

**CITY OF HANOVER  
PLANNING COMMISSION MEETING  
JANUARY 23, 2017**

**CHAIR**

**STAN KOLASA**

**COUNCIL LIAISON**

**DOUG HAMMERSENG**

**BOARD MEMBERS**

**JIM SCHENDEL**

**MICHAEL CHRISTENSON**

**MICHELLE ARMSTRONG**

**DEAN KUITUNEN**

- 1. Call to Order and Pledge of Allegiance: 7:00 p.m.**
- 2. Oath of Office**
- 3. Selection of Chair and Vice Chair**
- 4. Approval of Agenda**
- 5. Approval of Minutes from December 29, 2016, Regular Meeting**
- 6. Citizen's Forum**
- 7. Public Hearing**
- 8. Unfinished Business**
  - a. Amendments to Zoning Ordinance Related to Accessory Uses and Structures**
  - b. Amendment to Zoning Ordinance Related to Principal Building and Uses**
- 9. New Business**
- 10. Reports and Announcements**
  - a. Planning Commission Reports**
  - b. Liaison Report**
  - c. Staff Reports**
- 11. Adjournment**

**CITY OF HANOVER  
PLANNING COMMISSION MEETING  
DECEMBER 29, 2016  
DRAFT MINUTES**

**Call to Order/Pledge of Allegiance**

Stan Kolasa called the December 29, 2016, Planning Commission Meeting to order at 7:00 pm. Members present were Stan Kolasa, Jim Schendel, Michelle Armstrong, Dean Kuitunen, and Mike Christenson. Also present City Planner Cindy Nash and Administrative Assistant Amy Biren. Absent: Doug Hammerseng, Council Liaison. Guests present: Cindy Hiller, Kelsey Wilmes, and Joe Wolverton.

**Approval of Agenda**

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

**Approval of Minutes from the November 28, 2016, Regular Meeting**

Biren made a correction to the minutes: Insert "said" on the second page, second paragraph, second sentence, so that it reads: "Nash said that the terminology for decorative does need to be addressed."

**MOTION** by Schendel to approve the November 28, 2016, minutes as amended, seconded by Christenson. **Motion carried unanimously.**

**Citizen's Forum**

None

**Public Hearings**

- **Amendment to Zoning Ordinance Related to Principal Uses and Structures**

Kolasa closed the Planning Commission at 7:02 pm and opened the Public Hearing.

Nash explained that after advertising for the last Public Hearing related to Accessory Uses and Structures, Staff realized that there was not a clear definition of principal buildings and principal uses. Since this was outside of the realm of the Public Hearing, it needed one of its own.

Nash said that currently the ordinances do not say how many homes could be on a lot and that it needs to be clarified. This is related to residential lots and does not include lots in the commercial or industrial districts. She gave an example that on an industrial lot, there may be a need for additional buildings.

Christenson asked if a resident wanted another home, would they be required to divide the lot. Nash replied that would correct.

No members of the public were present to address the subject of the Public Hearing.

Kolasa closed the Public Hearing at 7:05 pm and reopened the Planning Commission Meeting.

**MOTION** by Christenson to recommend sending the Amendment to the Zoning Ordinance Related to Principal Uses and Structures forward for Council action, seconded by Kuitunen.

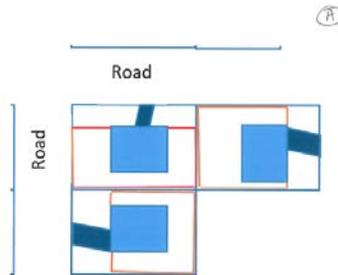
**Motion carried unanimously.**

**Unfinished Business**

**Amendments to Zoning Ordinance Related to Accessory Uses and Structures**

Nash presented the revised amendments along with three additional graphics not included in the packet. All three graphics used a 6 foot privacy fence as the example.

Picture A shows what would be allowed under the drafted amendments based on last month's discussions:



Schendel stated he did not like that the privacy fence blocks the visibility of traffic and gave an example of an existing fence which does exactly that.

Kuitunen said that he couldn't imagine this scenario—the corner lot is identical to his lot and he said that it would not look good.

Armstrong said that it would look weird if there were two types of fences on one property.

