

CITY OF PARK RAPIDS
REGULAR MEETING
PLANNING COMMISSION
JULY 25, 2016, 6:00 p.m.
Park Rapids Library, 210 First Street West – Lower Level
Park Rapids, Minnesota

1. CALL TO ORDER: The July 25, 2016, Regular Meeting of the Park Rapids Planning Commission was called to order at 6:00 p.m. by Chair Bradow.

2. ROLL CALL: Present: Commissioners Dick Bradow, Joel Vorhes, Dick Rutherford, Nels Peterson and Sam Spaeth. Absent: City Council Member Paul Utke. Staff Present: City Planner Ryan Mathisrud and Planning Assistant Carmen L. Lockhart. Others Present: None.

3. APPROVAL OF AGENDA: A motion was made by Vorhes, seconded by Rutherford, and unanimously carried to approve the agenda as presented.

4. APPROVAL OF REGULAR MEETING PLANNING COMMISSION MINUTES OF JUNE 27, 2016: A motion was made by Rutherford, seconded by Spaeth and unanimously carried to approve the June 27, 2016 Regular Meeting Minutes as presented.

5. PUBLIC HEARINGS:

5A. ORDINANCE OPTING OUT OF THE REQUIREMENTS OF MINNESOTA STATUTES, SECTION 462.3593 REGARDING TEMPORARY FAMILY HEALTH CARE DWELLINGS:

Mathisrud explained on May 12, 2016, Governor Dayton signed a bill into law that allows temporary family health care dwellings to be placed on a parcel for healthcare purposes. This legislation was introduced in states around the country to accommodate the need for temporary housing as a greater number of people need assisting living care and are having difficulties finding housing. The legislation takes effect September 1, 2016 and the intent was because Minnesota has a number of people needing assisted living care and that number is expected to grow. The cost of providing these services is approximately \$3,000 per month and in many communities there are a limited number of beds. A number of companies are now manufacturing these temporary housing units and are able to place these on site for about half the cost per month. It is significantly less than assisted living and the intent was to permit these while they found other housing. These are not permitted under most city ordinances and Park Rapids is not an exception to that rule.

Mathisrud presented a picture of an example and explained the attempt is to have common residential construction materials for roofing and siding so they blend in. It is not a permanent structure however it is similar to an RV in that it is portable. It's ADA accessible and less than 300 square feet and cannot be attached to a permanent foundation. It is insulated to R15 and equipped with a sewage backflow valve and connected to the home's primary utilities.

Mathisrud commented this legislation enacted permits these temporary dwelling units as a temporary conditional use permit for a period up to twelve months. It establishes specific criteria for review and permitting and a fee that cities can charge and gives cities an opportunity to opt out of using this legislation and not allow them if the appropriate ordinance is adopted. At the June 27th, 2016 Planning Commission meeting this information was presented to the Planning Commission and at that time there were a number of concerns raised, Staff was directed to work on an ordinance opting out which is enclosed in the packet.

Mathisrud stated the applicant is the City of Park Rapids and recommended approval of the ordinance opting out of the requirements of Minnesota Statutes, Section 462.3593 Temporary Family Health Care Dwellings and adding Section 151-250 to the City of Park Rapids Municipal Code. This applies city wide in all zoning districts. In looking at the Comprehensive Plan – Housing Goal Policy #1 States: “Work with local churches, hospitals and local HRA’s EDA, etc. to identify senior housing needs.” Policy #2 states “Work actively with these organizations to provide senior housing and assisted living facilities in the community.” The intent of our Comprehensive Plan is basically directing us to look at providing assisted living facilities and to work to encourage that. Mathisrud stated staff doesn’t feel it applies to temporary family health care dwelling units. This opt out ordinance will basically have the effect of prohibiting these temporary family health care dwelling units in the City of Park Rapids. Residents that are seeking long term care will simply have to obtain this care at a local facility inside or outside the community. Alternatively they could stay with a relative which is already permitted under our definitions in the zoning ordinance.

Mathisrud addressed the Findings of Fact:

1. Is the zoning amendment consistent with the Park Rapids Comprehensive Plan? Yes- The comprehensive plan is silent towards Temporary Family Health Care Dwellings.
2. Have there been changes in the character of development in this vicinity? NA.
3. Is the amendment request a result of an error made in the Zoning Ordinance/Zoning Map or Comprehensive Plan? No.

Mathisrud stated based on the feedback received from the Planning Commission and the Findings of Fact, he recommended approval of the ordinance opting out of the requirements of Minnesota Statutes, Section 462.3593.

Peterson asked about the comment of costing upward of \$3,000 per month, but that would be in a professional site? Mathisrud stated yes, in a professional assisted living facility. Mathisrud advised he did not price the Hubbard County facility or shop around on rates but that’s the stated cost used state wide. Peterson clarified that doesn’t apply to this as this is something hauled onto a site. Mathisrud stated yes, that doesn’t come with any staff, meals, so the caretaker would be responsible.

