

## PLANNING COMMISSION MINUTES - CITY OF INVER GROVE HEIGHTS

Tuesday, July 16, 2019 – 7:00 p.m.  
City Hall Chambers - 8150 Barbara Avenue

Commissioner Scales called the Planning Commission meeting to order at 7:00 p.m.

Commissioners Present: Armando Lissarrague  
Elizabeth Niemioja  
Dennis Wippermann  
Pat Simon  
Joan Robertson  
Jonathan Weber  
Tony Scales

Commissioners Absent: Brett Kramer (excused)  
Annette Maggi (excused)

Others Present: Heather Rand, Community Development Director  
Allan Hunting, City Planner  
Heather Botten, Associate Planner

### **APPROVAL OF MINUTES**

The minutes from the July 2, 2019 Planning Commission meeting were approved as submitted.

### **OTHER BUSINESS**

#### **Discussion of Chapter 10-15-26: Home Occupations**

Ms. Botten advised that City Council directed staff to review the Home Occupation ordinance relating to possibly allowing the storage of business-related materials and equipment within accessory structures. This discussion stems from an ordinance amendment that was submitted by a resident to allow the indoor storage of tree trimming and removal equipment on residential property. Currently the zoning code would consider this type of use a "Contractor's shop-indoor" which would be a permitted use in the I-1 and I-2 Industrial zoning districts and is prohibited in residential districts. The City does allow home businesses that comply with Chapter 10-15-26 of the City Code. This includes requirements such as the business being engaged in only by persons living in the dwelling and only when the business is conducted entirely within the principle structure, not in an attached or detached accessory structure. This has included all aspects of a business, including the storage of commercial or industrial related equipment or materials in accessory buildings. Another part of the City Code allows for a resident to have one commercially licensed vehicle not over a one-ton capacity to be parked at a residence of the owner/operator of said vehicle. The staff report lists several things to consider when looking at an ordinance change. Staff does not support a change to the home occupation ordinance to allow the use of accessory buildings for business purposes based on the fact that businesses located out of accessory buildings in residential areas are deemed incompatible, compromising the quality of life in a residential neighborhood. This could result in adverse impacts to neighborhoods such as higher traffic volumes, noise, change in aesthetics, etc. It would also conflict with the City's comprehensive plan policy to maintain the rural character of established neighborhoods in the Agricultural and Estate residential districts. The Code Enforcement Coordinator provided information relating to home occupation complaints received over the past year and a half, demonstrating that there are residents that have concerns with home occupations. The City is currently a reactive community, rather than proactive, when it comes to code violations. Staff checked with surrounding communities and found that home occupation activity within attached or detached accessory buildings are prohibited in the cities of Eagan, West St. Paul, South St. Paul,

Lakeville, Cottage Grove, and Woodbury. Any recommended changes by the Planning Commission would be brought back to a City Council work session and then a public hearing with the Planning Commission.

Commissioner Scales stated he was aware of several violations that continued to exist and asked what the result was of the complaints listed in the report. He also asked for clarification of the City's enforcement ability.

Ms. Botten replied that she did not request an update on the resolution of the listed complaints. She explained that typically a property owner with a violation would be given a notice and a certain amount of time to comply with the ordinance. She was not sure how many notices were given, but if the property is not brought into compliance within the time limit it then goes to court.

Commissioner Scales asked if the City ever took anyone to court.

Ms. Botten replied in the affirmative.

Commissioner Scales struggled with prohibiting someone from storing their business equipment in their garage where it would not be seen by anyone if the doors were closed. From his point of view if they add any more code restrictions, they should first make sure they are enforcing the current codes on the books.

