

**PLANNING COMMISSION MEETING**  
**December 5, 2006**

**PLANNING COMMISSION PRESENT:** Bob Craggs, Richard Glasgow, Sharon Lee, Joe Paiement, Chris White, Diane Wirth

**STAFF PRESENT:** John Parotti, Chris Wallberg

**OTHERS PRESENT:** Al Bergevin, Joseph Brennan, Jim Stanton, John Vogstrom (Brennan Contractor)

1. **CALL TO ORDER** by Chair Paiement at 7:03 p.m.
2. **PLEDGE OF ALLEGIENCE** was said
3. **MEETING MINUTES - M/S/P (Craggs/Lee) to approve the November 9, 2006 PC meeting minutes. Motion passed.**

**4. APPLICATION BY JOSEPH BRENNAN FOR VARIANCES TO REPLACE THE HOME AT 1081 QUIXOTE AVENUE NORTH – tabled from last month**

Wallberg summarized Parotti, Shodeen (DNR) and she have been working with applicant to obtain missing required information; [letter from Parotti included in packets-email available on table; both available at City Hall]; discussion needs to take place regarding color of structure and alternatives to proposed placement of deck and patio on River side; finally, there is still information required before Staff can recommend this application move forward.

John Parotti, City Engineer. November 29, 2006 memo summarizes correspondence past few weeks after working with DNR to outline outstanding items; Brennan submitted response to these comments on November 30, 2006; three of top seven comments on list have been addressed to great degree; still have outstanding issues with respect to understanding exactly what proposal means with respect to grades; one concern is recent grading plan shows contours at driveway end very close together which indicate about 25% grade on driveway; while sure that isn't intent of application, that should be clarified; requested applicant to include silt fence, and they still have ongoing discussion about swales on property; not sure Brennan and he will agree on best approach there; attempting, as they do with all projects along River and in floodplain, to minimize water flow from subject property onto adjoining properties; required fairly consistently has been applicants asked to construct swales along common property lines with adjoining neighbors in order to control runoff; response often that water presently goes to adjoining property, and they don't feel they should have to change that condition as part of project; that is his understanding of Brennan's position; their recommendation is still that the City require swales on both sides for the purpose when you raise a property like this, it does increase steeper slopes on both sides causing water to flow out faster changing conditions; more importantly in this area of City, there are some historic issues with respect to drainage, up and down Quixote, and more specifically with Brennan's neighbors to south having concerns in past applications; understands from talking with Dave Simons there has been controversy in neighborhood about how drainage is handled and City expense dealing with an application two properties to south; his comment comes from two perspectives (1) to be consistent with other projects reviewed and approved in past, and (2) try to avoid any additional cost to City with respect to exposure to, whether legitimate or not, accusations that a drainage condition is changing now and they have water coming onto an adjoining property; in the case of Brennan's property, it might be at some point there is high point in that swale, and hopefully majority of water goes out toward River and small portion back toward Quixote; one email response since November 29 memo was that while grading plan attempts to create a swale on north side of house, it's in City's best interest to see swale take as much water on north lawn area toward River as possible in order to prevent a worse drainage problem on Quixote. Craggs asked change in drainage plan reviewed at last meeting; hearing there additional information, but still no existing spot elevations, grading plan doesn't include swales or proposed driveway, sidewalk, patios, decks, and silt fence. Parotti confirmed survey included spot elevations, but not enough to calculate driveway grades, one of the first things they look at to insure proposed driveway grade will meet Code; if not, it's up to City to grant variance for that; item 2 and 3 addressed; item 4 partly addressed, but in his opinion not adequately; thinks they can do better than what done so far with respect to swales; in item 5, the driveway has been added, and Brennan responded by email that all sidewalks, patios, decks, etc. were included within outline of building shown on grading plan; item six still outstanding – doesn't see silt fence on grading plan, and item 7 addressed; a prior grading plan was showing elevations relative to arbitrary point, so asking those be shown with respect to sea level so as to be rectified with flood elevations on River and anything else in the area; doesn't know if comments from DNR addressed – hasn't been tracking status of their review. Paiement received Parotti's December 1, 2006 email alluding he would not recommend approval of plan at that time; asked if still his recommendation. Parotti said it is; would not recommend approval of current plan until additional information received; doesn't want to speak for Brennan since he is present, but knows by emails and conversations he is trying to keep costs down in early stages of project; beyond that, thinks they differ in opinions about swales. Paiement asked Parotti if it his understanding that items 8-14 on November

