

**CITY OF PARK RAPIDS
REGULAR MEETING
PLANNING COMMISSION
JUNE 23, 2014, 6:00 p.m.
Park Rapids Library, 210 First Street West – Lower Level
Park Rapids, Minnesota**

1. CALL TO ORDER: The June 23, 2014, Regular Meeting of the Park Rapids Planning Commission was called to order at 6:00 p.m.

2. ROLL CALL: Present: Commissioners Dick Bradow, Nels Peterson, Joel Vorhes, Janice Tidrick, Diane Smith (arrived at 6:07) and City Councilmember Paul Utke. Absent: None. Staff Present: City Planner Dan Walker and Planning Secretary Carmen L. Lockhart. Others Present: Amielia Kahlstorf, Mary and Derrald Anderson, Kenny and Suzann Barr, Steve and Andrea Frank.

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

4. APPROVAL OF REGULAR PLANNING COMMISSION MINUTES OF APRIL 28, 2014: A motion was made by Vorhes, seconded by Tidrick, and unanimously carried to approve the April 28, 2014 Regular Meeting Minutes as presented.

5. PUBLIC HEARINGS:

5A. CONDITIONAL USE PERMIT REQUEST FROM AMIELIA KAHLSTORF, 806 CENTRAL AVE N TO ALLOW A HOME OCCUPATION FOR A HAIR SALON IN A PROPOSED REMODELED GARAGE LOCATED IN AN R-1 SINGLE FAMILY RESIDENTIAL DISTRICT, PID#32.24.02710:

Walker explained the applicant is Amielia Kahlstorf, the property owner requesting a conditional use permit to allow a home occupation for a hair salon in a proposed remodeled garage. The property is located at 806 Central Avenue North. The property is currently being used as a single family home. The property is zoned R-1, Single Family Residential and the City's Comprehensive Land Use Plan designates this property for Single Family Residential. The site is .76 acres.

Walker stated the property is within the City of Park Rapids and does not have any City Services. The property is serviced by private well and septic. The property is not located within an environmentally sensitive area.

Walker explained the applicant is proposing to convert space within a detached garage for use as a hair, makeup, and nail salon. The area will be converted into 2 styling stations with cutting chairs so the applicant may have the option of having another employee work at the salon. There will also be a shampoo and sink station, nail and pedicure stations, a reception desk, waiting area, and rest room. The applicant currently has a clientele of around 200 people depending on the season and varies up and down. The applicant has proposed the hours of operation will be Tuesday through Friday 9am to 5pm and on Saturdays by appointment. There is adequate parking on

the site.

Walker advised in the floor plan provided, the applicant has proposed to convert approximately 50% of the garage space to accommodate the salon use which exceeds the 25% which is allowed Section 151.146 HOME OCCUPATIONS. Staff recommends that the Planning Commission consider allowing the additional space as the total salon use area is still only approximately 700 square feet, it is located on a large lot with adequate parking and screening from the neighboring parcels, and is located along Central Avenue North which is a highly traveled County Road. If the Planning Commission agrees to allow the additional space, Staff would recommend that no further expansion of the salon space be permitted in the future. A building and plumbing permit would also be required prior to the remodeling of the garage.

Walker stated the property is serviced by an existing private well and septic system which is currently not properly sized to accommodate the demands of the existing house and the proposed salon. The applicant will have to retro-fit the existing system to accommodate the additional usage, or construct a second system on the property if space allows. The retro-fitted or new system will need to be approved by the City Septic Inspector and installed prior to or concurrently with the issuance of the building and plumbing permit for the salon.

Walker commented the Conditional Use Permit request for a home occupation meets all of the other provisions listed in Chapter 151.146 Home Occupations. A conditional use permit issued by the City Council for a home occupation shall not transfer with the change of ownership of the dwelling. A sign permit would also be required if the applicant would like to have signage on the site.

Walker recommended approval of the conditional use permit to allow a home occupation for a hair salon in a proposed remodeled garage in the R-1, Single Family Residential District at 806 Central Avenue North, PID#32.24.02710, with the following conditions:

1. The Home Occupation must comply with all of the provisions listed in Chapter 151.146 Home Occupations.
2. No further expansion of the salon space shall be permitted in the future than what is proposed with this application.
3. The retro-fitted or new septic system will need to be approved by the City Septic Inspector and installed prior to or concurrently with the issuance of the building permit for the salon.
4. A building and plumbing permit will be required prior to the remodeling of the garage.
5. A sign permit is required and must meet all of the Zoning Requirements for signage in the R-1 Zoning District.
6. A conditional use permit issued by the City Council for a home occupation shall not transfer with the change of ownership of the dwelling.

