

**CITY OF HANOVER
PLANNING COMMISSION MEETING
SEPTEMBER 26, 2016
OFFICIAL MINUTES**

Call to Order/Pledge of Allegiance

Stan Kolasa called the September 26, 2016, Planning Commission Meeting to order at 7:00 pm. Members present were Stan Kolasa, Jim Schendel, Michelle Armstrong, Mike Christenson, and Dean Kuitunen. Also present Council Liaison Doug Hammerseng, City Planner Cindy Nash, and Administrative Assistant Amy Biren. Citizens present: Clark Lee, Janis Reeves, Thomas Jones, Dave and Nancy Sibley, Stephanie Gleason, Lynn and Steve Beise, Suzanne and Dan Heinecke, Mark Mischke, and other guests.

Approval of Agenda

MOTION by Schendel to approve the agenda as presented, seconded by Christenson. **Motion carried unanimously.**

Approval of Minutes from the August 22, 2016, Regular Meeting

MOTION by Schendel to approve the August 22, 2016, minutes as presented, seconded by Armstrong. **Motion carried unanimously.**

Citizen's Forum

Stephanie Gleason, 11875 Riverview Road: feels that the park redesign should come before the Planning Commission and encourages the Commission to get involved in it. See attached letter and handout from Ms. Gleason.

Public Hearings

Amendment to Zoning Ordinance Related to Floodplain

Kolasa closed the Planning Commission meeting and opened the Public Hearing at 7:07 pm. Nash reviewed the information which will need to be updated regarding the new FEMA Flood Maps and the ordinance which is impacted. Nash went through the amendments to the ordinance which would update it including the addition of a definition for "Flood Insurance Rate Map". She did leave the General Floodplain District information in the ordinance for future expansion of Hanover and in case it is needed. Nash explained that she drafted Section 11 (Nonconformities) a little differently since Hanover is not a high risk area of flooding. Board members asked questions related to flood insurance, how many residents will be affected, and what is the City's part in it. Nash explained that WSB, the City's engineering firm, will send letters to those residents affected by the changes and the next steps that will need to be taken. Biren said she would check with WSB to see when the letters would be going out to residents. If residents do need help, they can contact the City and then WSB will work with the resident to resolve any issues.

Kolasa asked if there was anyone from the audience that would like to speak. There was no one that wished to speak. Kolasa closed the Public Hearing and reopened the Planning Commission at 7:35 pm.

Motion by Armstrong to recommend approval of the drafted ordinance with the addition of the Flood Insurance Rate Map definition and any additional feedback from the DNR, seconded by Schendel.

Motion carried unanimously.

Amendment to Zoning Ordinance Relating to the Orientation of Single Family Homes

Kolasa closed the Planning Commission meeting and opened the Public Hearing at 7:38 pm. Nash stated that based on the direction from Council, staff had advertised this public hearing and drafted an amendment regarding the orientation of single family homes on a lot. The amendment is modeled on ones found in Iowa and Indiana.

Kuitunen asked for a definition of a “through lot” and verification that corner lots were not affected by this amendment. Nash explained that a “through lot” is one where there is frontage on both the front and rear of the home. She verified that the amendment would only affect interior lots where there are homes on both sides of the property and through lots. Corner lots would not be included.

Clark Lee, 525 Kadler Avenue: Reviewed his understanding of RA, Residential Agriculture, lots and how these lots would not be affected by the amendment. He acknowledged that when development occurs to the west of Crow River Heights, current residents bordering this area will have homes located on property behind them. He gave an example of a home with minimal windows and an undefined “front façade” that could be permitted under the current ordinance. Lee feels that “perpendicular” and “sideways” needs to be stricken from the amendment and other language inserted to cover other options. He feels that Subsection 1 is contradictory to what Council wants. Lee said that he called Sioux City, Iowa, regarding this ordinance and was told that it was put in place in order to deal with problematic lots along the river. Lee went on to talk about lots that were once buildable, but may not be currently since environmental protections have been put in place. He would like to see “perpendicular” and “sideways” stricken and omit Subsection 2.1 in the exceptions.

Thomas Jones, 540 Kadler Avenue: He has talked with a realtor and the realtor said that homes that change the look of a neighborhood will decrease the value. He also believes that Subsection 2.1 allows anyone to build what they want and does not believe this is acceptable. He would like to see this section removed and language addressing the front facing façade be included.

Janis Reeves, 10342 Kalen Lane: She explained that she and her family moved to Hanover from a small town in Illinois where all of the homes were very similar. When the family moved to Hanover, they had to find a house quickly and really liked what they saw in Hanover—a small town, rural lots, and homes that were different from one another. Over the past four years, she has seen the empty lots being filled with new homes and new residents moving in. Reeves stated she is in favor of leaving the ordinance the way it is as there does not appear to be a problem and sees an amendment such as this as limiting future building. She would like to see the ordinance remain as written so that families can move here and build “their” type of home.