29, 2006 memo constitute sufficient obstacles from DNR standpoint to not approve variance request even if City were to go ahead and recommend approval. City Engineer wishes he could answer that question; flood proofing plans for building itself don't go through City Engineer's office; doesn't know from experience whether Shodeen simply indicates if information not received it is not approved or merely stating things that need to be received and approved at some point. Lee referred to drainage issues; City Engineer discussed seeing that runoff doesn't run across Quixote and neighbor's property; asked how DNR feels about runoff back into River and asked if that ever issue. Parotti said in these types of applications, it hasn't been; more concern about keeping runoff from adjoining properties; would want to be sure water running across a vegetative swale of some sort and not coming off a gravel surface to River, or at least an adequate vegetative buffer between Quixote, an unpaved street, and River; DNR certainly concerned but with this application they don't have those concerns because of coming across lawn area with drainage. Craggs' summarized City Engineer needs more information specific to elevations as it relates to driveway, and a commitment and understanding of swale locations and silt fence. Parotti confirmed; reason they want shown on plan is they would like an approved plan that is then a tool the applicant can use when they hire a contractor; approved plan requires silt fence; believes from what Brennan submitted earlier he intends to put silt fence in, but at this point, isn't showing it on current plan; gave option to Brennan also acceptable to make arrangement with adjacent property owner to south to record a drainage easement on their property if he feels it would be a better arrangement not to construct a swale and let water discharge to property to south; driveway location issue is concern more in terms of how it complies with City's Code in respect to maximum driveway grades; doesn't believe Brennan's intent to construct a driveway deep at the end; not clear on plan; silt fence should be placed in perimeter of lot or limits of disturbed area, which from what he understands from grading plan, is much of lot. In answer to Paiement's question regarding cost, Parotti said assuming they need to hire professional help to finish grading plan, which he doesn't know they necessarily have to assume that – question whether money needs to be spent now in upfront stage or later when building permit applied for or later stage in process; typically what required is completed site and grading plan and survey at this stage for City to know what they are approving or recommending approval for; otherwise, they have approval based on contingencies or conditions. Answering Glasgow's question regarding definition of swale, Parotti said ditch; swale could be much less severe where slopes might be very gradual and there is depression in middle and near edge of yard that prevents water from leaving to adjacent property; carries water in one direction, in this case to the east; from what he can see on plan and from site visit, on north side of home, his opinion swale could be designed and you probably wouldn't know it's there; on south side would be more like ditch; already doing grading in lot, and would probably require less fill than otherwise brought in.

Joseph Brennan, 1081 Quixote Avenue North. Since last meeting, called DNR and provided information to create grading and screening plan, looked up what he could do with topographic survey, and add measures on survey from garage to street easement; met with Shodeen and provided DNR and City screening plan, draft of grading plan, and had architects redraw house flood proof showing elevations and flood vents per FEMA; asked Shodeen if could attend tonight's meeting, and she advised they no longer attend; last email she confirmed she received what needed, but DNR would still like for him not to rebuild his porch or deck; doesn't have much incentive to rebuild house and make shorter omitting deck and porch; made flood compliant; has put in a patio and removed all walls and still has top enclosed porch that is above flood elevation; does not intend to shrink up house 12' on that end; on south end of house, it goes out 12' anyway to provide a rear access or side access; as far as he knows, that was only question DNR had; provided all information and they seemed fine with grading and screening plan, model of flood vents and specs, and redrawn plans; as far as grading plan, he thought they had general clearance to go ahead from City in that he would need to do something more formal; hired surveyor who came out for fourth time, and they did the topographic survey; drew on top of that grading plan; grading plan shows current and proposed elevations requested, but doesn't have spot points; surveyor took about 80 spot points and said it was too messy and couldn't give him points, so they provided one that had 80 points on it as existing to City Engineer; actually took recommendation from City Engineer from site visit to put swales on north; grading plan supposedly reflects that; if it needs to be updated on north side, they have room and he agrees; issue he did have is neighbor to north drains to his property, and he drains to his neighbor to south; if he is raising his lot, he still wanted to preserve that and thought they could; being told he needs to worry about his neighbor to north and now he can't drain this way and needs to keep on property; makes his lot more like a lake; it's sand and they don't have drainage issues; not planning on having a major slope there; they will have retaining walls relatively flat; only issue with creating a swale or ditch is that is where sidewalk going and is narrow side; would be troublesome to have ditch in small area it would have, not that he is against swale; talked to both neighbors on north and south; neighbor on north said he sent a letter to the City and was fine with everything; neighbor to the south is an empty lot, pure sand and he does drain on that today; after 80', there is another lot and about 15-20' a house is located; again didn't see issue why he needed to contain water when house 100' away across sand, more than it is today; talked to south neighbor and they didn't want to go through trouble of legal easement, plus she's elderly and has had trouble with neighbor next to her whose house only 3' from line, has huge slope, and she's drained on from that house and road; doesn't feel he contributing to that in any way, the reason he would prefer not to do a ditch on that little bit of lot he has; regarding silt fences, they were on previous diagrams; approved by WMO and has double wrapped silt fences, one around construction area and one around edge of lot; City Engineer did request they be