Bradow asked if we can install new septic systems in the City of Park Rapids? Walker stated you can install new septic systems if they meet the requirements and are not adjacent to city services, which they are not and if they have the lot size they would be allowed to do that.

Peterson asked in the future, if they wanted to expand the salon space, what's their avenue or route of expansion? Walker stated he recommended no further

expansion because they've already exceeded what is allowable under the Home Occupation Ordinance.

Bradow asked what kind of parking will they have? Walker stated it is about three quarters of an acre so there is plenty of parking with the driveway, a paved area and also a gravel area that would accommodate the parking and the space inside the salon is going to dictate how many people are able to be there at one time. Bradow commented this is already on a pretty heavily traveled road so traffic shouldn't be a problem. Walker agreed and commented it is a pretty big lot as are many of the lots in that area.

The Public Hearing was opened at 6:09 p.m.

Mary and Darrald Anderson stated they are next door neighbors and don't have any problem with her having a salon there and there is already a lot of traffic so it won't make a difference.

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

The Findings of Facts were reviewed. The commissioners came to the following conclusions: Is the proposed use identified as a conditional use in this zoning district? YES.

1. *Are there characteristics of the proposed use that may violate the public health, safety, or general welfare of Park Rapids City residents? NO.*
2. *Is the proposed use inconsistent with the intent of the Park Rapids City Comprehensive Plan and Zoning Ordinance? NO.*
3. *Does the proposed use present any unique concerns regarding erosion, runoff, water pollution or sedimentation? NO.*
4. *Could the proposed use create any special problems with parking? NO.*
5. *Would the proposed use cause any problems with access or traffic generation? NO.*
6. *Is the proposed use incompatible with other uses located in the zoning district? NO.*

For each response answered affirmatively, are there conditions that could be attached to the granting of a permit that would mitigate the adverse impact? *No affirmative answers, but Walker and the Commissioners recommended the following conditions:*

1. The Home Occupation must comply with all of the provisions listed in Chapter 151.146 Home Occupations.
2. No further expansion of the salon space shall be permitted in the future than what is proposed with this application.
3. The retro-fitted or new septic system will need to be approved by the City Septic Inspector and installed prior to or concurrently with the issuance of the building permit for the salon.
4. A building and plumbing permit will be required prior to the remodeling of the garage.
5. A sign permit is required and must meet all of the Zoning Requirements for

signage in the R-1 Zoning District.

6. A conditional use permit issued by the City Council for a home occupation shall not transfer with the change of ownership of the dwelling.

A motion was made by Vorhes, seconded by Bradow and unanimously carried to recommend to the City Council approval of the Conditional Use Permit request from Amielia Kahlstorf, 806 Central Ave N to allow a Home Occupation for a hair salon in a proposed remodeled garage located in an R-1 Single Family Residential District, PID#32.24.02710 with the following conditions:

1. **The Home Occupation must comply with all of the provisions listed in Chapter 151.146 Home Occupations.**
2. **No further expansion of the salon space shall be permitted in the future than what is proposed with this application.**
3. **The retro-fitted or new septic system will need to be approved by the City Septic Inspector and installed prior to or concurrently with the issuance of the building permit for the salon.**
4. **A building and plumbing permit will be required prior to the remodeling of the garage.**
5. **A sign permit is required and must meet all of the Zoning Requirements for signage in the R-1 Zoning District.**
6. **A conditional use permit issued by the City Council for a home occupation shall not transfer with the change of ownership of the dwelling.**

5B. VARIANCE REQUEST FROM KENNETH & SUZANN BARR, 1009 BALSAM LANE, FOR A 20 FT FRONT YARD VARIANCE AND A 4 FT SIDE YARD VARIANCE TO CONSTRUCT A GARAGE IN THE R-1 SINGLE FAMILY RESIDENTIAL DISTRICT, PID#32.62.02400:

Walker explained the applicant, Kenneth and Suzann Barr who are the property owners, are requesting a 20' front yard variance to allow a 15' setback where 35' is required and for a 4' side yard variance to allow a 6' setback where 10' is required in order to construct a 30' x 40' detached garage.