Nash included that some cities have required that a privacy fence in the example shown would only be allowed to be 4 foot high. The members liked this idea. Nash said that she would have to include text with the graphic in order to explain it.

Christenson asked what the distance from the street (setback) is. Nash said it depends on the street, but that it is usually 10 feet.

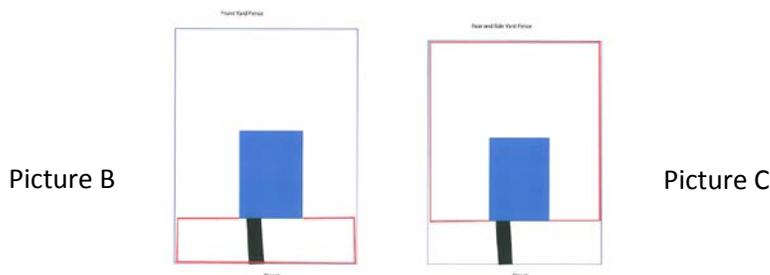
The members agreed that the fence amendments need to come back to the January meeting with the new graphics and text.

Christenson asked whether or not the term privacy fence needed to be defined.

Joe Wolverton, 1020 Mallard, suggested using opacity in the explanation instead of differing fence heights to make it less confusing.

Nash went on to explain the additional graphics:

- Picture B indicates the area where a decorative fence is required and not an actual fence.
- Picture C indicates the other areas where fences may be placed.



**MOTION** by Schendel to table the amendments related to accessory uses and structures until the following month's meeting, seconded by Armstrong.

**Motion carried unanimously.**

**New Business****Time Cards**

Biren asked the members to verify the time cards in order for the payment to be approved at Tuesday's Council Meeting.

**Reports:****Staff:**

Biren provided that dates for the 2017 Planning Commission meetings along with permit application deadlines. She also gave members a copy of the MS4 Newsletter that WSB will be providing each month. She gave a brief update on the Public Works site explaining that soil corrections and building pad development were under way.

Christenson asked about an update regarding the St. Michael Compost Site. Biren replied that starting March 1, 2017, residents will be able to pick up a key fob at Hanover City Hall. The first key is free and any replacement key fobs will be at a charge. This information is in the newsletter being delivered this weekend and will be on the City website.

**Adjournment**

**MOTION** by Schendel to adjourn, seconded by Christenson. **Motion carried unanimously.**

Meeting adjourned at 7:32 pm.

**ATTEST:**

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Amy L. Biren  
Administrative Assistant

***Collaborative Planning, LLC***

PO Box 251  
Medina, MN 55340  
763-473-0569

Memorandum

Date: January 19, 2017  
To: Planning Commission  
From: Cindy Nash, City Planner  
RE: Ordinance Amendment related to Accessory Structures

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A draft ordinance is attached for your consideration related to accessory structures that reflects the discussion that occurred at the December 2016 Planning Commission meeting.

Attachments:

- 1) Ordinance

Section 10.25 – Modifications

1. Add a qualifier to Accessory Apartment to see Section 10.72.

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Section 10.27 – Modifications:

1. Outdoor Dining –

Change to an accessory use in only the B-1, B-1A, B-2, I-1, I-2, and I-3 Districts, with the qualifier that the outdoor dining must be on the same lot as the principal use and cannot be in the right-of-way or sidewalk areas.

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SEC. 10.17 BUILDING ELIGIBILITIES

- A. It is presumed that all parcels of record existing on July 2, 2013 that are zoned for residential use shall be eligible to have one single-family home (“Building Eligibility”) constructed on that parcel, subject to compliance with all other requirements of this Chapter 10 except for lot size requirements.
- B. Every parcel of land containing up to forty (40) acres zoned for residential use shall have one Building Eligibility on that parcel.
- C. For parcels larger than forty (40) acres, the number of Building Eligibilities shall equal one per 40 acres as rounded to the nearest 40 acres. By way of example, both 65 acres and 99 acres rounds to 80 acres, granting two single-family Building Eligibilities to either of those properties.
- D. When a parcel is annexed to the City, the parcel is considered undeveloped for the purpose of this calculation regardless of the number of lots that may have been created while under the Township’s jurisdiction.
- E. In the event that a subdivision is proposed that results in any parcel no longer having the number of Building Eligibilities that would be anticipated under paragraphs A or B above, then a condition of approval of the subdivision shall be that a document is recorded against the property documenting the remaining number of Building Eligibilities for that parcel.