drawn on plan, and he told the landscaper if it was too messy for him, he [Brennan] would draw – but forgot; will provide City with the silt fences, same as he provided WMO that they approved; proposed driveway, about 40' long, drawn by landscaper; only raising house 3', so road already higher than current slab; not sure how 25% grade gets in; did ask landscaper to keep driveway relatively flat, and near end there is 1' drop, but wanted to keep that at an angle because he knows road will be rebuilt in four years and City will blacktop; wanted to leave about 6' variance there; not detailed how driveway going to be laid out; done by landscaper, not by surveyor; willing to provide whatever needed; trying his best; did go to time and expense to hire a landscaper and have surveyor out; gave survey with spot elevations and the 80 weren't exactly what needed; pushing a little bit on swale and if DNR doesn't want him to rebuild his house and he has to remove porch, he isn't excited about that and doesn't really have incentive to rebuild; as far as flood proofing, that was their main objective. Lee agreed with Brennan regarding room for swale and asked how big a swale has to be. Brennan not expert but does know plan was approved by WMO, and that was their primary concern where water running off; their objective was that he could not create any more water runoff than he does today; put a hip roof on house; currently has gable roof that shoots water two ways with more volume on those two areas; hip roof puts water in four directions and gives lot more time to absorb; feels he is improving it that way; trying to move house as far north as they can; can't quite meet setback, but has utility issue. Lee asked if he didn't have porches or patio included in his plan, would he want to keep house as is and live with conditions he has now. Brennan said he would probably look more seriously at plan b where you could update your house with up to 50% of value; also has had neighbors on each side rebuild in last few years and they built two stories, they've got the well, they didn't have to rip out their porch; he is told he can't have a bathroom or porch on the main level but his neighbors have a bathroom and porch on the main level plus they went up two stories; going to effort to try to make his totally flood proof with vents and raising of lot; they like porch and that is main reason they like location; they have house, the River, a porch and deck and have all family gatherings out there, and it is important to have that; also would lose that 12' x 38' recreational space. Craggs, to put things in context to insure they obtain information addressing hardship advised core of what City needs to address is whether or not variances should be granted; because he is doing a rebuild, they need reasons for hardship; have had discussions with DNR in terms of patios on houses similar to his home; asked him alternatives considered, and if he weren't allowed to build, what he would do. Brennan said he did try to respond to DNR; couple objectives – they want to have minimal impact and variances possible; right now he is non compliant on three sides, the River to the road which he found out later is actually suppose to be 40' back and 20' from lot; only other place for porch is on the north; no room on other side; if placed on north, he won't meet that setback anymore and would need another variance; doesn't know if privacy between neighbors would be issue; thinks DNR said it doesn't matter where he is looking, but that he meet requirements; not asking for one more variance than he has today; if they didn't build porch, he still has access the same level porch is; house will still stick out for about 8' and then be empty nothing; current stairway in middle of house – don't have proper front door; this alternative has less impact than any other one; doesn't need anymore variances and house would still be sticking out; even if he cut 12' of house, still won't meet variance; on 21' from sea level and if he has to be 40', he would need to shop off 20' of his house; area he is looking at is bottom left hand corner, the stucco area; can't remove that because that would chew up their whole kitchen with the new design. Craggs said core is understanding DNR's recommendations and requirements, but also to understand Brennan's thought process around setbacks and variances.

John Vogstrom, Brennan builder. Spent 7-8 months trying to meet codes and everything like that in this particular house; right now trying to squeeze between road and River and that how they tried to design it; if they go back any farther, he doesn't have enough parking for truck and things like that in front; has taken minimal and less square footage on this house or footprint than in other house; designed specifically to try to meet as many of the variances as possible; been doing this all of his life, his dad was a builder before him; do building on Lake Minnetonka and very creative how they squeeze them in; considering it's a substandard lot, they tried to achieve what he needs which is less footprint; thought this pretty good compromise; wanted to say all this a pretty good grading plan; deals with this all the time; problem right now is that the road higher than driveway, and they addressed that before; very unsafe area and need to have house high enough that water isn't going to run from road down into house; might be able to bring grading down just a little bit and still get drainage; would probably be willing to do something, because they could be debating this for next six CC meetings and they want to get going; they would agree to work out something with regard to grading with City Engineer; Brennan's intent has always been to try to conform as much as possible, but they need to get in agreement with City. Paiement's problem, from his perspective, is the City wants to accommodate application, but it would help if application were complete; sounds like minor things that need to be cleared up; impressed with Brennan's explanation of hardship with respect to porch and wants to accommodate him. Lee said Brennan had non-conforming lot and could not come up with building plan that would have made a conforming home. Vogstrom said they could, but then they would be looking at a house that has 800 sq. ft. and things like that; not practical situation; would be a little more square footage, but footprint a problem to get a house that only has two levels that he can basically get about the same thing he has now; first level will be built so that water can run underneath with two levels on top. Brennan said probably 2900 sq. ft. of space livable when dry (two levels); proposed house will have slightly more living space because they are going above garage; height of home in new plans 35' from peak to slab; worked with the architect and brought requirements showing exactly where the

