



HOUSING AND LAND USE COMMITTEE MEETING

Macalester-Groveland Community Council

Wednesday, **November 20th** – 6:30 p.m.

**** PLEASE NOTE CHANGE IN DATE FROM OUR REGULAR MEETING SCHEDULE****

Groveland Rec Center, 2021 St. Clair Avenue

Saura Jost	Tom Dietsche
Jack Fei	Colin Fesser
Gene Johnson	Dave Pasiuk
Cathy Plessner	Tim Schmidt
Jim Walker	Alexa Golemo
Mike Moore	

MINUTES

6:30 I. Introductions

Mike provided standard HLU overview to the committee and guests and called the meeting to order. There were approximately 10 guests in attendance.

6:35 II. Addition/Deletion of agenda items

No additions or deletions to the agenda.

6:37 III. Approval of October 2019 meeting minutes

Minutes were approved.

6:40 IV. 236 Cretin Avenue South, *Nonconforming Use Permit Application*; Angie Byboth-Malmin, Business Owner
 Purpose: Change of nonconforming use from acupuncture clinic to permanent makeup business service

Owner of the business provided a brief overview. Request is a change of use, from acupuncture to permanent makeup. City expects the same amount of commercial traffic. The property was already operating under a non-conforming use exception already for the acupuncture commercial property.

No questions from the audience. Committee questions were concerning the definition of non-conforming use. Whether there had been complaints from local residents. Questions arose around licensing requirements/health requirements of the commercial operation. The owner responded that the health department performs an annual expectation. Customers have to be 18 years old. The owner has 3-4 employees that could work there as well. The building owner provided his endorsement as well.

Committee made a motion to approve the non-conforming use exception. Committee unanimously approved the following resolution:

****The Housing and Land Use committee recommends approval of the request for a change of nonconforming use from acupuncture clinic to permanent makeup shop for the property at 236 Cretin Avenue South, Zoning File No. 19-100-305.****

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7:00 V. Ward 3 Residential Design Standards, *Draft language for potential changes*; Mike Richardson, City Planner

Potential Timeline as of 11.20.2019:

Mike presents tonight

They put our comments in a memo to PC Committee (we will see memo)

Committee reviews memo and provides direction

Staff revises and makes recommendations to Committee

PC releases recommendations for public review and sets public hearing date

We review the draft and send recommendations to the PC

Public hearing at PC

PC Committee reviews public comment and makes final recommendation to PC

PC sends to City Council, where there will be a second public hearing

With height option 1 = column 1 on spreadsheet, goes through in order from there.

- Adding a condition that it will only apply to new structures. (Same decreased height limits in D14 and D15 but ONLY for new structures)
 - Need to be very clear on what new structures mean?
- New structures @ DSI (permits and interpretations) vs. New structures in zoning code

Committee member: When would this apply?

Committee member: House that already exceeds the height maximum but wants to extend their second floor over their porch and stay at the same height.

Committee member: Concerns over building really tall additions

Committee member: They would still have to meet the maximum building height for the entire seat but NOT the lower maximum height for D14 and D15

Mike: The closer to the property lines, the lower the maximum height allowed. Let's let people build taller but they have to leave more space in the side yards.

Committee member: Option 1, if you are doing new construction you are subject to (I) but if you are remodeling a current structure, you are subject to the rules that were in place previously and are in place for the entire City.

Mike: I am not advocating for any one choice. I have options I think will work better than others but they are not in order of preference.

Option 2: Applies to new construction and additions to existing homes; lowers the maximum height for D14 and D15 below the height for the entire city BUT it raises that amount from what is now (I).

Mike: We have heard that when you have 1 or 1.5 stories and want to go to 2 full stories, and you put in trusses, you end up exceeding the max height limit that you are allowed for your existing side yard setbacks. (The trusses are taller.)

Committee member: This applies to you only if you don't already live in. The standards should exist for everyone and the aesthetics that we like rather than a "you live here" and "you don't live here but you want to". There seems to be a fairness issue with option 1.

