



REQUEST FOR PLANNING COMMISSION ACTION

Agenda Date: 12/01/2014

Agenda Item: 9.a

Department Approval

City Manager Approval

Item Description: Request by Community Development Department for a Zoning Text Amendment to §1009.03 Interim Uses

There is no mandated deadline due to City Staff initiated request.

GENERAL INFORMATION

Applicant: Roseville Community Development Department

Type of Request: Zoning Ordinance text amendment

Planning Commission Action:

On October 8, 2014, the Roseville Planning Commission held the duly noticed public regarding text amendments to §1009.03 Interim Uses as proposed by the Community development Department (project report – Attachment A).

At the meeting several Commissioners had questions of the Planning staff regarding the proposed changes and there were 4 citizens who spoke in opposition and 1 citizen who in favor of the proposed amendments.

Based on public comments and Planning Commissioner input, the Roseville Planning Commission voted 5-0 to not support the proposed text amendment to §1009.03 Interim Uses (PC draft minutes - Attachment B)

SUGGESTED CITY COUNCIL ACTION

Adopt an Ordinance Amending §1009.03, Interim Uses, of the Roseville City (draft ordinance Attachment C). Should the City Council agree with the Planning Commission recommendation, a NO vote on the motion to approve is all that is necessary.

LEVEL OF CITY DISCRETION IN DECISION-MAKING

Action taken on a text amendment to the Zoning Ordinance is legislative; the City has broad discretion in making land use decisions based on advancing the health, safety, and general welfare of the community.

Prepared by: City Planner Thomas Paschke - 651-792-7074 | thomas.paschke@ci.roseville.mn.us

- Attachments: A: October 8, 2014 RPCA
B: Draft PC minutes
C: Draft ordinance



REQUEST FOR PLANNING COMMISSION ACTION

Agenda Date: 10/08/2014

Agenda Item: 5d

Division Approval

Agenda Section
PUBLIC HEARINGS

Item Description: Request by Community Development Department for a Zoning Text Amendment to §1009.03 Interim Uses (PROJ0017, Amdt 23)

There is no mandated deadline due to City Staff initiated request.

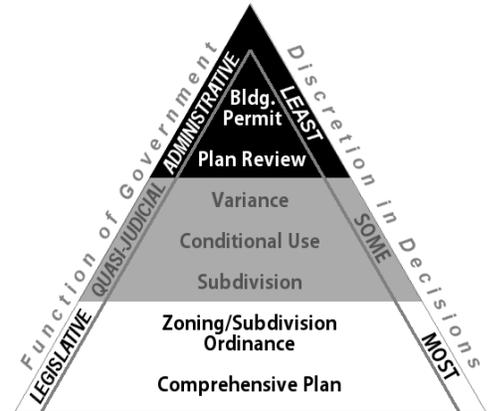
GENERAL INFORMATION

Applicant: Roseville Community Development Department

Type of Request: Zoning Ordinance text amendments

LEVEL OF CITY DISCRETION IN DECISION-MAKING

Action taken on a variance request is legislative; the City has broad discretion in making land use decisions based on advancing the health, safety, and general welfare of the community.



1 BACKGROUND

2 At the September 15, 2014, City Council meeting, the Community Development Director
3 discussed the Interim Use process and possible amendments the City Council could consider for
4 future flexibility and to potentially address Vogel Sheetmetal’s non-conforming use and pending
5 loan situation.

6 The City Council provides the Planning Staff comments pertaining to their views of interim use
7 and whether such uses should be permitted for long terms. Specifically, Community
8 Development Director Bilotta addressed the Council discussion possible modifications the
9 Council could consider in support of longer term interim uses. City Council Members, however,
10 were concerns over the appropriateness of extending interim use beyond the current 5- year term
11 and also, if a longer timeframe were supported, how could the Council seek additional conditions
12 if issues arose.