Walker stated the property is located at 1009 Balsam Lane. The property is currently being used as a single family residence. The property is currently zoned R-1, Single Family Residential and the City's Comprehensive Land Use Plan designates this area for Single Family Residential Use. The property is .55 acres. The property is located in City limits and serviced by City water and sanitary sewer and the site is not located in an environmentally sensitive area. The applicant has requested the variances in order to construct a 30' x 40' two stall detached garage in the side yard. The garage would be used for additional storage space. The garage would be built on a concrete slab and would be wired for electricity but the applicant is not proposing to connect the garage to sewer and water. Because of the shape of the lot and the orientation of the existing house on the property, the proposed garage does not fit within the required building area on the east side of the house. The applicant also considered the west side of the property but the water and sewer service lines are connected to an easement on the west side of the property and run through the middle of the yard, and the structure would have likely needed variances on that side as well. Walker showed a drawing of the lot with the location of the home, water/sewer lines and proposed garage.

Walker advised the proposed garage layout would keep the front of the garage even with the front of the existing attached garage. The proposed garage would be approximately 29' from the front property line and angle to the east to 15' at its closest. The proposed garage would also start 15' from the east side property line in the front and angle to 6' from the property line to the north. The proposed garage would be parallel to the existing house and garage at a distance of 12'. A building permit will be required prior to construction.

Walker provided his Comments addressing the five criteria to meet in the Findings of Fact:

1. Does the applicant propose to use the property in a reasonable manner that is prohibited by an official control?

The request for an accessory structure setback variance is a reasonable request which would allow the applicant to have more indoor storage space. The applicant has considered other options that were not feasible and has positioned the garage as to minimize the variances.

2. Is the property owner's plight due to circumstances unique to this property, which was not created by the landowner?

The shape of the lot and the way the house is positioned on the parcel along with the location of the sewer and water lines make this the most reasonable place to locate the proposed garage. These were existing conditions when the applicant purchased the property.

3. Can the variance be granted without upsetting the purpose and intent of the Zoning Ordinance?

Detached accessory structures are a permitted use in the R-1, Single Family Zoning District and the proposed garage meets all of the other provisions of the Zoning Ordinance.

4. Is the variance consistent with the Comprehensive Plan?

The variance is consistent with the Comprehensive Plan.

5. Can the variance be granted without altering the essential character of the surrounding area?

Walker stated the variance can be granted without altering the essential character of the surrounding area. The area is residential in character and this request is consistent with similar uses in residential districts and the surrounding area.

Walker recommended approval of the variance requests to allow a 20' front yard variance to allow a 15' setback where 35' is required and for a 4' side yard variance to allow a 6' setback where 10' is required in order to construct a 30' x 40' detached garage at 1009 Balsam Lane, PID#32.62.02400 with the following condition:

1. A building permit is required prior to construction.

Bradow stated when we grant variances we are creating nonconforming

properties and are there other alternatives? Bradow stated we can discuss that i.e. storage buildings and so forth they could rent and did they know what they were buying when they bought this property.

Smith asked if it could be any closer to the house than the 12 ft? Bradow asked if it could be smaller? Walker responded when you build a detached structure it has to be 12 ft. from an existing building and that is the reasoning for that 12 ft. Bradow stated we're granting nonconforming here if we recommend this.

Peterson asked how will the driveway approach that building? Walker said the applicants can address that when you open the public hearing.

The Public Hearing was opened at 6:22 p.m.

Bradow asked if staff wished to address the applicants? Bradow said he has one simple question, what type of exterior structure is going to be, steel or is it going to fit in, because as I drove through that neighborhood I don't see any steel buildings so is it going to fit in with the way that neighborhood looks, or what do you have in mind? Kenny Barr stated what he is wanting is to match the same color siding and trim but it is going to be a steel outer shell as I figure it is less maintenance than the other and it will look a lot like the surrounding houses that are there. Barr said to address the driveway issue, it will use the existing driveway in front of the attached garage and just make the corner into the garage.

Smith asked what kind of siding is on your house? Barr said it is vinyl. Bradow asked do you think the steel will match? Barr said it will be the same color. Bradow said the same color but do you think it will blend in with all of the other stuff in the neighborhood? Barr said he's trying to think what's there, but thinks it will. Peterson commented there are other steel buildings in the community that look just fine. Bradow said they are nice buildings but will it fit Balsam Drive? Peterson said he thinks it will fit very well in there with good landscaping. Smith asked if it has a steel roof? Barr said yes. Peterson asked if it will have overhangs? Barr said yes 2 ft. Peterson said his only concern is, and it's not a detrimental concern, but opening up an enormous wide frontage driveway to the road so instead of the standard width of driveway, we end up with a full width but you can still gain access by pretending there is a driveway there but keeping it grass and all that and some nice landscaping to prevent having a very wide asphalt or gravel driveway there. Smith said but you can't really tell them they have to do landscaping either. Peterson and Vorhes said no. Vorhes asked if Lot 11 is not developed yet, is that right? Barr said right. Vorhes said it's platted but nothing is on it. Peterson said it's nonconforming, that's the issue. Bradow agreed that's the issue. Peterson said he is willing to make approval and a motion to adopt it and sit it in there. Peterson said he recognizes the issues there and we could claim hardships and we can't claim hardships, there are none. Bradow said there are no hardships. Peterson said there are no hardships, it is what it is, it's here and there are no neighbors here protesting it. Walker commented it is currently a vacant lot to the east. Smith asked what the normal setbacks there are what? Walker said 10 ft. Peterson said so it's only 4 ft. Vorhes said he would suspect that these have been surveyed. Walker said