Commissioner Niemioja stated she would like to have seen the surrounding city ordinances included in the packet, as well as some benefits of allowing storage of business equipment in accessory structures. It is important to maintain the characteristics of single-family neighborhoods; however, she was not comfortable trying to force people to put home businesses in brick and mortar buildings. Home occupations are a growing industry and more people have the technology to allow them to work from home. Although maintaining the characteristics of residential neighborhoods is part of the comprehensive plan, so is creating and promoting economic development. Her research has shown that Bloomington allows for the accessory building to be used for storage on a case-by-case basis. Plymouth allows for 50% of the accessory building to be used for storage. They do not allow employees to be in there, but they have public policy supporting home occupations. Some of the ordinances from other cities include regulations that make things manageable for the neighborhood while also supporting people's home businesses (i.e. hours of operation, number of clients coming to the house). We want quiet neighborhoods but there are ways to do that.

Commissioner Robertson did not think all home occupations should be lumped together as some had greater impacts on neighborhoods than others. She gave two examples of home occupations in her neighborhood. One example is a house with an attached garage full of equipment. They do not use the equipment in the garage; however, because the garage is full there are two cars, three trucks and a boat that cannot go into that garage. At 5:30 AM the garage door opens, equipment gets shifted back and forth, loaded into the back of a pickup truck, and the cars get moved around to allow those trucks to load up equipment from the garage. In a typical residential neighborhood she does not think this is acceptable. Another example is a homeowner who monograms sweatshirts. Trucks deliver boxes of sweatshirts 2-3 times a week, the sewing is done in the garage, several women work for her doing the monogramming, and clients come and go ordering and picking up sweatshirts, etc. She would be very concerned if there was an ordinance in place that allowed these two uses in her neighborhood. Perhaps they could modify the regulations to allow certain types of occupations to function from the house.

Commissioner Lissarrague asked what Commissioners felt constituted a nuisance besides increased traffic.

Commissioner Simon stated noise.

Commissioner Robertson replied hours of operation, the impact of the parking and noise created by the necessary maneuvering to allow that business to operate in the accessory structure.

Commissioner Lissarrague understood the desire to be flexible for someone wanting to run a business out of their garage, but the person living next to a home occupation is entitled to peace and quiet.

Commissioner Scales struggled with the fact that it was difficult to judge what constitutes a nuisance as it differs from person to person. Therefore, instead of discussing which type of businesses would be allowed he would prefer to talk about hours of operation, etc.

Commissioner Niemioja stated samples of other ordinances would be helpful as they list limitations on hours of operation, storage, vehicles, etc.

Commissioner Simon stated the City has existing restrictions relating to noise in residential districts.

Commissioner Scales believed they should have separate rules for businesses.

Commissioner Robertson noted that ordinances were often tied to decibels rather than time.

Commissioner Weber asked if someone in the E-1 district would be in violation if they attached their house to their garage and stored their business equipment in the attached structure.

Ms. Botten replied in the affirmative, stating business equipment storage was allowed only in the principle dwelling.

Commissioner Weber asked if it was a violation to bring a truck home with the company name on the side.

Commissioner Robertson replied that homeowners are allowed to have a one-ton truck.

Commissioner Weber asked what if it was over a ton. He does not understand why the City is not allowing people to have more affordable businesses by storing their equipment in their accessory structures rather than having the overhead of a brick and mortar.

Commissioner Robertson stated one of staff's suggestions was that the use of accessory buildings for a home occupation have a minimum lot size of 2.5 acres.

Commissioner Weber agreed that setting minor guidelines would make having a home occupation more sustainable for everyone.

Commissioner Lissarrague asked Commissioner Weber if he purchased his property before or after his neighbor parked a semi-truck on his property.

Commissioner Weber replied that he knew it was there when he moved in but was told it needed to be parked inside. His problem was it ended up being parked outside and causing a traffic issue.

Commissioner Lissarrague asked Commissioner Weber if he reported the violation and, if so, what was done about it.

Commissioner Weber replied that he reported it a couple times and each time a warning was given. He was not sure of the final resolution as the property owner passed away.

Commissioner Lissarrague had a problem with just giving warnings and questioned whether the City could enforce their current ordinances.

Commissioner Robertson suggested the Planning Commission make recommendations for regulations for home occupations (i.e. lot size, number of employees) rather than saying we are not going to make any changes because the current ones are not being enforced.