13 The discussion indicated a desire to look at the Interim Use process to see if it should be made
14 more flexible. However, there was hesitancy to open them up completely without some sort of
15 periodic review process (see Attachment A)

16 The Council directed the Planning staff review the Interim Use section and proposed
17 modifications through the formal amendment process.

18 Below are the current requirements for Interim Uses:

19 **1009.03 Interim Uses**

20 **A. Purpose:** Certain land uses might not be consistent with the land uses designated in
21 the Comprehensive Land Use Plan, and they might also fail to meet all of the zoning
22 standards established for the district within which they are proposed; some such land uses
23 may, however, be acceptable or even beneficial if reviewed and provisionally approved
24 for a limited period of time. The purpose of the interim use review process is to allow the
25 approval of interim uses on a case-by-case basis; approved interim uses shall have a
26 definite end date and may be subject to specific conditions considered reasonable and/or
27 necessary for the protection of the public health, safety, and general welfare.

28 **B. Open House Meeting:** Prior to submitting an application for a proposed interim use,
29 an applicant shall hold a community open house meeting as described in Section 1009.07
30 of this Title.

31 **C. Applications:** The owner of property on which an interim use is proposed shall file an
32 application for approval of the interim use by paying the fee set forth in Chapter 314 of
33 this Code and submitting a completed application form and supporting documents as set
34 forth on the application form. Complete applications shall be reviewed in a public
35 hearing before the Planning Commission and acted upon by the City Council according
36 to the process set forth in Chapter 108. If a proposed interim use is denied, an application
37 for substantially the same interim use on the same property shall not be accepted within 1
38 year of the date of the denial.

39 **D. General Standards and Criteria:** When approving a proposed interim use, the
40 Planning Commission and City Council shall make the following findings:

- 41 1. The proposed use will not impose additional costs on the public if it is necessary for
42 the public to take the property in the future;
- 43 2. The proposed use will not create an excessive burden on parks, streets, and other
44 public facilities; and
- 45 3. The proposed use will not be injurious to the surrounding neighborhood or otherwise
46 harm the public health, safety, and general welfare.

47 **E. Expiration:** An interim use approval shall expire and an approved interim use shall
48 cease, at the earliest of:

- 49 1. 5 years from the date of the approval;
- 50 2. Upon the expiration date established in the approval; or
- 51 3. Upon reaching some other expiration threshold established as a condition of approval.

52 **F. Renewals:** If an approved interim use is to be continued beyond the date of its
53 expiration or if an expired interim use is to be reinstated, an applicant shall follow the
54 above process for seeking a new interim use approval. Notwithstanding this requirement,
55 the City Council may approve extensions to the expiration of an approved interim use
56 when:

- 57 1. The approved interim use has not yet commenced; and
- 58 2. The duration of the approved interim use is not to exceed 3 months. To request an
59 extension under these circumstances, applicants shall submit to the Community

60 Development Department a written request including an explanation of the factor(s)
61 which necessitate the extension. Within 30 days of receipt of such a request, the matter
62 shall be brought to the City Council for action.

63 **Proposed Amendment**

64 Based on City Council direction, the following amendments have been proposed by the Planning
65 Division:

66 E. **Expiration:** An interim use approval shall expire and an approved interim use shall cease, at
67 the earliest of:

- 68 1. 5 years from the date of the approval;
- 69 2. Upon the **another** expiration date established in the approval; or
- 70 3. ~~Upon reaching some other expiration threshold established as a condition of approval.~~
71 **The event that will terminate the use can be identified with certainty.**

72 **PUBLIC COMMENT**

73 At the time this report was prepared, Planning Division staff has not received any
74 communications from the public about the variance request.

75 **RECOMMENDED ACTION**

76 Based on public comments and Planning Commissioner input, recommend approval of the
77 amendments to §1009.03, Interim Uses, of the Roseville Zoning Code as submitted by the
78 Planning Division and stated above in this Project Report dated September 30, 2014.

