre-dating riverway regulations in the St. Croix Urban and Village Center districts.

The planners also noted a discrepancy between the DNR's overlay map, in which the St. Croix Urban District goes all the way to the south end of Marine. Marine's zoning map shifts to St. Croix Rural a bit north of the southern city limits. Richmond noted that the legal descriptions are in the rules, so it's something to clarify with the DNR.

- **Conditional Uses:** Lawfully nonconforming uses existed at the time riverway regulations were created (uses predating May 1, 1974). Conditional uses would allow new instances of established uses through granting a conditional use permit. If they're already existing, they could continue as lawfully nonconforming. Change in ownership wouldn't affect this, but abandoning the use would (based on time and intentional acts to abandon, per Attorney Snyder). If the City wants to grant permission for nonconforming uses, creating a conditional use is the only way to do it.

The commission discussed tweaking the language: "zoning district" instead of "surrounding area;" requiring an explanation of how parking will be provided instead of requiring off-street parking; adjusting the definition of "accessory apartment" to "accessory dwelling unit," and clarifying that the definition includes dwelling units within a principal structure and outside of it.

- **Day Care Facilities:** Trapp said the planners will cross check state statutes and revise the definition to allow commercial day care businesses in the Village Center. She noted that within Minnesota rules this isn't explicitly listed as a use, so it's something to discuss with the DNR.

- **Residential Care Facilities:** This is part of the Commission's work plan for 2023. Trapp said it would be good to touch on this with the DNR now, but not to let it distract from the immediate revision process.

- **Solar:** Regarding ground-mounted solar in river overlay. The DNR struck this as a permitted use in the overlay. Smitten noted that the commission wasn't set on encouraging ground-mounted solar in the river district. Spisak said the problem with solar is more that the city doesn't really have any controls in place at this point. Solar is on the work plan for next year.

- **Nonconforming Lots (Substandard):** If the city were to reduce the minimum lot size to the state minimum of 20,000 (vs city's current standard of 1 acre) there would be 46.7% nonconforming lots in St. Croix Urban District rather than 77.2%. The planners recommend reducing the lot size so that more of them are not substandard. However, Trapp noted, this might increase the inventory for subdivision and development because in order to be deemed buildable, a lot only has to meet 60% of the standard (see p. 6 of planner memo). The 60% rule can be tailored. Attorney Snyder noted there is a statutory requirement – he thinks it's 60%.

One option might be to change the minimum lot size from 1 acre to 30,000 sq. ft. for the sake of consistency with other districts. Smitten wondered how many substandard lots in the St. Croix Urban district are developed, and how many contiguous lots are owned by the same person? The planners can research that using GIS. Trapp said this doesn't necessarily need to be a topic to discuss with the DNR, since the city is already meeting the statutory minimum.

- **Substandard Structures:** Commissioners are concerned that if these are destroyed beyond 50% they could not be rebuilt without meeting code. For example, the Village Hall is built right up to the bluff. Richmond suggested a variance could be granted in such a situation. Attorney Snyder added that when commissioners meet with the DNR it would be helpful to talk about the interplay between statutory protection for preexisting substandard structures, Minnesota Statute

462.357. Clarify with the DNR whether this provides for reconstruction and rebuilding in the existing footprint of, for example, Village Hall.

The planners also recommended creating exceptions to setback standards that allow a more flexibility for improvements that don't increase the nonconforming aspect of the property. Trapp noted that in some areas the City regulations are more restrictive than what the DNR is asking for, such as larger lot sizes or vegetation regulations.

- **Nonconforming Uses, Structures, and Implementation Flexibility:** Commissioner Smitten asked whether the DNR would accept nonconforming uses without putting an additional layer of regulation on them. Attorney Snyder said the DNR will be subject to the overlay, but is obliged by law to accept the current uses.

Attorney Snyder also suggested talking to the DNR about Implementation Flexibility, as the City is a historic area in part, built close to the river. This would give the city an opportunity to have a lighter touch in areas where it needs it, such as historic downtown buildings. This is a specific rule that allows them to authorize that.

Commissioner Smitten asked whether a nonconforming use in a nonconforming structure would be protected. If the marina burns down, is there any way to rebuild keeping the use and structure? Commissioner Sanderson added as a hypothetical that the owners might not be able to pull permits for 18 months.

Snyder thought it could be rebuilt for three reasons:

1. Statutory protection for the structure under 462;
2. Permitted under Implementation Flexibility;
3. Pursue permitting the use under a CUP. Snyder noted a similar case in which a marina voluntarily surrendered nonconforming use status to get a conditional use permit. They saw it as a more powerful tool to protect their status.