flood flows through the house; flood elevation shown on cross section and height shown somewhere. Wallberg offered DNR's perspective regarding height; also said it likely there will need to be a variance at some point in findings that addresses vehicle access because what is being proposed is not at or above elevation; assuming they have what they need in terms of elevation information, she can't put details together for him. Brennan's understanding was that it is because road actually more than 2' below base flood elevation, and the City has to note they will provide access to house at that low level of road; understands that is pre existing condition. Wallberg can't present all detailed information about that for him; elevations critical to variance for house access and for conditional use. Craggs noted discrepancy between information the City needs and what Brennan believes he has provided; confirmed with Parotti he is looking for (1) spot elevations; heard Brennan say he provided some type of spot elevations. Parotti said he has older grading plan that has some spot elevations on it; haven't been any spot elevations provided on edge of gravel road provided, the elevations they need to calculate grade and driveway; that is primary ones they are missing; soils can be represented for the most part with contours, the way contours run across various parts of lot except in very tight quarters they will need some spot elevations; hasn't seen any spot elevations on road. To Brennan's understanding, he provided information. Parotti said if surveyor has done surveying on property, it is likely they would have done elevation of road as part of survey. Craggs said second issue (2) swales; heard Brennan's explanation and also appreciate Parotti's explanation in terms of trying to be consistent; asked possibility of working with applicants after they approved variance, or doing variance process to try to come up with alternative ways in which to address drainage besides having swales on both sides of property; hearing Brennan concerned if he puts swales on both sides of property, it is counterproductive based on present drainage pattern. Parotti said it would be City's decision in the end; other things that could be done –gutters on south side carrying drainage from east to west and discharging in directions other than toward property to south; might be something City would find reasonable as compromise; wants to be careful not to go with recommendation they would work out detail along the way - once they have house placed, if at some point they determine a swale is needed - now there isn't room for it; while he understands there are setback issues, there is adequate room in his opinion to set out a home on the property north to south; while that creates another setback issue, and as Brennan stated a spacing issue between he and his neighbor, it does provide adequate room for more gentle swale on south side of property if they were to move home north; where proposed, Brennan can construct a swale on south side – he's seen them done in smaller areas – also agrees with applicant that it's maybe not most desirable thing to have on that part of property; traversing a swale like that for mowing your lawn does get to be difficult, so completely understands where he is coming from. Craggs noted challenge City has is that WMO has become part of review process for cities in the Valley and has set of requirements to address drainage that don't necessarily align with City's requirements; from applicant's perspective, he feels they have addressed drainage because WMO signed off on it. Parotti advised swales solve a problem and create other challenges; in the end, trying to make recommendations that keep the City from future issues; that is where their recommendations directed; has had access to (3) silt fence plans, an earlier plan that had relative elevations – not included on later plan; that is issue. Craggs thinks key gap the elevations the surveyor likely has, and a matter of translating them on the plan and to the level the City Engineer would expect; could recommend CC approval with understanding swales put on both sides and silt fence added to plan; asked Brennan possibility of allowing Parotti to talk with surveyor to get a sense of that; appears that information should be available so matter of getting information, and as Wallberg point out, it has a domino effect that allows City to take that information and address other outstanding items. Lee brought up one issue they haven't discussed, pervious versus non pervious surface; on sheet with breakdown of current and proposed house area, there is difference of 33.1 versus 31.22 which is revised proposal taking out pavers for parking area; there is a statement total impervious surface of main house without protruding garage and entryway – asked if figures include entryway just because it is now flush with building or if it still sticking out. Brennan said on current plan he believes it is still sticking out, more the stairway; included in figures. Paiement asked if there issue on impervious surface. Lee wanted to find out what included in figure – if it included sidewalks and patio and porch area. Vogstrom confirmed anything non-pervious included as house drawn. Brennan said difference is they are adding a garage on part where door is now so there is a triangle; triangle measurement is additional impervious. Lee looking at list, main driveway and garage; they took out paver section and ended up with 31.22; because they excluded garage and entryway on first page, she wanted to find out if that part of that; in effect it reduced impervious surface from what it presently is, but still exceeds threshold; technically, a variance still required. White referred to screening plan and Brennan's mention two maples will be located directly in front of house along sea wall, but when looking at plan, it indicates river birch; confirmed diagram 4 cedar white; FEMA is big because it's very important for City to make sure everything done falls within compliance; Shodeen stated three particular FEMA pieces that she needs addressed that the City also needs addressed; referred to Parotti's letter regarding Shodeen's comments regarding FEMA requirements. Brennan took recommendation from Shodeen and changed maple to river birch. Vogstrom indicated they would for sure comply with a plan indicating flood-proofing measures planned for new structure including calculations which comply with FEMA's formula for automatic openings in garage walls, but again, they need to get engineering into this; they will be building a quality home, insulated concrete forms all the way to the ceiling; they will do as soon as they know they have approval; doesn't make sense now to do; doesn't see problem with submitting plan indicating compliance with FEMA requirements for occupancy and use of lowest floor of new structure.