Mike: I agree it is important to consider how this applies to your neighbors and how fair it is. Any time there is a change to City code there is a new timeline that applies to only new situations; so that is pretty standard for city code in general.

Committee member: It favors current construction over new construction

Mike: Option 1 does not deal with extremely large new builds. Is there a size of addition where the maximum height variance should apply? Apply this only to projects of a certain scale.

Committee member: I like decreasing complexity and making it easier to apply across the board. It seems like so many variances we get are silly uses of this but when these standards went into place a lot of it was the idea that this would be a model for other

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areas of the City (beyond D14 and D15). We have heard that the rest of the City is not interested in these standards because they want to encourage new building. I worry that by encouraging the circumstances that current homeowners don't have to deal with the same standards as new homeowners, seems to increase the divide between current and new. Although technically I understand the need for changes to decrease the number of variances we see.

Committee member: What qualifies an existing structure? Are we incentivizing teardowns if it's based on the percentage of the home that is rebuilt (if it's more economical to teardown)?

- DSI terms for new structures are important for this

DSI permit application: 4 boxes for what kind of project you are doing -- if you check new structure, that could apply to a teardown leaving the foundation OR a teardown of the structure AND the foundation. Mike needs to talk to DSI and make sure they are on the same page; it is currently unclear.

Mike: Financial and environmental argument can be made for keeping a foundation but that locks you into certain parameters when you are building. There are reasons to encourage people to use their current foundations when they are rebuilding.

Committee member: Does the current code designate between new and existing structures?

Mike: No

Committee member: Has anyone been around since 2015?

Committee member: Most of the builds from 2015 were McMansions that were very tall and had large unarticulated walls. There was no conversation about remodels or rebuilds to existing homes.

Committee member: There was conversation about remodels and rebuilds at the time. Splitting of hairs in a lot of cases. A lot came in that were 6 inches but some come in 2-3 ft above the height. These people didn't get approved but they didn't come back but the house got built so they found a way. The confusion comes down to what is a tear down, remodel, new construction and HOW you calculate the height. Most people I've seen come through this committee could get through without variances if they made revisions to the design plan.

Committee member: It seems like more of the variances we are dealing with are dealing with sidewall articulations rather than the max height restrictions. Is that because they're less onerous than the sidewall articulations?

Committee member: Few variances but usually for extending the existing height of the home which is greater than the max or goes into the setback slightly. Sometimes because of the garages. Situation on Mount Curve a few years ago that bought a normal house and wanted to extend it to over twice of the length of the house; for every one of those there are probably ten remodels where they are trying to do something reasonable. And now they have triggered this whole process and the increase cost. In a way that is more unfair to the people who are remodeling; the new houses can design it the way they want but the remodeled home has to deal with the current foundation, etc.

Mike: Height was more of a concern at the time than the sidewall articulation was.

SIDEWALL ARTICULATION

Option 1: Only required on new structure.

Option 2A: Differentiate new and existing structure BUT adds clause that for additions, windows can be used to meet the requirements.

Option 2B: Keeps the same idea for 2A BUT also changes how we define what articulation is for new structures. Issue of needing to exist from grade (the ground) to eave; if you keep the existing foundation this requires a variance. Does not currently allow for bay windows to count for sidewall articulation. Change says that it has to be about 1 story tall starting at 1 story elevation for new structures.

Option 3A: Give more control to the staff who are working on this (DSI). They have conversations with homeowners now with potential applicants and they review the plan and tell them what variances they need/changes they need to make/etc. Articulation is required but doesn't define what that means AND adds a definition of what a "SIDEWALL ARTICULATION" is and City staff make the decision if it meets the definition for sidewall articulation. DSI has many conversations with homeowners to

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make changes and then they don't need a variance; sometimes people won't change things and then they come to us anyway OR they make changes but they still need a variance.

Language from traditional neighborhood districts used to create this -- add roofline variation (does a lot to break up the wall) but keeps a lot of the same language from T1 districts. If someone has something that falls into sidewall articulation the staff can decide if it applies: they make the change and don't need a variance OR they won't make the change and they still need a variance.