Commissioner Lissarrague asked if the Commission could recommend enforcement.

Commissioner Robertson replied in the affirmative.

Commissioner Weber stated the only thing they can change today is recognize that the home occupation rules were written awhile back, and many people now work from home rather than travel to brick and mortar buildings. Many types of home businesses would not have people coming out to their house and he supports allowing people to work out of their accessory structures as long as they are mindful of their neighbors.

Commissioner Robertson stated they need to go beyond asking people to be mindful of their neighbors.

Commissioner Weber agreed, stating they should add business restrictions.

Commissioner Niemioja said other cities do this by using conditional use permits to give them more control. Home businesses should have a procedure in place to move forward with the City.

Commissioner Weber stated there would be a lot of after-the-facts.

Commissioner Niemioja agreed that some businesses may have to be grandfathered in. Some of the language needs to be updated, such as the one-ton towing capacity. Almost all vehicles now have a one-ton towing capacity; other cities use poundage or storage rather than towing capacity.

Commissioner Weber did not think there was much difference between someone storing equipment in an accessory structure and someone having farm animals and equipment all over their property.

Commissioner Robertson stated they could address a lot of neighborhood concerns by establishing a minimum lot size. They should not lump all home occupations together; however, as working on a computer in your home is much different from backing up to equipment.

Commissioner Weber stated in his opinion backing up a trailer to a piece of equipment is no different than someone backing up to their boat.

Commissioner Lissarrague stated the difference is the person would likely not go fishing every day like the person backing up to a bobcat. He asked if there was a limit on employees.

Ms. Botten replied that currently outside employees were not allowed.

Commissioner Robertson asked for clarification of who would be allowed.

Ms. Botten replied whoever was residing in that dwelling.

Commissioner Niemioja stated that other cities consider home occupations to be successful if they are indistinguishable from dwellings with no business use. She knows of several indistinguishable home occupations in the City that are in violation of the code in one aspect or another but are mindful of their neighbors and receive no complaints.

Commissioner Robertson asked what kind of businesses they were.

Commissioner Niemioja replied they were merchandising businesses with large trucks that can haul more than a ton.

Commissioner Weber commented that some people receive deliveries from Amazon daily. Some people would consider that a nuisance while others would not.

Commissioner Lissarrague stated he would have a problem with a cabinet maker making noise from 7 AM-5 PM every day.

Commissioner Weber suggested they set some general guidelines rather than talk about the code on a business by business basis.

Commissioner Scales questioned how we would treat small home businesses if there was a minimum lot size.

Commissioner Weber asked how the current code would apply to someone embroidering shirts out of their house.

Ms. Botten replied if work was being done in the home it would be okay; if it was being done in the garage or there were other employees it would be a violation.

Commissioner Lissarrague asked about clients and deliveries coming to the home.

Commissioner Weber did not understand why it was a problem in an attached garage.

Commissioner Robertson referred to one of the examples she gave previously where construction equipment was stored in the attached garage. It was never used there but was loaded and unloaded several times a day. As a result, there were always several vehicles stored outside and they were constantly being moved around.

Commissioner Scales asked if Commissioner Robertson would still consider that a problem if it occurred after 7 AM.

Commissioner Robertson replied that for her it would not be a problem. In this case they had to be on site by 7 AM so the vehicle maneuvering occurred around 5:30 AM.

Commissioner Scales stated they could suggest adding limitations that would prevent that. He stated that the trades are a hot market right now and he had a problem with disallowing welders, handymen, etc. from storing equipment and vehicles in their garages.

Commissioner Niemioja advised that other communities differentiate between certain permitted home occupations and others that need more control. She questioned whether they should address minimum lot sizes and nuisance items and then talk about perhaps allowing certain types of home occupations regardless of lot size.

Commissioner Weber replied that City Code already addresses many smaller home businesses.

Commissioner Robertson agreed, but stated they need to address the newer home occupations that do not fit that definition and probably do not need to be in an industrial warehouse setting.