correct. Peterson added the vision of driving the road and coming around that corner it won't have any effect on blocking the views of the drivers driving through the area.

Bradow agreed but said his only point would be if we don't like the setback that we have in front of us here maybe we need to revisit them? Peterson said no, they are a good guide. Smith commented, it's not the setbacks so much but the fact that the house was built on there at an angle. Bradow said I don't like generating nonconforming properties, I do not like that. Walker said that's part of why there is a variance process because there are exceptions. Bradow said I understand that, but I just have a hard time recommending the City Council generating nonconforming properties. Smith asked to you see any place else that building could be? Bradow said no, the only thing they could do is go rent a storage building. Vorhes said right, or build it a little smaller. Bradow said smaller is another option but I just don't like generating nonconforming properties. Smith stated you could build it 26 x 40, but no you would still be nonconforming in the front yard. Walker said the front setback is still going to be there and will still need at least a front variance to do that because even if you shrink it up, you still have to push it back 30 ft. and shrink them both and when we talked about it, you're not going to have room. Vorhes said you're not going to accomplish your goal probably. Peterson said he doesn't see any threat to any safety or health or welfare of anybody and I know we are creating a non-conformity there but at the same time it fits there. Smith said it accomplishes getting boats and stuff out of the yard. Bradow said this property is not a good spot to do that. Peterson said it has a very nice grove of trees through the property line there that helps set it in there appropriately. Bradow said the only problem he is having is the nonconformity issue. Peterson said we are only violating that on the 10 ft. to 6 ft. and on that one corner.

Walker said it's not creating a non-conformity because that is what the variances cures is that non-conformity. Bradow asked what if it burns up or blows away? Walker said they have 180 days. Bradow said that's a nonconformity. Walker said right, but they would have a 180 days to rebuild. Walker said the variance runs with the property so once a variance is granted it is virtually a conforming property with the variance on it. Vorhes said that's true but then the next person comes along with a similar request. Walker said a variance has to be case by case. Vorhes said it's case by case but it's kind of hard to justify it and not the other, that's my point. Bradow said he rests his case. Walker said variances are pretty rare, they are meant to be for exceptions where something is reasonable and appropriate and think that it obviously meets those criteria.

The Public Hearing was closed at 6:30 p.m.

The Findings of Facts were reviewed. The commissioners came to the following conclusions. (A Variance may be granted only where the strict application of the Park Rapids Zoning Ordinance will result in practical difficulties and the variance is in harmony with the general purpose and intent of the official controls and is consistent with the Comprehensive Plan. Practical difficulties exist only upon a positive Finding of each of the following criteria, but economic considerations alone do not constitute practical difficulties.)

1. Does the applicant propose to use the property in a reasonable manner that is prohibited by an official control? YES.

2. Is the property owner's plight due to circumstances unique to this property, which were not created by the landowner? YES.

3. Can the variance be granted without upsetting the purpose and intent of the Zoning Ordinance? YES.

4. Is the variance consistent with the Comprehensive Plan? YES.

5. Can the variance be granted without altering the essential character of the surrounding area? YES.

Walker and the Commissioners agreed to attach the following conditions:

1. A building permit is required prior to construction.
2. The garage blends in with the harmony of the neighborhood and be of similar color to the house.

A motion was made by Smith, seconded by Bradow, and unanimously carried to recommend to the City Council approval of a Variance request from Kenneth & Suzann Barr, 1009 Balsam Lane, for a 20 ft. front yard variance to allow a setback of 15 ft. where 35 ft. is required and a 4 ft. side yard variance to allow a 6 ft. setback where 10 ft. is required, to construct a garage in the R-1 Single Family Residential District, PID#32.62.02400, with the following conditions:

- 1. A building permit is required prior to construction.**
- 2. The garage blends in with harmony of the neighborhood and be of similar color to the house.**

Walker stated these issues will go before the City Council on July 8th. Bradow recommended they attend the City Council Meeting as we are not your final approval.