~~E.F.~~ An Accessory Apartment as may be permitted in the RA zoning district is not counted as the use of a Building Eligibility for the purpose of this section.

SEC. 10.66. FENCES

- A. Permit required. Except as otherwise provided herein, no person shall erect, alter or relocate any fence within the City without first having been issued a permit therefor.
- B. Permit fee. A fee as set forth by resolution of the City Council shall be charged for a permit under this subdivision for new fences, as well as the replacement of fences in the same location.
- C. Application procedures.
  - 1. Residential, single-family and two-family. Each application for a permit under this subdivision shall be submitted to the Administrator or his designee on forms provided for by the city. Each application shall include a site plan drawn to scale showing the location of the houses, garages and other structures on the lot and location of the fencing to be erected, altered or relocated. Fences six (6) feet tall and higher shall be processed as a building permit. Fences less than six (6) feet tall shall be processed as an administrative permit.
  - 2. Commercial, Industrial, and Residential, other than single-family and two-family. Commercial and industrial uses. Request for fencing shall be processed as part of and according to the procedures of site plan review. Fences six (6) feet tall and higher shall require a building permit. Fences less than six (6) feet tall shall be processed as an administrative permit.
  - 3. Agricultural Properties. Fences constructed on properties used for agricultural purposes are exempt from the provisions of this Section 10.66.
- D. Intent of fence regulations. The purpose of this section is to enact minimum restrictions on fencing necessary to ensure orderly and attractive development, to enhance "curb appeal" from city streets, to protect the health and welfare of the citizens, to allow a free flow of air, to prohibit unreasonable restrictions of you while allowing each property owner to protect his property in privacy.
- E. General requirements.
  - 1. New construction, maintenance, and design requirements.
    - a. Fencing shall be constructed and maintained so as not to endanger life or property. Any fence which through lack of repair, type of construction, or which otherwise imperils health, life, property, or the aesthetic quality of a neighborhood shall be deemed a public nuisance.
    - b. The side of the fence considered to be the face shall face abutting property. The face shall be defined as the finished side of the fence rather than the side with structural supports.

c. If fencing is built away from a property line, property on both sides of the fence must be maintained so as not to create a public nuisance.

2. Fence location requirements.

a. All fences shall be located entirely upon the private property of the person constructing the fence.

b. When driveway, trail, access, or walkway easements are located on private property, fences shall not be constructed on the easement. No fence shall be constructed which obstructs the flow of water upon a drainage or utility easement or which would cause the City to be unable to access the easement. The City may require that obstructions to easements be removed at the property owner's expense. Privacy fences and other types of fences that have the potential to restrict the flow of water within a drainage and utility easement shall be constructed to allow not less than three inches of clear area from the ground to the bottom of the fence to allow the passage of water.

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c. Fences shall not be permitted within any right-of-way or within the 100-year floodplain of any lake, river or wetland. Fences shall also not be permitted within the Ordinary High Water Level of any lake, river, pond or wetland.

3. Traffic visibility requirements. On any corner lot, no fence shall be erected in the triangle formed by the front lot line, side street lot line, and a third straight line joining points on such property lines 30 feet from their intersection at the corner of the lot when such action would impede vision above a height of 2 1/2 feet above the centerline grades of the adjacent streets.

F. Requirements for residential areas.

1. General design requirements.

a. The use of barbed wire, or of any electrical current is prohibited.

b. ~~If a chainlink fence is constructed, it shall have a minimum gauge of 11.~~

2. Rear and side yard ~~boundary~~ fence.

a. ~~a.~~ Height restrictions. A rear and side yard ~~boundary~~ fence shall not exceed six feet in height, except for fences located in corner side yards.