Suzanne Heinecke, 560 Kadler Avenue: Appreciates the draft and sees it as a starting point. She also stated that it is a big deal to her family.

Mark Mischke, 10123 Kaitlin Avenue: Said that his question may not apply directly to the orientation of homes, but wondered what rights neighbors have when something is built, whether it is the orientation of the home or how it impacts a wetland.

Nash responded that all neighborhoods are planned for where the water will flow. When a neighbor changes the topography of the land and therefore the flow of water, the City may get involved, but usually it remains a civil matter between neighbors. When a building permit comes in, part of the requirement is having a certified survey and this is reviewed. Lee interrupted saying that Minnesota residents can collect 100 signatures to request an environmental assessment worksheet. Nash replied that is true that 100 citizens can petition for one and there is a certain process that is followed if the State deems the petition viable. Mischke said he is concerned about the how much water is on an empty lot from the recent rainfalls. Nash understands his concerns.

Steve Beise, 505 Kadler Avenue: Thank you for working on this. He feels that the exceptions need to be looked at and make sure the language is fair and easily understood.

Lynn Beise, 505 Kadler Avenue: Invited the Board members to come out to look at the neighborhood to see how a differently oriented home would look amidst the current homes.

Hammerseng asked if Dave and Nancy Sibley would like to speak to the amendment as this would have a direct impact on the type of home they could build on the lots 500-520 Kadler Avenue.

Dave and Nancy Sibley, 6005 Goldenrod Lane N, Plymouth: He said that when they were interested in buying the lots, they came to the City and asked about the type of house that could be built on the lot since there are wetlands on the properties. There was not anything prohibiting the type of house they wanted. Hammerseng asked if they had looked at alternate areas on the two lots. Dave replied that they actually had looked at building the house on the 500 Kadler Avenue lot, locating the house further back, but that would need a wetland setback variance for the driveway. The house, if built there, would still be slightly angled, but would be more front facing than the original house site on 520 Kadler Avenue. He also said that they are planning on consolidating the lots. Nancy said they are coming from a neighborhood that has many different styles of homes. Christenson asked if the Sibleys had any concerns about water on their property. Dave replied no, they did not have any concerns.

Suzanne Heinecke: She said she is concerned about water coming into her yard. She is familiar with the neighborhood where the Sibleys currently live and that is not our neighborhood.

Nash did a public service announcement letting the audience know that anyone can purchase flood insurance.

Kolasa closed the Public Hearing and reopened the Planning Commission at 8:25 pm.

Armstrong asked for clarity regarding the Council's decision to send this back to the Planning Commission. Hammerseng said that the direction was vague and he asked for clarification, too. Council wanted to make sure the subject was clearly reviewed. Hammerseng went on saying that Council wants to take care of existing residents but at the same time look to the future. There is concern about the chance of something like a uniquely oriented house happening. What the Planning Commission and Council recommends will affect everyone and the future needs to be considered: do we work within the guidelines versus going to the expense of changing an ordinance with an amendment that will impact everyone?

Lee said he talked with Armstrong about the value of a home during the selling process and if he can prove that he took a loss, he can be aggrieved and take it to court with the City.

Kolasa stated that the public hearing is closed and the public was heard. He may choose to recognize audience members, but the current discussion is between the Planning Commission members.

Armstrong said that the difficulty is to come up with something that is concrete yet vague. If you ask 10 different realtors, you will get 10 different opinions. It is not common to have an odd orientation of a home on a lot. It is also understood that people may work around the rules. In her opinion, she is inclined to go with the draft, but you have to look at the houses around it, too. She asked to hear the other member's opinions.

Kuitunen said that he made the motion at the last meeting stating that there didn't need to be a change in the ordinance. The Board spent the summer researching and discussing how to make Hanover less restrictive, but Council thinks that we should take a look at this. He questioned how to deal with the pie shaped lots and that a perpendicular home couldn't be built on it, but it wouldn't be truly parallel to the road because of the lot shape and the curve in the road.

Schendel said to leave it alone and not amend the ordinance. We can continue to change things all the time, but people build and change things like drainage on their lots, so how does that get controlled?

Christenson said to leave it the way it is. Perhaps adding language regarding a primary entrance and a front facing façade would be beneficial if a change is needed. There are too many variables—even if someone would create something like what has been discussed, the house would not be re-sellable.