Brennan not aware of that until tonight. Vogstrom said they already addressed certification by a registered professional engineer or architect as complying with FEMA and other applicable building code flood-proofing regulations; home they will be building will exceed everything on there, believe him. White, going back to patio/deck piece, asked if she read they were looking at possibility lower deck would not be three season porch with deck on top; noted Shodeen stated if patio included, it must be deed recorded it can never be enclosed. Brennan said they redid plans to be totally open now with enclosed deck on top; showed Shodeen new plan; FEMA requirements actually say you can have breakaway walls on that level, but they are not planning that; leaving open. Craggs referred to Wallberg saying recommendation could be made to CC that both items 12 and 13 be part of approval process. Wallberg stated again variances needed - lot size / lot width / bluffline / OHW setback and impervious surface requirements.

Jim Stanton, 780 Quixote Avenue North. Overriding thing is to make flood proof; costs everyone if house is not flood proof every time it floods; did number of compromises working with neighbor to north so when flooding comes, it doesn't cost taxpayers to insure his house; as White said, FEMA really important; they approved plan of neighbor to north with no improvements being allowed in basement on first floor; heard tonight there is a bathroom and enclosed porch; would like City to look into that; if that floods and he gets insurance, that's not right; City approved that plan with nothing being down there; would like City to see if permit issued or it done without City knowledge because there should be no bathroom according to FEMA requirements. Paiement noted they have hardship for each variance request; also have non conforming structure on non conforming lot to begin with; believes they have had other instances where a homeowner is trying to improve their property on an existing lot and home non conforming; thinks they generally try to accommodate homeowner improving their property and finding hardship in terms of fact they are a non conforming lot and trying to work within dimensions that typically don't allow construction; doesn't see anything about this particular application that's different than what they have addressed in past; sees homeowner attempting to improve appearance of property and condition of home within City; thinks it is goal that serves not only the homeowner, but ultimately City; have homes along River that really do need to be improved; sees applicant trying to work on improvement in flood plain which is particularly difficult, and spending a fair amount of money to do that; personally feels they as a City should strive to assist the homeowner in these situations that he sees hardship all over the place just based on existing home; even though he realizes applicant hasn't provided all information needed, he would like to find a way to move this along in terms of favorable recommendation to CC. Lee disagrees; thinks they still need to have issues addressed; really do not want to push these things along without this information; doesn't want to deal with after-the-fact, and though it's very important to have people upgrading and improving their properties, never at expense of River; flooding issues very serious down there, and they need to insure that is taken care of. Craggs sees information from City's perspective as far as 1-7 on Parotti's memo may be there, it just hasn't been provided in right form; concerned about FEMA piece and confused by statement Shodeen suggesting it can be addressed as part of building permit; questioned Parotti his understanding of item 8 through 10. Parotti has seen in other applications that information comes out of design of first floor that could flood; calculations relative to openings (vents), the area of those vents is a calculation that needs to be submitted; until those plans are put together, he doesn't know what that area is to confirm whether it complies with FEMA; believes comment about FEMA requirement for occupancy directed at use of first floor with respect to shower; have seen these items addressed as part of building plans when architectural plans are submitted. Vogstrom has been working for a long time on this, and in every case they supply information in order to get building permit and makes sense what your foundation is going to be like and design. White's immediate thought she doesn't want this to go before CC unless everything that needs to be addressed is addressed; appears that pieces could easily be done regarding DNR requirement; as far as FEMA, those are exceptions she agrees waits until after approval but with understanding no building permit issued until after those three pieces are addressed; swales already mentioned, but they have 12-14 also an issue. Craggs opinion that information is there they would have enough information that the City Engineer most likely would be satisfied with; going through items 8 through 14, 8-10 appears to be addressed per CC approval as in saying before a building permit would be issued that 8-10 would be addressed; as far as having patio and drainage swales recorded as part of deed, they could make recommendation to CC that be part of it as opposed to suggesting that either they want patio pulled and swales in; thought he understood landscaping plan provided, so thus sees way to get application in front of CC and still have all information addressed, if he interprets what he heard correctly. Glasgow in agreement. Answering what they would do if required to remove porch they have today, Brennan said it would give them what's going to look like a three story house with no outdoor recreation area; very difficult to get impervious surface; won't be able to increase it later, so felt time to preserve that area, bring it up, and make it flood proof; not going any closer, maintaining established line to River, and vacating flood level plus about 5' above that flood level; porch will never flood, and there will never be an insurance claim because it's above flood plain. White realizes garage he is looking to build sizeable for vehicles, also for his boat, leaving driveway; asked if he looked at moving house starting where patio is and having house back farther thereby possibly losing part of driveway. Lee stated that would not affect impervious surface issue because already considered non-pervious area. Brennan said again that removes room they have now; hates to refer to other houses, but house to the north has a walk around deck all the way around the house approved and he is supposed to remove his and he has existing. Vogstrom said Brennan is planning to live there a long time, but in the case he ever has to sell it or something like that, he doesn't really see that's reasonable to