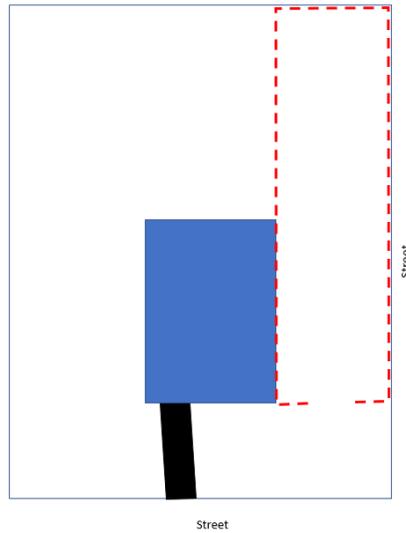
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b. Corner Side Yard. A fence that is located within a corner side yard shall not exceed 4 feet in height and shall have at least 75 percent

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open area for passage of air and light. Chain link fences are permitted within this area. The area occupied by the corner side yard is shown in the figure below.



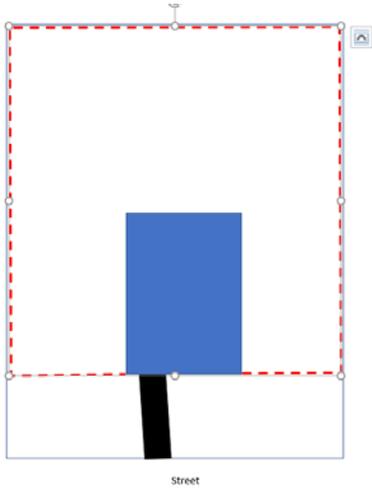
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b. Required yard location.

1. 1. —A rear yard boundary fence shall be permitted only within the rear and side yards, not extending forward of a line drawn from the front corners of the primary building to the side lot lines as shown in the figure below, except where rear yard access from the principal building is achieved from an entrance/exit to a side yard. In such instances, a six foot boundary fence is permitted in the side yard to a distance not greater than three feet beyond the entrance/exit in the direction of the front yard.

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2. ~~Should a corner lot have a rear lot line in common with the side lot line of an abutting lot, the boundary fence shall meet the principal structure's required side yard setback for corner lots, or shall not extend past the front corner of the house on the abutting lot, whichever is less.~~
3. ~~Large lots containing structures set back 100 feet or more from a street right-of-way, a rear yard boundary fence shall be permitted within side yards to the front of the structure, or in the case of two adjacent structures, to a line connecting the front of such structures.~~
3. If a chainlink fence is constructed, it shall have a minimum gauge of 11.

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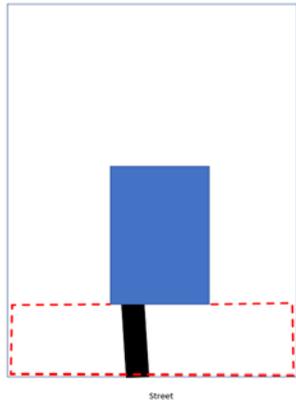
3. ~~Decorative Front~~ fences.

- a. Height restrictions. A ~~decorative~~ fence shall not exceed four feet in height within the limits of the front and side yards.
- b. ~~Required yard location.~~
- 1) ~~A decorative fence is the only type of fence allowed within the limits of the front yard or side yards, except as indicated in subsection (e)(2)a of this section.~~

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~~2) A decorative fence erected on a corner lot shall be subject to the additional traffic visibility requirements in subsection (e)(2)b of this section.~~

c. Design requirements. A decorative fence is the only type of fence allowed within the limits of the front yard as shown in the figure below. The decorative fence shall not exceed four (4) feet in height and shall have at least seventy-five (75) percent open area for passage of air and light. A fence meeting these design requirements may be erected in the front forward of a line drawn across the front line of the principal building. Decorative fences shall include split rail, wrought iron, picket and other similar types of fences that meet the design requirements. Chain link fences are not decorative fences. shall have an opacity of no greater than 75 percent.



4. Screening Fence. Lots within Residential Districts which are developed with single family homes may erect an eight (8) foot high privacy fence along the side or rear of the lot that is adjacent to commercial or industrial lots provided:

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- a. The fence is not located in a drainage or utility easement.
- b. The fence is set back a minimum of ten (10) feet from the property line or right-of-way line, whichever is greater.
- c. The fence does not extend into the front yard.

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G. Requirements for commercial and industrial areas.