6. GENERAL BUSINESS:

6A. STEVE FRANK – PARK LAND DEDICATION:

Walker explained we received a request from Steve and Andrea Frank regarding an outstanding parkland dedication fee in the amount of \$6,385.00 which was a condition of approval for a Conditional Use Permit that was issued on July 8, 2008. As part of the platting process consistent with other applications a fee was required in the amount of 5% of the raw land value based on the fact that there was not enough raw land to be dedicated in lieu of the fee for the application. The fee is generally due to the filing of the Final Plat which was not done in this case and that is the reason this is still outstanding. The Parkland Dedication Ordinance was adopted by the City Council on November 29, 2004 and the fee has been paid by other plats since that time including CIC plats similar to this one. Franks provided a letter which is attached to the Memo

and they are seeking a reduction or elimination of the parkland dedication fee. Walker stated in consulting with the City Attorney and based on past practice, we do not recommend eliminating the fee as it is required by ordinance and as I mentioned it was paid by similar developments and a valid reason to reduce the fee hasn't been established either. Walker recommended considering the following options:

1. Require the applicant to pay the total amount of \$6,385 immediately, which was approved as a condition of CUP#02-08 and should have been paid prior to the Plat Approval.
2. Consider allowing the applicant to pay the balance over time (either a set number of years or per unit as they are sold), but putting a lien on property so it is paid at the time of the sale.

Walker stated he would like to make a recommendation to the City Council for a resolution of this matter.

Bradow stated this is not a public hearing and asked if everyone felt it is appropriate to let the Franks talk to the commission directly? Commissioners agreed.

Steve Frank stated a number of years ago, seven years ago, we applied for a Conditional Use Permit to change our five cabin resort into a Planned Unit Development and we were granted that and appreciate that very much obviously. Part of the Conditional Use Permit structures that night, really I didn't know anything about this until very short term that I was going to have to pay this parkland fee and in looking at the ordinance and the policy that you set forth, it was put in place so a developer that came in and bought a piece of land and built a high rise apartment or housing complex that were going to add population to that density that would enhance and go forward and use the park systems at a bigger rate than what's being done right now. Frank said so in other words the more people that live there, the more people that are going to use the park systems. We feel like we had a very unique situation and that we didn't add anything to our property, we have five cabins and an older home. I had to go in and reduce my impervious surface to 25% so I dug up sidewalks, shuffleboard court and removed a fish house and blacktop driveway that used to be a circle driveway and now it stops in the middle of the yard just so the rest of the it would be green. So, we've done everything that we needed to do it's just that the Council, again we appreciate this, let us run this as a resort until we decided to sell the units off and that happened this year and we've got one unit sold by one of our guests, they live in Omaha, they've been up here ten days. I would see the rest of my units quite honestly being purchased by retirees or near retirees so I just don't see where we're going to put a strain on the parks system. Because we're such a unique situation in that we've never added anything we just changed our name from King's Cottages to Cottages on the River's Bend and the people that are going to be coming up here to purchase these units are only going to be here maybe two weekends out of the year. Frank stated with all of that, we want to get this resolved and Walker has been kind of enough to write letters as we were gone this winter and we've stayed in touch and just decided to come to this point in time so I am literally requesting that we look at this parkland fee that we've been assessed and either try to reduce it as much as possible or in a perfect world, just eliminate it. Frank stated we do have some monies that we wrote a check out for \$925.00 when we were approved and that went into escrow and has been sitting in the city's escrow account this whole time, so at least, what I'm proposing is that you can take that escrow money and put it into the parkland fee and erase the rest of it.

Smith asked those other two businesses that did change into Gramma's and Riverside Condo's didn't pay a fee? Walker responded River's Edge was platted before the fee was required and Gramma's did pay the parkland dedication fee. Frank said so we have kind of an issue, I thought they didn't pay it. Walker said we checked it but don't know what the date of it was. Lockhart said it was \$7,600.00 and paid when approved. Smith asked Riverside wasn't on it? Walker said he looked into both of them and Gramma's paid \$7,600 in 2006 before they filed the plat.

Frank said the night that he got his approval, J&B Foods had their approval for their Conditional Use and Heritage Living Center as well and my question that night was why did they not receive this same parkland dedication fee since they took green space honestly and did away with it and put concrete, blacktop and steel buildings there. Bradow said I believe they did though. Walker said no, a conditional use doesn't require the parkland dedication, it was actually the CIC Plat, the converting of and the basis of that is that in theory when you do that you're taking the resort from a seasonal use and you're adding just as you would if you had a subdivision of 5 houses, you're adding five new units into the housing stock and in theory that adds to the demand to the park system.