ask him not to have some deck with a view of River. Glasgow confirmed he lives on River, pays River taxes, has to screen it, and he isn't suppose to see River; not fair; DNR doesn't protect him from flooding, but yet he can't see River; appeal to this house to him is deck in front; wouldn't want to live there if he couldn't enjoy River, that's why he has a house down in that area; with all the troubles he has put up with yearly, and even though he flood proofed this, he is still going to have water on the road, trouble getting there; to him not seeing River unreasonable. Lee told Glasgow that it isn't DNR doing mandates; this a Scenic and Wild River Law that the Federal Government placed on the St. Croix River; DNR only following regulations set down to protect St. Croix River to keep that scenic aspect; one of the things they wanted to do is keep structures from becoming very noticeable; that was reason for law in first place; as much as that impacts all who live on River, that law is still in effect. Brennan said it is and enforced by DNR but enacted well after this house was built and he is not asking to change footprint. Vogstrom said where Brennan is not at scenic part of lake; even though it does follow within that Act, they are really kind of on very edge of it he would imagine. Lee said that may be true but it doesn't make it okay to approve because they are peripheral endings of it that they won't follow rules. Wirth didn't have any questions; likes plan stated getting questions answered, confirmed with FEMA, and if they could do that in a timely manner makes sense.

**M/S/A (Craggs/Glasgow) to forward the application by Joseph Brennan for variances to replace the home at 1081 Quixote Avenue North to the City Council recommending approval of variances for the sideyard setback to the south, impervious surface, left setback, and front yard setback with understanding there are no reasonable alternatives in location of house/deck/patio and the lot size is substandard. Prior to the City Council meeting, the issues concerning swale, drainage, and specifically spot elevations should be provided to the satisfaction of the City Engineer. Further, patio should not be enclosed, drainage swale locations and sizes should be recorded as part of deed, FEMA requirements as outlined by DNR should be met in full before building permit issued, conditional use permit as related to elevation on fill will be developed as part of approval, findings of vehicle access will be addressed, and landscaping plan would have DNR approval.** Wallberg said vehicle access is general category of ordinance section addressing that; by granting variance, in effect the City has proper access in the event of flood. White offered friendly amendment that Brennan's 11/16/06 landscape plan be included; Wallberg suggested noting that DNR would approve any landscaping plans. White asked Parotti if he comfortable with what stated as possibility to accomplish prior to CC meeting. Parotti said item 1 through 7 could be provided between now and when CC packets go out. Craggs called question. **Craggs, Glasgow, White, and Wirth voted aye. Lee nay. Motion passed.** Craggs insured Brennan clear with motion and information needed a week from Thursday for CC packets.

## **5. PROPOSED TEXT CHANGES TO ORDINANCES CHAPTER 300-ZONING CODE**

### **A. Public Hearing on Text Changes to Chapter 300 Zoning Code/Rescinding Section 727.15 (5) and amending Section 727.15 (8)**

1. **Call to Order** at 8:50 p.m.
2. **Review of Text Changes** – Wallberg summarized changes to Zoning Code requires public hearing; plan for entire Code to be recodified not possible, so CC directed two text changes be made specifically involving removing color requirements/727/15(5) and increasing permitted height of signs in business district to 12'.
3. **Public Comments** –  
Jim Stanton, 780 Quixote Avenue North. Would like to know reasoning behind raising height; they are talking about a roadway where they are trying to slow down traffic, make it safer; when original Ordinance drafted, thought was lower signs keeps drivers sight aligned at pedestrian level; the higher the sign, drivers will be looking up; wondering from safety standpoint if that addressed; fact that road will be changed to slow traffic down, is there need for higher signs when traffic actually going slower. Craggs' understanding there was discussion around adequacy of existing height as relates to different types of business and other types of uses along roadway; consensus that some increase in heights still addresses safety issues and doesn't get to point where they feel they are looking like other communities where sign height out of kilter; 12' is what he would consider compromise between CC members believing that they increase from 8-12' it accommodates businesses who have large lots and other types of commercial uses such as churches; having sign higher may be beneficial to those particular land uses; talked about safety, but thinks bulk of discussion about accommodating those types of uses; Wallberg proposed different approaches in terms of how 12' should be applied; talked about having variations and certain exceptions; consensus was it would be very difficult to enforce; therefore, they wanted to stay with specific number as opposed to saying it applies only to certain sized lot. Stanton said real safety aspect is the higher the sign, the more people are looking up, especially with a small business; when they drafted this and put in effect, that was one reason for having lower sign. Craggs said his particular position is 12' is still much more reasonable than some of their neighbors; solicited Stanton about his ideas regarding color. Stanton knows it has been problem since put in effect, but they had