1. Fences for screening outdoor storage areas.

- a. Height restrictions. All fences required for the screening of outdoor storage areas shall be at least six but not more than eight feet in height.
  - b. Construction and design requirements.
    - 1. All fences required for screening open storage areas shall have an opacity of at least 90 percent.
    - 2. Screening fences shall be architecturally harmonious with the principal building and shall be compatible with the natural surroundings.
2. Fences for the separation of incompatible land uses.
- a. Explanation. Fences used for screening may be required at locations where commercial or industrial uses are adjacent to or across the street from property zoned or developed for residential or public use.
  - b. Height restrictions. The screening required shall consist of a continuous fence or wall at least six but not more than eight feet in height.
  - c. Construction and design requirements.
    - 1) The screening fence required shall have an opacity of at least ~~75-90~~ percent.
    - 2) A louvered fence shall be considered adequate if it blocks vision from a 90-degree angle to the fence.
    - 3) Plant materials of a type approved by the City Council may also be required in addition to, or in lieu of, fencing.
  - d. Required location on property.
    - 1) The screening fence shall not extend to within 15 feet of any street or driveway opening onto a street.
    - 2) The fence shall be placed along property lines or, in case of screening along a street, five feet off the property line with landscaping (trees, shrubs, grass, and other plant materials) between the screening fence and the property line.
3. Fences for protection from danger and of valuable private property. It may be necessary for a commercial or industrial use to construct fences specifically to protect people from danger or to guard valuable private property. Such uses may be enclosed with an industrial chainlink fence of at least six feet but not more than

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eight feet in height topped with three strands of barbed wire, provided they project over the property on the interior side of the fence.

**Section 10.72. Accessory Apartment.** Accessory apartments must comply with the following standards:

(A) The accessory apartment shall be clearly a subordinate part of the single-family dwelling. In no case shall it be more than thirty (30) percent of the building's total floor area nor greater than eight hundred (800) square feet nor have more than two (2) bedrooms.

(B) The principal unit shall have at least 1000 square feet of living space remaining after creation of the accessory apartment exclusive of garage area. Accessory apartments shall have at least 500 square feet of living space. Living space square footage for the accessory apartment shall be exclusive of utility rooms, common hallways, entryways or garages. Living space for the accessory apartment shall include a kitchen or cooking facilities, a bathroom and a living room.

(C) No front entrances shall be added to the house as a result of the accessory apartment.

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(D) The house must be owner-occupied.

(E) A minimum of three off-street parking spaces must be provided, two of which must be enclosed.

(F) The accessory apartment and principal unit must meet the applicable standards and requirements of the Building Code.

(G) The building and property shall remain in single ownership and title and shall only have one mailing address.

(H) Only one accessory apartment is permitted per detached single family home.

***Collaborative Planning, LLC***

PO Box 251  
Medina, MN 55340  
763-473-0569

Memorandum

Date: January 19, 2017  
To: Planning Commission  
From: Cindy Nash, City Planner  
RE: Ordinance Amendment related to Principal Buildings and Uses

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At your last meeting, the Planning Commission reviewed a proposed ordinance amendment to principal uses and buildings and forwarded that to the City Council. At the City Council meeting on January 3, 2017, there was significant discussion as to how that would impact certain large properties that are granted "Building Eligibilities" under the Zoning Ordinance if they have in excess of 60 acres.

City Attorney Squires was asked to review the issue and he supplied the attached memo for consideration. The Council asked this item to go back to the Planning Commission for further consideration.

At the January Planning Commission meeting, we will plan to discuss clarification of various items so that appropriate draft language can be brought back to your February meeting. In particular:

1. In residential districts, should any given property be able to have more than one principal use at the same time? Should they be allowed to have more than one principal building?
2. If a property can only have one principal use and building on a parcel, should changes be made to clarify Section 10.17 of the Zoning Ordinance to allow for parcels of greater than 60 acres to be allowed to subdivide without extension of water and sewer into a number of parcels that is not greater than the building eligibilities that they have? Or should an exemption be made that will allow for the construction of more than one home on a parcel based on building eligibilities granted without regard to how those homes could be subdivided apart in the future?
3. In commercial districts, should any given property be able to have more than one principal use, or more than one principal building?