Smith asked if these are year round units? Franks said no, only a couple. Utke said in theory it kind of goes that way and in actuality it actually goes the other way and reduces the number considerably with these types of projects. Peterson asked why are they not year round, weren't they subdivided into permanent homes? Frank said they are just seasonal use buildings, cabins. Smith said they are cabins. Peterson said it is up to each owner whether they want seasonal or year round. Frank said from what we've gathered people that have been semi interested folks and are only going to be up here in the summer time and gone in the winter and I don't foresee anybody staying in it over the winter, but I've been wrong before. Smith said unless it was in the owner's home. Franks said yes that's true.

Peterson asked why was the payment not made prior to filing of the plat as the conditions stated? Walker said I can tell you that this was one of the first applications that I processed and I was new to the city and it could have been an over sight by me. Bradow asked was this before your time? Walker said this is right when I started, it was the first application I took and I mean if we would have required that, we wouldn't be here today, we would have said we are not going to issue the plat until the fee is paid. Peterson asked typically when a developer comes forward you have your laws that take place for any development and one of those was the park dedication and it stated very clearly within that for any PUD that was one of the many rules for creating a PUD, so I'm kind of curious how that would have been overlooked by being responsible for that fee when it was part of the agreement from the beginning. Frank said in theory we have not been a PUD until just this year and so I think the city was kind enough to grant me the use of running that as a resort yet to try and generate some money obviously to help pay the mortgage and so again, we've not been a PUD until this year and one of the stipulations, and Dan and I had this conversation as well, but there is written correspondence that basically states that once I convert to a PUD I can no longer rent the cabins out and so once we sold that first unit, we took all of our ads off the Chamber, we took our website down, we no longer have email address and Dan, he brought up the fact that, it really wasn't an attachment it's some place in here I've got it, where "per our conversation this morning you stated that you will continue to use the property as a resort until the sale of the first unit. You will be permitted to continue the operation as a resort until there is a change in the use to a Common Interest Community. After the sale of the first unit, the park dedication fee of \$6,385.00 will be

due as well as the installation of the water meters on each unit.” Peterson asked if you sold the first unit? Frank said yes. Bradow asked if that has been completed? Frank said yes. Bradow asked so are you a PUD then? Frank said yes, and that’s why we’re not taking weekly, daily rentals. Smith said well other PUD’s have done that. Andrea Frank said they are not in the city. Smith said well that’s true but have continued to operate as a resort, there’s no reason why you have to stop operating as a resort. Frank said I just took that statement that once we sold our first unit we wouldn’t be able to continue. Smith said but what it says, read that again Steve. Frank read “per our conversation this morning you stated that you will continue to use the property as a resort until the sale of the first unit. You will be permitted to continue the operation as a resort until there is a change in the use to a Common Interest Community.” Smith said but see, it doesn’t change until all the units are sold, is that not right? Franks and Vorhes said that’s not right. Smith said it has to change when the first unit is sold? Vorhes said yes. Smith said really. Andrea Frank said we didn’t pay, you know really to kind of answer your question why we didn’t pay, we didn’t really, this wasn’t our first choice. Frank said we’ve been trying to sell it as a whole resort quite honestly for the last several years and it’s just not happening and one of our guests. Andrea Frank said I don’t know if he is listening. Peterson said he is listening. Andrea Frank said okay, well you had asked the question so I thought. Peterson said I understand.

Tidrick asked if there are any renters there now? Frank said yes we do, we have one girl that we did long term rental with that we just decided to put in one of our units and she will be there until the middle of August and is getting married, but yes, we decided to do the long term rather than obviously the weekend. Tidrick said so you have one unit sold and one rental right now, is that correct? Frank said that’s correct. Tidrick said thank you.

Peterson said in the letter here is states that you were unaware of the park dedication fee until the City Council meeting but your review in the Planning Commission Minutes they discussed that and it was one of the Findings of Fact with the following conditions and that was talked about right there – park dedication fee. Peterson asked Frank if he was at that meeting? Frank said I was. Andrea Frank said he just meant he didn’t know before that meeting that there was such a thing. Bradow commented you could have refused the CUP then at that point. Frank asked was there a question? Bradow said no question but Andrea stated that you just didn’t know about that before the meeting. Smith said that would have been the planning meeting. Bradow said the planning meeting way back seven years ago, you could have refused the CUP and said no we don’t want to do that. Frank said I remember fighting it at the approval meeting and seeing the fact that the other two properties didn’t have to pay it and so why do I. Peterson asked is that true, they were in the city limits, why didn’t they have to pay it. Walker said the other CIC plats did but there was a Conditional Use Permit for J&B at that time and then Heritage but we don’t require a parkland fee for a CUP, we require it for the plat and the plat was changing from a resort into individual saleable units. Bradow said which is different than a CUP. Peterson agreed.