Trapp agreed, and said it would be useful to clarify with the DNR and codify it so there's no confusion later. Attorney Snyder noted that the code serves as documentation of the agreement because it will be reviewed and approved by the DNR. Trapp recommended making copies of the final letter, and keeping one in a safe for future reference.

- **Impervious Surface:** Richmond noted that the City's regulations are slightly more restrictive than state rules by including a square footage maximum for impervious surface. The City could move to a straight 20%, or use this as a bargaining chip.

- **Floodplain:** This is in the City Code as Chapter 21. The Commission would like staff to compare the Zoning Code Floodplain section (511) to Chapter 21 in the City Code.

- **Next Steps:** Assistant Clerk Dammann will reach out to the DNR to coordinate a November meeting, in Marine if possible. Sanderson suggested asking the DNR during the meeting to articulate some of their goals and guiding principles. We have a general idea of what they're trying to protect – minimize development, impact to the viewshed, wastewater runoff – but it would help to have them articulate it as a starting point for negotiation.

5G Design Guidelines Draft

Consultant Carly Kehoe recently reported that she has Long Covid and won't return to work until November.

Maggie Raedeke – Capstone Project

Commissioner Casey reported that he and Sanderson met with Ms. Raedeke to talk about her schedule and goals for the project. Their role is to assist, critique, and mentor as she sets goals and works toward them. The Commission discussed times for a community engagement meeting, potentially the hour prior to the November Planning Commission meeting. Commissioner Hagstrom suggested the option of a survey as an option for collecting feedback from residents. If and when a meeting is held, the City can post it on website, reiterating that it's a student project that might or might not result in full execution of the plan.

New Business

Tiny Houses

City Clerk Peterson has been fielding inquiries about putting tiny houses on undeveloped processes. The Commission has a favorable impression of tiny homes, but had questions about what state regulations applied and the logistics of sanitary, water, and power. Smitten noted that the Commission's role is to look at code compliance and uses, and this is a residential use. Assistant Clerk Dammann will get an initial report from Building Inspector Jack Kramer about what state building codes would apply and possible red flags.

Adjournment

Sanderson moved and Mroska seconded to adjourn at 9:39 pm. All in favor. Passed unanimously.

Minutes taken by Suzanne Dammann, Assistant City Clerk

**Marine on St. Croix Planning Commission
WORK PLAN**

Abbreviations:

- CC – City Council
- ES – Ed Sanderson
- KS – Kristina Smitten
- PC – Planning Commission
- SS – Scott Spisak

2022 Priorities

- Major project: Cell Tower Siting and Application Review
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Policy Planning

No.	PC Member Assigned	Task	Notes, date completed, etc.
		Lot Area requirements - 506.6(a) – Are our lot area requirements achieving overarching community goals?	SS: A systematic review of vacant lots - especially in the SFU district should be undertaken and aligned with the Comp Plan to identify and encourage future development
	Scott	Solar language addition. Review 404.7 (1) (a) solar glare.	SS: The work that was done with Great plains Institute in 2015 and earlier is now outdated. GPI has a new model ordinance template for MN that the City should use to customize an ordinance. GPI is able to offer consulting services to the City. There is some fairly significant work involved here. See; https://www.betterenergy.org/blog/minnesota-solar-toolkit/ Also, should ground-mounted arrays should be listed as an accessory use in all districts? Currently this is not uniform.

		Vegetative Cutting – (1) Requires review to be sure it's current. Believe requirements around vegetative cutting were updated.	The city provides veg. cutting permits in parts of the river overlay district. See 510.6(1) (a)&(b) KS Also see Forestry Committee review comments.
		Tree Preservation language – Coordinate review by forestry group	In the Lower St. Croix: Cutting of trees and shrubs is not allowed without a local permit: <ul style="list-style-type: none"> • On slopes over 12% • Within 40 feet of blufflines • Within the following distances from the Ordinary High Water Level: <ul style="list-style-type: none"> ○ Rural Districts: 200 feet ○ Urban Districts: 100 feet A local permit is only allowed for: <ul style="list-style-type: none"> • Trees less than 6 inches in diameter at breast height • Vegetation not screening structures from views from the river • Activities that preserve essential character, quality, density and continuous canopy • Diseased trees, if removal is in public interest Permits not needed for: <ul style="list-style-type: none"> • The minimum necessary for activities under a building permit • Maintenance of transportation and utility rights-of-way
	Jennifer	Residential Care Facilities	Residential Care for adults is a complex topic that the Planning Commission recommends prioritization by council. This could become an issue in town. Any new