Commissioner Weber asked if they could say the current home occupation code works well for smaller residential areas, but then add a subsection for the estate or larger zoning districts.

Commissioner Scales asked if Commissioners agreed that they should find a way to allow home occupations.

Commissioner Robertson said we have an existing definition for home occupations, and she sees no need to change that.

Commissioner Weber said we need to amend the existing code so it either broadens or restricts what is going on in the City. Currently it is limiting what people are wanting to do in their homes.

Ms. Botten stated she was hearing Commissioners say that if there is a change that goes forward it would probably be a subsection of our existing ordinance. She is also hearing that Commissioners may not have enough information in front of them to see what other cities do and what a good avenue would be to go down. If Commissioners would like to table the request, staff could bring it back in August with examples from the cities she and Commissioner Niemioja listed. Commissioners should contact staff with any other cities they know of that allow businesses in accessory dwellings.

Commissioner Niemioja supported tabling the request. She would like to look at the entire code as there may be some changes needed even in the smaller lot residential districts. She believes there are likely many business owners storing equipment or product in their garage and the City needs to determine if they are going to allow storage.

Commissioner Weber stated the important issue is whether we are going to allow storage in accessory structures.

Commissioner Robertson stated that is too narrow. Personally, she does not care what people put in their accessory structure as long as the building is compliant in every other way. She has an issue; however, with the parking problem created when things that would normally be stored in the garage are now stored outside to make room for the business storage.

Commissioner Lissarrague stated that he lives on a five-acre parcel. After he purchased his home his neighbor started a woodworking business which resulted in noise from early morning until late in the evening five days a week. Even though he lives on a larger lot it became a big problem for him. People buy into certain areas because of what they anticipate the quality of life to be and just because someone owns a 2.5 acre parcel it does not give them the right to become a nuisance to their neighbors.

Commissioner Scales stated that issue could be solved by creating nuisance regulations.

Commissioner Lissarrague stated the City must have enforcement.

Commissioner Weber stated the community needs to know that we are reactive rather than proactive and that they must call the City and complain if there is a problem.

Commissioner Niemioja asked if staff could provide Commissioners with the current code regarding how nuisances are handled by code enforcement and/or police.

Commissioner Weber suggested that the code enforcement coordinator attend the Planning Commission meeting.

Ms. Botten replied that if the code enforcement coordinator could not attend the meeting, she would have her write a memo explaining her process.

Commissioner Wippermann stated that historically in the case of commercial versus residential in the same area, residential has had the priority. Accessory structures even have a condition requiring it be for personal use only. The activities associated with businesses impact people's quality of life and he did not support having commercial uses in residential areas. Current guidelines already allow a significant number of commercial uses in residential areas and he was not sure more should be added.

Commissioner Scales suggested that Commissioners think about if running a business out of the garage and just storing equipment there were the same thing or should be handled separately.

Commissioner Lissarrague stated there were two other home businesses on his street that are not a nuisance and are respectful of the neighborhood.

Commissioner Simon asked for a general outline of the consequences of violating the ordinance and she would also like to know the outcome of the complaints listed in the report.

Ms. Botten replied she would ask the code compliance coordinator to supply that information.

Commissioner Robertson stated that even simple storage can be a nuisance because of the other variables that go along with it.

Commissioner Niemioja stated that looking at other cities' ordinances would be helpful as they have regulations such as allowing only a certain percentage of the accessory structure to be used for commercial, or allowing residents to have stock in trade as long they are not selling, repairing, or manufacturing on the property.

Mr. Hunting advised that staff will bring this back at a future meeting once they gather all the information.

Commissioner Robertson asked if this would eventually require a public hearing.

Commissioner Scales replied in the affirmative.

Commissioner Niemioja would like to know what kind of teeth the City has as far as enforcement.

Commissioner Niemioja stated that perhaps having a permitting process that is handled on the front end will help later with the enforcement.

The meeting was unanimously adjourned at 7:57 p.m.

Respectfully submitted,

Kim Fox  
Recording Secretary