Tidrick stated she has the minutes of both the planning meeting and the city council meeting from seven years ago and they are both pretty parallel documents and all of those items are laid out equally in both documents and there is a comment in the notes from the City Council meeting you stated that you wanted to go on the record as saying that you are really not in favor of the parkland fee at that time and that was seven years ago. Frank said exactly. Tidrick said nothing has been paid to date except what’s in escrow, is that correct? Frank said that is correct. Tidrick asked do you think it is due and owing now seven years later or not? Andrea Frank said she wants to know

if you think you owe them that fee now. Frank said well, that's why I'm here I want to either reduce it or take it away. Frank said I fought it back then and because now that we finally just converted to a PUD, the fee is coming due and we just want resolution. Tidrick said we all want resolution. Tidrick asked when did you sell that property? Frank said we actually closed on December 20th. Tidrick asked what year? Frank said 2013.

Bradow asked if there are any more questions? Peterson said you stated that because of the decrease of property values these past few years that you feel the assessment should be lowered, but according to research at the Hubbard County Property Assessor, the values of their estimated values have gone up significantly and doubled the value of the property, but you feel they are not as valuable? Frank said well we had this discussion in Dan's office and I didn't get into the website to see what the valuation was. I know back when I first bought the resort, I've got a copy of it and they actually broke out the value of the land and that was what I was assessed on, the land, not the buildings. Frank said I tried to get in that same website today and I don't know what the value of the land is today, were you able to pull that up? Peterson said yes, you have lots 100, 200, 300 and 400 all valued at \$39,700 for just the land value and lot 500 is valued at \$72,100 so that's a total of \$230,900 verses when you submitted for the PUD the value of the raw land that they valued the \$6,385 park dedication fee, the value of the land was \$127,700, so it's almost doubled in property value for just the land. Frank said so you can take that off the table.

Smith commented money is only made when it's sold.

Peterson said this is a very difficult position because I've been in the development world my entire career with my own entity and with other entities and we have always followed the law and so it is very difficult for me to grant any source for noncompliance because I've never been granted a mishap.

Bradow asked if we've had enough discussion so we can make a recommendation to the City Council?

Tidrick stated she has another question. Tidrick stated city staff has talked about two possible plans that might be acceptable to them, one is a flat payment of the entire amount that's due under the ordinance, like right now. Part two as I understand it would be that they might be willing to accept some kind of extended payment but frankly, the state of the record is that it has been six years so I think that would really have to be hammered out as to what those expectations are.

Utke and Smith said well it didn't start until the first unit. Tidrick said okay so I stand corrected on that. Lockhart said it should have been paid before the plat was approved. Tidrick said that's when I thought the record stated was when it got approved. Bradow said yes, not when the first sale was. Frank said this letter is dated December 10, 2008. Andrea Frank asked would a person pay that whether they went into a PUD or not just because you've gotten permission to do one? Bradow said yes, that's part of the condition of the PUD. Tidrick said it is conditional in order for you to have it at all. Bradow stated that was one of the conditions that were laid out in 2008 in the records here and should have been paid back then. Peterson said well no, when it actually became a PUD. Bradow, Tidrick and Vorhes said when the City Council approved it, it should have been paid at that point in time. Frank said but in reality we weren't a PUD until this year. Peterson said that's correct, you've got the correspondence that states that. Walker said it should be paid prior to the filing of the

plat. Peterson said yes it should have. Walker said but they filed the plat. Bradow said the plat was filed then. Walker said right. Bradow said it should have been paid prior to filing of the plat. Smith asked when it was filed? Vorhes said 2008.

Peterson said there was some confusion, undeniably there was some confusion and I mean granted the conditions were written and the law is the law, but there was confusion from Franks. Franks said unquestionably. Peterson stated Dan was new in the office and he was stepping into a new position and these had come forward proceeding him so the enforcement didn't follow through so part of the fault, I'm not saying the developers aren't at fault, but with the confusion we could display fault on both sides, especially with him coming forward with that correspondence that stated he is not a PUD until they sell the house, it could be unclear to them then at that point that that's what they were riding on, they weren't a PUD.

Bradow said here's the bottom line question, do we want to enforce the percentage charge or do we want to extend payment terms or do we want to forgive, those are our three choices.