Vorhes expressed concerns about the time frame allowed and enforcement issues. Mathisrud and the commissioners agreed it would be hard to make them remove the structure if care is still needed. Spaeth commented how the bed is pushed against the wall makes it very difficult to help the patient out of bed as there is no room to walk around the bed and his opinion that it isn’t feasible and why put somebody out in a little house like this when they need care? Vorhes commented it isn’t really solving

the need in his opinion. Spaeth stated it puts the patient into discomfort by sticking them in a little 300 sq. ft. house.

The Public Hearing was opened at 6:10 p.m.

No comments.

The Public Hearing was closed at 6:10 p.m.

The Findings of Facts were reviewed. The commissioners came to the following conclusions:

1. *Is the zoning amendment consistent with the Park Rapids Comprehensive Plan? YES.*
2. *Have there been changes in the character of development in this vicinity? N/A.*
3. *Is the amendment request a result of an error made in the Zoning Ordinance/Zoning Map or Comprehensive Plan? NO.*

A motion was made by Rutherford, seconded by Spaeth and unanimously carried to recommend to the City Council approve an ordinance to opt out of the requirements of Minnesota Statutes, Section 462.3593 regarding Temporary Family Health Care Dwellings.

5B. ZONING ORDINANCE PROVISION AMENDMENT OF CHAPTER 151.151 SCREENING AND/OR FENCING:

Mathisrud explained the applicant is the City of Park Rapids for this proposed Zoning Ordinance Provision Amendment for fence ordinance updates. These will apply city wide and in all zoning districts. The Comprehensive Plan basically did not have any guidance towards fences specifically.

The items to be revised are Red Underlined.

§ 151.151 SCREENING AND/OR FENCING.

(A) Screening shall be required in a residential zone where:

(1) Any off-street parking area containing more than 6 parking spaces and is within 30 feet of an adjoining residential zone; and

(2) Where the driveway to a parking area of more than 6 parking spaces is within 15 feet of an adjoining residential zone.

(B) No perimeter fence or screening shall exceed 6 feet in height in residential areas, 8 feet in height in industrial or commercial areas, or 4 feet in height in the front yard. All fences must maintain a 30 foot sight triangle along the right of way when placed on corner lots.

(C) Fencing or screening required by this section or the City Council shall be either a solid fence or dense vegetative cover at least 6 feet but not greater than 8 feet in height.

(D) All fences must be located entirely upon the private property of the person constructing the fence and the property owner must leave enough setback to allow maintenance of both sides of the fence.

(E) All posts or supports shall face inward toward the property being fenced. The good or finished side shall face the neighboring property or the public right of way.

(F) All fences shall be made of durable, weather treated or resistant material, and kept in a condition so as not to become a private or public nuisance. Fence material used shall be of common residential fence material and shall not consist of salvaged materials not traditionally used for fencing i.e. Pallets, tires, doors, plywood, tarps or similar materials.

(G) Above ground electrified and barbed wire perimeter fences are prohibited in residential districts except those associated with a permitted agricultural use.

(H) Fences abutting an alley must leave enough setback as to not impede with snow removal.

(I) Any fence erected on a tract of land subject to an easement for the construction, maintenance, operations, or replacement of any water, sanitary or storm sewer, gas line, electric power, telephone, or other utility poles, or other cables or lines shall be designed and constructed to be readily removable to permit the use of the easement. Such fences shall be subject to removal by request whenever necessary to permit access. The cost of removal or replacement shall be the responsibility of the owner of the fence.

(J) Fences shall be erected and maintained so as to avoid limiting or obstructing the flow of water in natural drainage courses, or drainage ways created within easements.

Mathisrud commented on the Findings of Fact:

1. Is the zoning amendment consistent with the Park Rapids Comprehensive Plan? Yes.
2. Have there been changes in the character of development in this vicinity? NA.
3. Is the amendment request a result of an error made in the Zoning Ordinance/Zoning Map or Comprehensive Plan? No.

Mathisrud explained he did not address garden fences as that was discussed at a previous meeting and it was decided we would not address deer fencing or fencing of that nature.

There was discussion concerning corrugated metal fences not being considered a typical common residential fencing material with the intent to limit salvage materials

which distract aesthetically from a neighborhood or degrades the property value; and an appeal process. There was also discussion on the placement of fences on private property and leaving enough setback to allow for maintenance on both sides of the fence and property line disputes being a civil matter.

The Public Hearing was opened at 6:27 p.m.

There were no comments.

The Public Hearing was closed at 6:28 p.m.

The Findings of Facts were reviewed. The commissioners came to the following conclusions:

1. *Is the zoning amendment consistent with the Park Rapids Comprehensive Plan? YES.*
2. *Have there been changes in the character of development in this vicinity? N/A*
3. *Is the amendment request a result of an error made in the Zoning Ordinance/Zoning Map or Comprehensive Plan? NO.*

A motion was made by Vorhes, seconded by Bradow, and unanimously carried to recommend to the City Council approval of a Zoning Ordinance Provision Amendment of Chapter 151.151 Screening and/or Fencing as follows:

The items to be revised are Red Underlined.