Nash reminded the members that this amendment would be applied to every lot in Hanover. A PUD would have to explain the exceptions the developer would want in new area. She sees this as a part of the ordinance that a developer wouldn't necessarily be aware of and then be caught off guard because it was not in the PUD. She didn't put completely parallel as part of the amendment because there are very few homes in Hanover that are truly parallel to the road.

Kolasa also stated that he did not feel a need for this amendment. The Sibleys want to build a certain type of house and the lot may not fit the house. To change the ordinance for one lot doesn't make sense and it will impact the future lots.

Armstrong said that most builders would not build a house perpendicular on the lot.

Nash agreed with Armstrong and added that the minimum garage requirement in Hanover affects how the house is built particularly if there is space issues on the lot. Also, front doors are usually built to be front facing so guests can find the entrance to a home.

Armstrong asked Hammerseng if this was enough information to bring back to Council.

Hammerseng said that what he heard is that the group doesn't support the draft amendment, but no one wants to have a perpendicular house by them, so we can't leave it (the ordinance) alone. We need to take a look at the definitions.

Hammerseng asked if the challenging lots identified last year need to be dealt with individually and possible have a variance given.

Nash gave her opinion: The City wants to make everyone happy, but realistically, not everyone will be happy. The ordinances are already restrictive. Should a home be closer than allowed within a setback and look similar to the neighborhood or is the wetland setback more important and the house looks different than other houses?

Kuitunen asked how the amendment should be written based on the curved streets and pie shaped lots in Hanover. Nash replied that was the reason "parallel" was not included in the amendment. She also said that she didn't want to put in specific measurements as there are different ways to measure and that would add confusion. If the Board desires, the exceptions in the amendment may be removed and others put in their place.

Kuitunen said to leave the exception relating to RA lots in the amendment.

Nash went on to explain that when ordinances are very restrictive and limits the uses of the property to such a degree that it deprives the owners of the use or devalues the property that is known as a regulatory taking. There can be legal consequences.

Nash also went on to say that some ordinances are very specific and contain graphic illustrations showing homes that have been turn 90 degrees and are "perpendicular".

Nash said that she had met with the Sibleys and they are willing to do a lot consolidation and will submit when the building permit is submitted. The second house plan and site located on 500 Kadler Avenue would need a wetland setback variance. This variance would allow the driveway to be located within the wetland setback 10 feet or less. The building pad is set at a slight angle. If the Sibleys go with the first

house plan and site located at 520 Kadler Avenue, a wetland setback variance would also be needed if a more front facing house with architectural features was desired. Currently, on that site is the plan for a long house that is not facing the street, but does not interfere with the wetland setback. She clarified that the variances needed on either lot are in the wetland setback and not the actual wetland. The City would not grant a variance to build in a wetland.

Jones asked to be acknowledged to speak. Kolasa agreed. Jones said that he would support a wetland setback variance for the house to be built at 500 Kadler Avenue.

Lee also asked to speak. Kolasa agreed. Lee said that he, too, would support a house at 500 Kadler Avenue and that it would look nice.

The Beises asked to speak. Kolasa agreed. Steve said that the 500 Kadler Avenue lot would be better and that he would be okay with the house being angled. Lynn asked if they would be able to put up a shed.

Biren answered Lynn saying that she had already advised the Sibleys that a shed would not be allowed as it is only allowed in the rear yard for that zoning district.

Nancy Sibley said that the builder actually prefers the 500 Kadler Avenue lot building pad rather than the first plan on 520 Kadler Avenue.

Nash reviewed: to accomplish what has been discussed, the exception in 2.1 related to topography and natural features would be removed from the amendment; the variance process would be utilized for some lots; and is the home front facing on the lot.

Armstrong said that she is concerned about definitions and getting too specific. Hammerseng said that it is not possible to capture all of the variables and instances that could occur in just one ordinance, and that this was a good compromise.

MOTION by Schendel to recommend approval of the amendment to the ordinance related to single family dwellings with Section 2.1 relating to topography and natural features be removed from the amendment, seconded by Armstrong.

Motion carried unanimously.

Unfinished Business

None

New Business

None

Reports and Announcements:

Planning Commission:

Kolasa reminded members that the 125th Celebration will be on October 8th.

Staff:

Biren updated the members on the realtor's sign by Crow River Heights: The realtor will be taking it down.

Biren said that there will training money available next year for board members to attend various planning related workshops. She covered a few hosted by Government Training Services. Members expressed interest in attending.

Adjournment

MOTION by Christenson to adjourn, seconded by Kuitunen. **Motion carried unanimously.**
Meeting adjourned at 9:20 pm.