			regulations would need to comply with definitions and requirements in state statutes.
	Sandy	Overall consistency with the Comprehensive Plan – Ensure that the updated code is consistent with the Comp Plan policies.	Can complete after CC has a compiled, updated zoning code, but let me know if others want to discuss a different timeline. Zoning map doesn't show light industrial.
	Kristina	504.7 (3)(e) add a credit option?	Similar to use of wetland replacement credits. This would allow discretion for open space to be placed in priority locations and not only at the proposed development site.
	Sandy	502 Zoning Map reference to updates.	Can complete after CC has a compiled, updated zoning code, but let me know if others want to discuss a different timeline. From SS: The Future Land Use map on page 12 of the 2040 Comp Plan has an error in the Rosabelle street area. A large area is shown as Single Family Rural and it should be Single Family Urban - which is the current zoning. The city Clerk has an email on file from me regarding this from mid-2019. The map should be corrected and the change handled with Met Council
	Kristina	404.7 (1) Lighting nuisance	GreenStep / Dark Skies has asked to consider code modification to include: All parking lot and security lighting shall be directed away from adjoining residential areas. Linear LED or neon architectural or sign accents are not allowed with the exception of temporary seasonal lighting. Exterior house lights shall be subject to a curfew time, unless for necessity. Needs discussion.
		Wireless Communications: 5G Design Guidelines	Work with a consultant to create these guidelines in 2022
		Wetland Buffer Regulations	Council Request led by Ward. Should coordinate effort with revisions for watershed district's new regulations. May Township's code may serve as starting point.

Zoning Code Clarifications or Minor Updates

	Many PC members	<p>Definitions review:</p> <ul style="list-style-type: none"> ● Essential Services – ● Marina – ● Solar – SS ● Single Family Detached – ● Steep Slope – ● Wetland – 	<p>DNR definitions for the Lower St. Croix:</p> <p>"Steep Slopes": lands having average slopes over 12 percent, as measured over horizontal distances of 50 feet or more, that are not bluffs.</p> <p>"Bluffline": a line along the top of a slope connecting the points at which the slope, proceeding away from the river or adjoining watershed channel, becomes less than 12 percent; For the complete definition see 6105.0354 Subp. 5 (link is external).</p>
	Sandy	<p>Revise driveway standards, per Jason Crotty's following comment "My concerns are where the proposed driveway meets the City road."</p>	<p>KS forwarded Jason's comment to ES. Relatively minor but important language insertion.</p> <p>Suggest adding the language below as Section 406.2, Part 8 of the Zoning Code or Section 406.4, Subd. 2 Standards and Guidelines (perhaps as section (7) renumbering existing (7) and (8) to (8) and (9).</p> <ul style="list-style-type: none"> ● A maximum grade of 2 percent within 50 feet of the centerline of the intersecting road. The driveway surface shall initially follow the existing shoulder grade and shall slope away from the town road. ● 5) All driveways should intersect the public road at approximately a 90 degree or right angle to the highway pavement. <p>The proposed language comes from 3 other city zoning code examples provided by Jason.</p>
	Sandy	<p>Septic requirement if hook-up is available - Is it necessary for lots to have two septic sites available if the property is hooked-up to city sewer?</p>	<p>Discussions with Lynette provided below - I assume any changes in septic requirements could drive the PC/CC to consider reducing the minimum lot size in certain areas, especially the village area? KS opinion that PC should be involved in septic requirements, as it relates to Comp Plan implementation and has land use implications.</p>

		<p>My questions to Lynette:</p> <ol style="list-style-type: none"> 1. If a lot is not hooked up to the collection system/shared septic drain field, it must have a primary septic drain field site as well as a back-up, secondary site on the lot in case the primary site fails. 2. If a lot is hooked up to the collection system/shared septic drain field, it still needs to pass a perc test to show it could drain septic in case there is a failure in the septic tank and/or the city collection system? 3. Am I capturing this correctly? Is it codified anywhere, code or policy or ordinance? I have heard of reference to Ordinance No. 70 as the "Septic ordinance" but not sure I have seen it. <p>Lynette's response:</p> <p>Yes, those are the septic requirements but those are laid out in the City Code, not the Zoning ordinance. We are actually in the process of reviewing the septic code now that we do have some available connections again, but all City Code revisions are done by Council approval so Planning Commission does not need to review. We are hoping to have the draft amendments to the sewer ordinance ready for the November Council meeting. There should not be any changes in the Zoning code as a result however.</p>	
		Substandard Structures (401.2) – Need to review?	Check for consistency between the definition and 510.4 definition across code
	Kristina	LI building guidelines – natural colors, durable materials.	Suggested to add to Section 509 exterior color guidelines and durable construction materials.
	Sandy	Consider adding a summary table of sections 504-510 for quicker reference and comparison across zoning districts	