Vorhes stated you enforce it but extend terms, but we collect the full amount, give them an option to pay over time or as sold, but we need a deadline and it can't be ten years from now and we still have it hanging.

Peterson asked does it say anywhere within the bylaws that other than what Dan has provided us the fee is due prior to filing of the final plat which was not done, we know that. Vorhes said correct. Peterson asked but is there anywhere within here that stated that exact comment also, it must be in here somewhere that that fee is due. However, with the correspondence their understanding that the PUD doesn't actually take place until they sell a unit, is that justification for some confusion going on, was it due when the filing occurred, it doesn't state that. Commissioners argued yes it does, there are the minutes – due at the time of filing the plat.

There was further discussion concerning the resolution, enforcement, confusion, other rules when filing documents with the county, not paying since 2008 and knowing the fee is due, and liens and assessments.

After further discussion Bradow asked the Commissioners for their recommendation to the City Council. Smith said they have to pay it now. Vorhes said he is okay with that. Peterson passed. Tidrick said to pay in full. Walker said he would be willing to check on deferred assessments and there was further discussion concerning whether that is possible and the additional costs involved.

Peterson commented further on the ordinance and why the rule wasn't enforced and the fact that Walker did delay the clearly stipulated rule and did Walker have the authority to tell them to delay that payment. Vorhes and Smith said that's a done deal. Bradow said we can cancel the CUP. Peterson said Walker has to be able to do things, I understand that but was he able to authorize that? Bradow said we could cancel the CUP because they weren't complying. Vorhes asked is that what you want to do to enforce it? Peterson said no, I'm looking for resolution and what I'm stating is prove to me why we are proving this is an absolute when there was confusion here, what I'm saying is that Walker violated the law himself. Vorhes said there is no confusion that it was due. Peterson said right, but Walker violated that in itself, he in turn by correspondence allowed them forgiveness of paying it at the due date. Bradow said out

of the goodness of his heart. Peterson said that's exactly right and here we go, it's six years later now.

Frank said let me speed this on for you, evidently I came in here looking for an absolution or a reduction and I'm not going to get that, so that being said, I will pay the fee, take my escrow and apply it to it and we will move on with business.

Peterson said okay, done deal.

Frank said the only thing that I ask, if there is such a thing, if you could earmark that money to put in a few more pickle ball courts. Commissioners asked what that is? Smith said it's a game they play down south. Frank said it's a big time game and there's one pickle ball court that was painted over at the Heartland Park on one tennis court but you could put seven more in there and I guarantee you there will be a ton of people playing pickle ball. Frank said it's the fastest growing sport in the United States.

Smith asked why they can't run it as a resort after they sell one unit? Who made that rule? Franks said we would have to start all over, we shut our website down, we're not on the chamber anymore. Frank said send me a bill for the amount due.

Utke suggested the commissioners make a motion on this matter.

A motion was made by Smith, seconded by Vorhes, and unanimously carried to recommend to the City Council approval of enforcing Steve Frank's immediate payment to the City of Park Rapids of the parkland dedication fee of \$6,385.00.

6B. SITE PLAN REVIEW POLICY:

Walker said we have a review practice that when a developer comes in we have a practice and some guidelines of what the process is going to be like and we were kind of running on an old form that was a little bit confusing so I just tried to tighten it up a little bit and it's something that we can give to developers so they know the expectation on projects. Walker said occasionally we will get people that will come in and say that I want a building permit today and we need to go back to step one and say here is the process for obtaining the building permit. This isn't for reside or re-shingle your house we don't use this process, but if you want to put in a large development this sets the expectations for how long it is going to take, what responsibilities we have, what responsibilities that the developer has so they know upfront what they are getting into. Obviously these aren't hard and fast timelines, we try to get the process moving through as fast as we can but these steps still need to be followed, we need to get the information, we give them feedback, they give us information, we give them feedback, they submit the final plans, we issue the building permit.

Lockhart asked is there is anything in here about parkland dedication fee? Commissioners laughed and said that's exactly right. Walker said that will be part of the process. Bradow said if they are going to put roads in you may want to consider some kind of bonding. Walker said this is just meant to be a very generic guideline. Peterson said to start the process.

A motion was made by Peterson, seconded by Bradow, and unanimously carried to recommend to the City Council approval of the proposed Site Plan Review Policy as presented.

7. INFORMATIONAL/DISCUSSION: None.

8. ADJOURNMENT: A motion was made by Vorhes, seconded by Smith, and unanimously carried to adjourn the meeting at 7:25 p.m.

Chair Dick Bradow

ATTEST:

Carmen L. Lockhart
Planning Secretary