ATTEST:

Amy L. Biren
Administrative Assistant

Dear Hanover Park Board, Planning Commission and City Council members,

Please clarify how you made the decision that a large ball field in our Settler's Park was an "improvement" to our park? Was the decision made out of need? It couldn't have been because Hanover already has 7 ball fields in our city and there are several options for our 1 team of 16 year olds to play in the surrounding communities. Did you collect data showing the citizens, who you are supposed to represent, *want* a large ball field that would kill 200+year old healthy oak trees and decrease our open space? If so, that data has never been shared. But you did collect data from your very own 2016 survey that shows "The baseball fields at Settlers Park meet the community needs." You have also been presented with hundreds of signatures, calls, and comments from Hanover citizens that do not support a ball field in that location. Plus you have hundreds more signatures from surrounding communities who have also said they do not want this project going forward. It is the responsibility of city staff to inform the Planning Commission, Park Board and Council of these calls, emails, and letters regarding this issue as it does affect many people.

Certainly you referred to the League of Minnesota Cities before you made this decision. It clearly states, "A city can rent land or building space that it *no longer needs for city use.*" This contradicts your decision. The space in question is currently used for picnics, Girl scouts, youth ball, family gatherings, city events, shade and open space that all ages can enjoy. The League of Minnesota Cities also states, "If a city has a comprehensive plan, it may not acquire or dispose of any property until the cities planning commission has reviewed the proposed acquisition and reported on whether it will *comply* with the city's comprehensive plan." If you actually refer to the city comprehensive plan for Hanover, you would see that nowhere in the plan does it say the vision is to sell/rent our park to a private organization for 1\$ or to destroy our heritage trees on which the park was founded.

Finally, you have not presented a solid plan that addresses the safety concerns on the play ground if 16+year olds are hitting stray balls towards our vulnerable children. If you made your decision based on one smooth-talking pitch and a few self-serving board members from a private organization rather than listening to your own Hanover citizens' needs and wants, you are not doing your job as a public servant. We would like some answers.

Sincerely,

Stephanie Gleason

IMPORTANT INFORMATION PERTINENT TO THE PROPOSED LEASE AGREEMENT BETWEEN THE CITY OF HANOVER AND THE HANOVER ATHLETIC ASSOCIATION FOR THE LAND IN SETTLERS PARK



INFORMATION MEMO

Purchase and Sale of Real Property

Understand the statutory authority of cities to acquire and dispose of real estate, including by sales, purchases, and alternatives such as gifts, leases, dedication, contract for deed, lease-purchase and others. Be alert to common issues in transactions such as environmental considerations, deed restrictions, trust land, permissions to buy and sell, and more.

Minn. Stat. § 412.211.

II. Disposition of land

Statutory cities may dispose of land that it does not hold in trust for a specified public use. Such disposition may be done in any of the following ways: Operative phrase "no longer needs" When was this decided?

- Sale. A city can sell land it does not need.
- Lease. A city can rent land or building space that it no longer needs for city use.
- Gifts or sale for nominal consideration. There are only a few limited situations under which a city may give away land or sell it for a nominal amount of money.

Contact the League research department for sample community center use policies.

B. Leases

Operative word unneeded. When was it decided this property was unneeded?

Cities often lease unneeded property and buildings to others for their use. Sometimes these agreements are long-term leases. Other times it may be an afternoon rental of a room in a community center. Many cities have adopted policies regarding the rental and use of their community centers.

A.G. Op. 469-a-9 (May 5, 1967).

The Attorney General has determined that a city was not permitted to give or lease land for a nominal consideration to a nonprofit corporation.

Minn. Stat. § 469.185.

Minn. Stat. §§ 116J.993.
Minn. Stat. § 116J.994.

I do not understand how the city intends to get around this. The HAA is a non-profit organization as indicated on their website. A \$1/yr lease would be nominal consideration.

Minn. Stat. § 462.356, subd. 2.
For more information on the role of the planning commission in purchase and sale of city property see the LMC information memo Planning Commission Guide.

2. Cities with comprehensive plans

If a city has a comprehensive plan, it may not acquire or dispose of any property until the city's planning commission has reviewed the proposed acquisition and reported on whether it will comply with the city's comprehensive plan. The planning commission's report must be in writing.

Minn. Stat. § 462.356, subd. 2.

"dispose of" would include leasing land IAW Section II Disposition of Land. I verified Hanover does have an active Comprehensive Plan.

IGNORING RECOMMENDATIONS FROM THE LEAGUE OF MINNESOTA CITIES LEAVES THE CITY VULNERABLE TO CIVIL ACTION!! TELL YOUR MAYOR AND CITY COUNCIL TO RESCIND THE LEASE AGREEMENT WITH THE ATHLETIC ASSOCIATION