

**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