Committee member: In most cases, there are only 1-2 neighbors and structures that are impacted by the sidewall articulation. If we include them early in the process, we could avoid a lot of this. Include them in the DSI application.

Mike: Because of the variety of projects, we don't know how a project will impact the rest of the neighborhood from project to project. And involving the neighbor only fixes it for that moment in time, but someone else may move in.

Mike: From a big picture standpoint, we can leave these requirements unchanged, make a change, OR remove them. We have heard it is worth keeping and that is why we have taken the time to try and make changes.

Committee member: 3A, 3B, and 3C -- the idea of not putting in the code but leaving it up to DSI, but now you've left it up to objectivity and Guidelines MUST be developed not suggested. It could change person to person. Committee member does not like the whole family of #3.

Mike: 3 is something that should be discussed with city attorney. The traditional neighborhood districts currently have this same language in them that allows for a city staff person to make a decision. This would be a similar situation.

Committee member: We had discussed aesthetic standards but they were considered too subjective. There was a strong argument to put in objective standards that could be measured and quantified.

Mike: In this situation there has to be something you can see there. It has to be present or not. The subjectivity gets into how present is it and is it enough?

Neighbor: The new construction with the new home I have more ability to massage and meet requirements; as a remodeler I am working with existing conditions and finding ways to make things work. I am trying to wedge things in to make things work. I have had sidewall articulations that are asking for 6" and now they have to go through this entire price AND cost AND an extended timeline. Giving staff the ability to have SOME say fixes some of these issues. Sidewall articulations are RARELY turned down. To ask homeowners to go through this process OR not have them build a perfectly nice addition that they would like. The staff are knowledgeable and are not trying to rubber stamp things.

Mike: The spreadsheet shows a lot of recommendations to deny variance requests because we are required to deal with the code and follow the code.

Committee member: They have all been denied by staff but approved by the BZA

Why have a code that is never followed?

Mike: We do not have 2018 and 2019 on here; we are going to add that.

Committee member: Let's try to be practical and simplify. We need a rigorous definition for new structures and have sidewall articulations only apply to new structures.

Committee member: in 2015, we heard that no one would want to build here if there were restrictions on building. That has proven not to be true. We are discussing things that are doable. My concern is that if we don't specify when staff can give them a pass, it will change. Staff needs clear cut instruction. We don't want homeowners to try and see if they can roll the dice and get a variance.

Mike: We need to review the permits that were issued in D14 and D15; did the existing language have an impact and were things built differently because of the language. It is impossible for us to quantify the loss of business and construction based on the data available to us. We can't know that there haven't been lost projects.

Committee member: We are trying to encourage people to fix current structures and not tear home downs. Option 1 and Option 1. Clean simple solution that only applies to new constructions. 90% of the projects that come through are good, reasonable projects. With a good definition of a new structure.

Mike: Think about if you would say the same things for a house that is torn down TO the foundation and a house that is torn down WITH the foundation.

Committee member: 2 walls/50%

Neighbor: In 2015, the main concern was that houses were being torn down and huge houses were being built in their place. I think I trust the committee to do what they need do. We all share the concern that these massive homes are not built.

Neighbor: If option 3 is considered in the future, acknowledging that the people in place are subjective people but are also experts. Rather than trying to give them guidance on EVERY possible situation, require them to consult with 2 other staff people and a rationale be documented. Track how many of these different people are improving.

Mike: In some parts of the code, we require the zoning administrator to make the final call. This could be a situation like that. "And the zoning administrator must approve this"

Next Steps: General feedback from MGCC, HDC and community members will be included in a publicly-available memo to a the Comprehensive and Neighborhood Planning Committee of the Planning Commission in December. It is uncertain whether the Committee will want to hold the item and how the Planning Commission will want to handle it once they receive it. Because of that uncertainty, the district councils should be prepared to adopt a resolution based on the most up-to-date memo during their January meetings. It is possible there will be more time for review; city staff will keep the district councils updated. If the Planning Commission recommends changes to the code language, the matter will then go to City Council.

7:40 VI. December meeting decision

No meeting next month, next meeting will be in January

7:45 VII. Updates/Announcements

7:50 VIII. Adjourn