no feedback from businesses other than one business who did whole process; once in place as an Ordinance, that's when feedback started coming; prefers there still be continuity or regulation so it doesn't turn into neon billboard mess going up and down highway; new road will be beautiful when done, and he would like signage to comply with that. Craggs provided they talked about other alternatives and tried to come up with alternate color charts and were not able to come to agreement; because all proposed signs over last 1.5 years ended up requiring variances, it became a sore point in having to address; his understanding this doesn't change anything in terms of 'neon' sign piece and just has to do with what color options are.

4. **Written Comments** – none
5. **Hearing Closed** at 9:00 p.m.

#### **B. Discussion & Recommendation**

White attended meeting regarding sign height and distinctly remembers that two individuals who drove around looking at sign heights came back and reported they were surprised they really enjoyed the lower level of sign rather than higher; still confused that was said and discussion went on to put up to 12'; as far as color, feels they are really opening themselves up, even though they are having a hard time coming up with color changes or different color chart; thought 8' was fine for height personally, but color no; totally against allowing all colors. Lee agrees with White; thinks big mistake not to have some kind of regulation on color; just as easy to take neon green paint and do your sign; even though they don't have that right now, one issues when this whole signage came up was businesses felt they weren't getting the word out to their customers; not going to say she's hesitant, but flat out saying she is refusing; doesn't understand why they are changing height; thinks it has been working and doesn't see any reason for increasing size; again, they will hit 12' and two years from now businesses will say it's still not big enough and they will be looking at 16'; thinks their Ordinance is working and City should keep it. Wirth wary of completely eliminating all control of sign color; would be nice to have primary colors included; went by SCVUM and thinks sign looks puny; doesn't fit with size of property and seems small.

Al Bergevin, 703 Quinnell Avenue North. Asked Craggs if several years back CC passed an Ordinance that signs had to be earth tones. Craggs said when Stanton on CC and involved with Morris, himself, and Ryan reviewing entire section of Code that addressed signs and building materials, recommendations made to make all changes together; all part of comprehensive approach; corporate logo was an amendment to that, from what he recalls, that basically indicates logos as trademarks can be permitted colors. Bergevin thinks City should maintain color control. Glasgow said in less than a month, PC will change personality, CC will get two new members; this isn't time to address these changes; thinks it should wait until new PC and CC and let them address. Craggs reviewed direction from CC [as liaison to CC on PC] was to place this on agenda so they have public hearing; was important to CC to address as soon as possible; can certainly choose to not act, but it will be on agenda in two weeks. Paiement said new CC, if they so choose, has option of undoing it; thinks part of impetus was, at least in respect to color, the last two applications the City received required variances because colors non conforming; his recollection was there was consensus this not something they thought appropriate for their sign ordinance, but were legitimate and fairly appropriate signs; he supports and thinks business owners know not to put up signs that are odious, colors that are offensive; also not concerned about size of sign; thinks 12' reasonable; Stanton raised safety issue, and he had not thought about that and doesn't know if there empirical information from law enforcement or somewhere else that would help them; baring something like that, doesn't have any particular problem with size of signs either; thinks first and foremost trying to revitalize Plaza and some of the businesses and if that signage helps, so be it. Glasgow in support of Ordinances, just doesn't think this appropriate time at 11<sup>th</sup> hour of an outgoing CC and PC; new CC and PC will be bound for four years at least, and if they chose not to adopt this, it will require another public hearing and more expense; certainly can address in January, ready by spring. Craggs abstained on particular issue because of addressing at CC level and some of the discussion. Paiement's own feeling is some action is better than no action. Wirth made suggestion to add it to colors on color wheel and no creations after that, primary colors; red, yellow, and blue are colors they are requesting.

M/S/F (White/Lee) to recommend to the City Council not approving text changes to Chapter 300 Zoning Code, removing color requirements Section 727.15(5) and amending Section 727.15(8) for sign height to 12'. Lee, White, and Wirth voted aye. Glasgow and Paiement nay. Craggs abstained. Motion failed.