Attachments:

- 1) Letter from Attorney Squires

Kevin J. Rupp  
Scott T. Anderson  
Jay T. Squires††  
Michael J. Waldspurger\*  
Amy E. Mace  
Trevor S. Helmers\*  
Tessa S. Wagner  
John P. Edison  
Liz J. Vieira  
Kristin C. Nierengarten  
Alice D. Kirkland  
Zachary J. Cronen  
Colleen A. Bharadwaj  
Kalli M. Bennett\*  
Michael J. Ervin

**RUPP, ANDERSON, SQUIRES  
& WALDSPURGER, P. A.**



\*Also Admitted in Wisconsin

†Real Property Specialist Certified by  
the MN State Bar Association

January 11, 2017

Mr. Brian Hagen  
City Administrator  
City of Hanover  
11250 5th St NE  
Hanover, MN 55341

RE: Principal Building Ordinance  
Our File No. 4011(1)-0089

Dear Mr. Hagen:

At its meeting on January 3, the Council considered proposed amendments to the Zoning Ordinance that would have modified the definitions of “Principal Building” and “Principal Use.” A representative of a property owner offered comment and raised questions on how the current ordinance differed from the proposed amendments. Ultimately, the Council tabled the matter, referring it back to the Planning Commission. The Council requested more information on the operation of the current ordinance and proposed changes. Following is that information.

**The Current Ordinance**

Presently, the Zoning Ordinance defines a “Principal Building” in pertinent part as:

The building in which is conducted the principal use of the lot on which it is located. Lots with multiple principal uses may have multiple principal buildings....

The term “principal use” itself is defined in the Zoning Ordinance as “the main use of land or buildings as distinguished from subordinate or accessory uses.”

In addition to the above terms, which apply in all zoning districts, there are particular provisions in the Zoning Ordinance that govern the construction of multiple homes or dwellings on residential lots. First, §§ 10.17(A) and (B) indicate that, for residential lots existing as of July 2, 2013, only one home may be constructed on the lot. And, § 10.17 further contains a provision that applies to large residentially-zoned lots. The provision indicates that one dwelling is allowed per 40 acres, but that multiple dwellings can be constructed on a single lot of record as the parcel gets larger. Specifically, for lots in excess of 40 acres, the size is rounded to the nearest 40. So, for example, a parcel that is 60.0001 acres in size would be rounded to 80, giving it two building eligibilities.

Given the above, following is my opinion as to how the definitions and substantive provisions of the current Ordinance operate together:

- 1) Residential properties of less than 60 acres may only have one dwelling per lot;
- 2) Residential properties in excess of 60 acres could have two (or more) building eligibilities based on size.
- 3) All properties could potentially have differing multiple principal buildings on a lot, provided all performance standards of the ordinance could be met. For example, an RA residential lot could have a dwelling and a commercial greenhouse building, since both are permitted in the RA district, and having them would constitute having multiple principal buildings on a lot, which is allowed by the current definition of "Principal Building." Likewise, commercial or industrial zoned properties could have two or more principal buildings, provided the principal uses of the buildings were different.

### The Proposed Changes

The proposed change to the definition of Principal Building is as follows:

*Principal Building.* The building in which it is conducted the principal use of the lot on which it is located. Lots in commercial and industrial zoning districts may have multiple principal uses and more than one principal building, but storage buildings, garages, and other clearly accessory uses shall not be considered principal buildings. Lots in residential districts shall not have more than one principal building.

The proposed change to the definition of Principal Use is as follows:

*Use, principal.* The man use of land or buildings as distinguished from subordinate or accessory uses. A principal use may be either permitted or

conditional. Lots in commercial and industrial districts may have multiple principal uses. Lots in residential districts shall not have more than one principal use.

With respect to commercial and industrial zoning districts, the new definition would not change how the ordinance operates. The language would still allow multiple principal uses and principal buildings on the properties. The primary change in the proposed definition relates to residential properties. The proposed definition would, unlike the present language, limit residential properties to one principal use and one principal building.

The proposed ordinance does not on its face repeal § 10.17, which establishes the exception for large residential lots. This matter should be clarified. If intended, § 10.17 should also be repealed. If not intended, then language should be added to the new Principal Building definition that would state “Except as provided in § 10.17 hereof, lots in residential districts shall not have more than one principal building.”

I hope this helps clarify existing language and the proposed amendments. Let me know if you have questions.

Very Truly Yours,



Jay T. Squires

JTS/aet

RASW: 76767