§ 151.151 SCREENING AND/OR FENCING.

(A) Screening shall be required in a residential zone where:

(1) Any off-street parking area containing more than 6 parking spaces and is within 30 feet of an adjoining residential zone; and

(2) Where the driveway to a parking area of more than 6 parking spaces is within 15 feet of an adjoining residential zone.

(B) No perimeter fence or screening shall exceed 6 feet in height in residential areas, 8 feet in height in industrial or commercial areas, or 4 feet in height in the front yard. All fences must maintain a 30 foot sight triangle along the right of way when placed on corner lots.

(C) Fencing or screening required by this section or the City Council shall be either a solid fence or dense vegetative cover at least 6 feet but not greater than 8 feet in height.

(D) All fences must be located entirely upon the private property of the person constructing the fence and the property owner must leave enough setback to allow maintenance of both sides of the fence.

(E) All posts or supports shall face inward toward the property being fenced. The good or finished side shall face the neighboring property or the public right of way.

(F) All fences shall be made of durable, weather treated or resistant material, and kept in a condition so as not to become a private or public nuisance. Fence material used shall be of common residential fence material and shall not consist of salvaged materials not traditionally used for fencing i.e. Pallets, tires, doors, plywood, tarps or similar materials.

(G) Above ground electrified and barbed wire perimeter fences are prohibited in residential districts except those associated with a permitted agricultural use.

(H) Fences abutting an alley must leave enough setback as to not impede with snow removal.

(I) Any fence erected on a tract of land subject to an easement for the construction, maintenance, operations, or replacement of any water, sanitary or storm sewer, gas line, electric power, telephone, or other utility poles, or other cables or lines shall be designed and constructed to be readily removable to permit the use of the easement. Such fences shall be subject to removal by request whenever necessary to permit access. The cost of removal or replacement shall be the responsibility of the owner of the fence.

(J) Fences shall be erected and maintained so as to avoid limiting or obstructing the flow of water in natural drainage courses, or drainage ways created within easements.

6. INFORMATIONAL/DISCUSSION: Mathisrud stated in the future he would like to have a discussion on variance and Findings of Fact procedures and how to address issues. The commissioners agreed that would be valuable.

OTHER DISCUSSION: Peterson said he has shared with the county numerous times as to how to resolve property line disputes in new development when someone builds a garage or anything and that is to have an ordinance that creates an improvement certificate location. Anytime you build anything according to the plan you have setbacks you have to meet and to save Mathisrud and the county staff time from having to visit the site and enforce a property line regulation an improvement location certificate is a certificate that the homeowner brings to Mathisrud after the building is structurally up and it's the responsibility of the property owner to hire a surveyor to survey it and signs his name to it because he's the one who is insured and says yes, this is exactly where it belongs and the homeowner takes the certificate to Mathisrud and files it. Rutherford said shouldn't you do it before you build? Peterson said no you have to prove the fact with the surveyor that the building is where you said you would put it and it's where it belongs and when you are confronted with that as a property owner you're going to make sure it is where it belongs because if it's not you're in trouble. There is nothing Mathisrud can do about it if it is built on the wrong spot and he goes out there to measure it. Vorhes said that becomes a civil case. Peterson said it is an avenue that the municipality can take to push the legality of it right into the homeowner and they are the ones that absorb the costs and it becomes a legal document and it works quite well but it does cost money for the homeowner. Vorhes

said he thinks it is less of a problem in the city limits but in Hubbard County you will get surveyors that will not agree on where the boundary is and you get multiple surveys and they all come up with different answers. Peterson said that's why we have attorneys. Vorhes said it gets resolved in the courts several years later.

Spaeth added if he were to build he would have the survey done before he would put the buildings up. Vorhes said he would too and then throw the liability back on the surveyor. Peterson said if we had an improvement location certificate ordinance if someone comes to Mathisrud applying for a permit, that's part of the packet and that will be a real eye opener to many people as there are requirements for not only building inspections but for the improvement location certificate.

Mathisrud commented he likes the idea of something like that but for practical purposes in Park Rapids it's a challenge to get people to pull a building permit let alone find their own property line. Peterson said a surveyor's fee is several hundred dollars. Mathisrud said in a community with higher property values and a greater median household income something like that would be a little easier to achieve compliance.

Vorhes added some surveyors will not work in the winter so if they can't find monuments in the snow you have to wait to spring.

There was further discussion concerning enforcing issues and specific problem areas with property line disputes.

7. ADJOURNMENT: A motion was made by Rutherford, seconded by Vorhes, and unanimously carried to adjourn the meeting at 6:38 p.m.

Chair Dick Bradow

ATTEST:

Carmen L. Lockhart
Planning Assistant