M/S/W (Wirth/Craggs) to recommend to the City Council that language in Chapter 300 Zoning Code, Section 727.15(5) be changed maintaining a color description to include existing color chart and primary colors and to amend Section 727.15980 for sign height to 12'. Lee's problem with the last motion was tying two text changes together. *[Secretary's note - tape change to other side/information may be missing, but no consensus reached]*

M/S/F (Glasgow/Paiement) to forward the proposed text changes to Ordinances Chapter 300 – Zoning Code to the City Council without recommendation. Glasgow called question. Glasgow and Paiement voted aye. Lee, White, and Wirth nay. Craggs abstained. Motion failed.

**M/S/P (Wirth/Glasgow) to reconsider recommendation to the City Council accepting the text changes to Chapter 300 Zoning Code as drafted. Glasgow, Paiement, and Wirth voted aye. Lee and White nay. Craggs abstained. Motion passed.**

#### **6. PROPOSED CHANGES TO ORDINANCES CHAPTER 200 – CITY ORGANIZATION & PROCEDURE**

Wallberg explained changes do not require public hearing, and are included to provide public information; separated existing section and proposed changes; major changes include addition of section addressing CC, and realigns PC to five members and non-voting CC liaison. Craggs provided additional background as liaison; Emergency Response and Public Health and Safety was separate, now combined; four commissions now that the Mayor can appoint one of the four individual CC members to; belief they continue to have challenges with PC composition of seven members, one the mayor with voting rights and six other members; consensus of CC to have PC consist of five members, one CC member as liaison to PC without voting power; ultimately means Mayor has choice of sitting on PC as ex officio or appointing one of the other CC members. White referred to bottom of page 4, '*...Mayor shall appoint one of the members so named to serve as chairperson.*'; would still like to see PC vote for their own like the County Board does where the chairperson is rotated - they get a chance to do it and one person is not stuck being chair all of the time, rather than Mayor appointing. Craggs advised some discussion about that; CC consensus they would like to delay this; comment appreciated. White continued on page 6, 208.07 Stop Orders; where it indicates '*...stopped by notice in writing served on any persons engaged in the doing or causing such work to be done...*'; because there is an 'or' in there, to her it basically saying the written piece could be given to a contractor who has been hired or a sub contractor versus the owner; doesn't think 'or' proper word in there; if you are saying the written notice could be given to the person engaged in the doing of the piece, then you are assuming that person is going to make sure that the owner of the property who has hired them is going to be aware. Paiement suggested that be addressed, but not tonight. Craggs asked as Mayor to have this, with Paiement's agreement, put on agenda because it's a direct change to PC; therefore thought appropriate to allow them to weigh in; no public hearing required and change part of recodification.

**M/S/P (Paiement/Glasgow) to recommend to the City Council to approve the proposed changes to Ordinances Chapter 200 - City Organization and Procedure. Motion passed.**

#### **7. MEMBER REPORTS**

White reported on group called Prevention Minnesota which has \$241M in funding due to Blue Cross lawsuit; one of the things they are able to do with the money, because it deals with health, is fund municipal and county governments across Minnesota to incorporate active principals in their Comprehensive Plan – a part that includes walking and bike paths, brought up because they are looking to put in a bike path/walking path. Craggs thinks good recommendation and his suggestion is to forward to Cory Slagle, Washington County Department of Transportation. Lee informed Lower St. Croix Partnership Advisory group that deals with issues of land use approved City's decision on patio issue with Mau's; looks at what appropriate to rulings of the Scenic Wild River Act and whether the City's decision meet those standards. Craggs advised CSAH 18 Project formally delayed; attempted to summarize his feelings in newsletter; primary issue consideration of roundabouts; also includes schedule based on what the City has from Department of Transportation; appears Design Review Committee will be getting back together and his understanding it will be same group as before unless CC chooses otherwise; second issue, the Department of Natural Resources did not certify CC's action relative to Hubbard variances; now in hands of applicant to appeal; their understanding it will not come back to City for further action; lastly, this is last PC meeting as Mayor, so wanted to thank everyone for their service as well as their patience; also thanked them for spirited debate because they all didn't necessarily see things the same way at times which is just fine; actually part of benefit having representatives with diverse backgrounds; enjoyed working with all of them and sure they will continue to do good job. Wallberg commended work by John Parotti with regard to Brennan situation. Lee appreciates all the work Craggs' did with PC; starting out cold, his experience has been extremely helpful. Paiement agrees; spoke with Brian Zeller the other day, and given Glasgow's departure, there is an opening in PC if they know of anyone interested.

**8. ADJOURN – M/S/P (Craggs/Glasgow) to adjourn at 9:45 p.m. Motion passed.**

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Joe Paiement, Chair

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Kate Piscitello, Recording Secretary