

**CITY OF MARINE ON ST. CROIX**  
**PLANNING COMMISSION**  
**MINUTES**

**Tuesday, September 27, 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:** None

Chair Spisak called the meeting to order at 7:30 pm.

**Approval of Agenda**

Spisak noted he'd like to spend time under the Zoning Code agenda item to talk about the city attorney's responses to the commission's questions regarding zoning.

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

**Approval of Minutes**

August 30 Regular Meeting

*Mrosla moved and Smitten seconded to approve the minutes of the August 30 City of Marine on St. Croix Planning Commission meeting as drafted. Hagstrom abstained due to absence from meeting. All others in favor. Motion carried.*

**Old Business**

**Zoning Code**

The commission reviewed responses from the attorney on topics including:

- The DNR's administrative authority relating to federal and state statute;
- That lawfully nonconforming preexisting uses are entitled to continue and be maintained;
- To protect pre-existing uses, the city attorney suggested a pre-existing use clause. The commission is amenable to a clause but would like to avoid prescriptive percentages.
- Historic District designation doesn't create the ability to allow uses prohibited under the Wild & Scenic Riverway Act;
- Two of the DNR's top concerns in the river district seem to be solar and accessory apartments;
- The Commission would like the planners and attorney to focus on substandard lots and preexisting uses, for example permits for bathrooms in accessory buildings as a pre-existing use, as well as outdoor dining and daycare facilities (p. 5-37 Section 507.5);
- Finding out the DNR's concerns and goals; for example, how do accessory apartments that don't expand use and are built farther from the river than the home create risk to the waterway?
- If a lawfully nonconforming building is destroyed by fire, tornado, etc., the commission's goal is that a property owner should be allowed to replace everything in kind and

location, perhaps with small exceptions to meet current building codes. The property owner would likely need more than 180 days to collect insurance and have plans ready to apply for a building permit.

Commissioner Hagstrom noted that Marine has similar goals to the DNR and wants to protect the riverway. However, the City has some nonconforming uses it would like to preserve. In instances where it's not possible to continue such uses, the Planning Commission would like to learn more about the DNR's intentions behind the rules.

The Commission would like to talk with the planners at the October meeting, then meet with the DNR, planners, and attorney at the November meeting if possible. (Summary of top concerns attached to minutes.)

### **5G Design Guidelines Draft**

Consultant Carly Kehoe has been out with Covid but said she would work on this during this last week of September.

### **Maggie Raedeke – Capstone Project**

Ms. Raedeke and with Spisak and others at the school on September 17 to talk about the project. They suggested the possibility of a future addition to the school, adding grades or section sizes, and the folk school's future needs. Ms. Raedeke will try to come up with a master plan that accounts for some of the future uses. Hagstrom noted the need, if there is a community meeting, to be clear that this is a student project that may or may not result in action and a finished product. It is a visioning exercise that will be useful and beneficial for Ms. Raedeke as a student, and the community.

### **New Business**

None.

### **Adjournment**

*Hagstrom moved and Casey seconded to adjourn at 8:57 pm. All in favor. Passed unanimously.*

Minutes taken by Suzanne Dammann, Assistant City Clerk

Attachment to Minutes of Sept. 27, 2022  
**Marine Planning Commission Zoning Code Review**  
**Incorporating DNR's Suggested Changes: Top Concerns and Goals**

**If a legally nonconforming building burns down or is otherwise destroyed, the PC would like to ensure it can be rebuilt. We should be able to replace everything in kind and location.**

- a. In his responses, Attorney Snyder had noted that preexisting uses that are lawfully nonconforming are entitled to continue and be maintained, and asked for specific examples. Most examples would be in the Village Center (downtown), including the Village Hall. Some would be outside of the Village Center, such as the Marine Landing marina and restaurant.
- b. If such a building is destroyed, the property owner will likely need more than 180 days to collect insurance, plan for a rebuild, and apply for a building permit.

**Pre-Existing Uses**

- a. **How do we ensure changes don't impact existing properties and preexisting uses?** Attorney Snyder suggested a "pre-existing use clause." The commission would like to avoid prescriptive percentages in that language if possible.
- b. **Accessory Apartments** (page 5-37 Section 507.5) – The city has historically allowed bathrooms in "accessory apartments" in the riverway. The commission would like to know the DNR's perceived risks to the waterway. The guest quarters don't expand use (our code prohibits renting these out) and are built farther from the river than the residence.
- c. **Outdoor Dining** in the St. Croix Urban Residential District (p. 5-37 Section 507.5) – The Marine Landing is in this district and has outdoor dining.
- d. **Daycare Facilities** in the SC-UR (p. 5-37 Section 507.5 ) – This is another use the city would want to allow.
- e. **From the Q&A with Dave, this response notes an area for further discussion between planner and attorney:**

*If we adopted the changes as suggested by the DNR, what would happen to the uses that are no longer allowed? Is there anything we could or should do to protect those uses?*

It would be best to evaluate it in terms of specific examples. Uses which are established previously, and lawfully, are allowed to continue. At a minimum, the changes should be evaluated to determine if they include or should include the protections for shoreland properties contained in Minn. Stat. 462.357 Subd. 1e, and the question of whether substandard properties are subject to the so-called 50% rule and what those implications are. That seems to be among the changes offered by DNR. I will review this and discuss with the planner as well. Keeping a right to maintenance and repair, rebuilding and, potentially expansion by the variance tool are all areas that are of interest to a City when dealing with the act.

**Solar:** The city would like to allow ground-mounted solar in the river district. Building-integrated solar seems to be acceptable to the DNR in this district. (Right now, ground-mounted solar is allowed through a variance. The PC struck solar-related language from its draft with the intention of working on updates in the near future.)

**Overall:** Marine has similar goals to the DNR and wishes to protect the riverway. The city would like to continue existing uses, and as much as possible determine its own uses without added restrictions from the DNR. Where that is not possible, we'd like to learn more about the DNR's intentions behind the rules and see if we can find common ground for a compromise.

The Commission would like to arrange a meeting with the DNR in November, if possible, with planners and the attorney present. What's the best way to approach that?