Prepared by: City Planner Thomas Paschke - 651-792-7074 | thomas.paschke@ci.roseville.mn.us
Attachments: A. City Council Meeting Minutes

1 EXTRACT FROM THE SEPTEMBER 15, 2014 ROSEVILLE CITY COUNCIL MEETING**2 b. Discussion Regarding the Treatment of Non-Conforming Uses (Particularly in the Twin Lakes Area)**

3 Mr. Bilotta reviewed options for the City Council's consideration of this discussion regarding the treatment
4 of non-conforming uses, particularly in the Twin Lakes Redevelopment Area, as detailed in the Request for
5 Council Action (RCA) dated September 15, 2014. Mr. Bilotta noted part of that discussion was more
6 general in nature, while some of the discussion was related specifically to the Vogel Sheetmetal parcel; and
7 asked the City Council for their preference in how to move forward. As outlined in the RCA, Mr. Bilotta
8 noted the differences in State Statute regarding nonconforming use controls, and those based on City
9 Council policy. Under the City's policy, Mr. Bilotta noted that the Interim Use could be used for
10 nonconforming uses, but had a local limitation of five years, and if the City wanted more flexibility it could
11 look at code amendments accordingly.

12 Councilmember McGehee opined that she heard many more complaints in the City's use of Conditional Use
13 Permits versus Interim Uses in terms of enforcement and longevity of a CUP and lack of ability to change it
14 as the surroundings or environment change, since the CUP runs with the land. Councilmember McGehee
15 stated that her personal preference would be to favor a change for an Interim Use that provided more
16 flexibility beyond the five years; but otherwise she was perfectly happy with how it was handled, and stated
17 she was not concerned with nonconforming uses and how handled, if a 10-20 year Interim Use was
18 available providing different requirements for screening and exterior situations.

19 Councilmember Willmus expressed his agreement and disagreement in part with Councilmember
20 McGehee's preference. Since the Conditional Use becomes a part of the property title and ran with the land,
21 Councilmember Willmus agreed it can become an issue in some instances. However, Councilmember
22 Willmus opined that leaving the five year timeframe for Interim Uses offered some value and protection
23 particularly if those uses were abutting less-intensive uses (e.g. commercial abutting residential).
24 Councilmember Willmus opined that the five year check-back was a valuable tool and provided some
25 leverage if there were ongoing issues to make sure they were remedied. Councilmember Willmus
26 questioned if he would be comfortable with a 20 year Interim Use, while he could consider a ten year term,
27 unless abutting residential properties, since that was where the real conflict occurred from his perspective.
28 Councilmember Willmus referenced a past Interim Use for the former Wool Room location, abutting a
29 residential neighborhood, and how contentious that had become. Councilmember Willmus opined that it
30 depended on where Interim Uses were used, which would determine his consideration of a five or ten year,
31 or longer, term.

32 Mr. Bilotta suggested if a longer term was considered by the City Council, granting an Interim Use for a
33 certain period of time should be based on the particular situation, not a generic timeframe, and determined
34 on a case by case basis. Mr. Bilotta suggested having some flexibility depending on the situation, making it
35 less about policy versus removing the handcuffs to allow greater flexibility.

36 Mayor Roe opined that the term allowed flexibility as far as zoning and nonconforming uses, noting that if
37 commercial use and zoning had moved toward future residential uses, he would be less eager to grant a
38 long-term Interim Use, depending on the viability of the particular business and its impact to the
39 surrounding area, each which would make a difference. Mayor Roe noted this relates to the discussion held
40 on the Commercial Mixed Use (CMU) zoning as well, with the desire for more flexibility and allowing
41 different possibilities and fewer restrictions. Mayor Roe opined that the advantage of that is that uses could
42 be set up as conditional in some instances, while permitted uses in other instances, since what may or may
43 not be good adjacent to one use may be more amenable to others. Specific to the Terrace Drive issue,
44 Mayor Roe noted that it had been recently rezoned to High Density Residential (HDR) which really limited
45 uses, and the rationale in granting the Interim Use for Vogel Sheetmetal for five years in that instance. If
46 that wasn't the zoning for that particular area, Mayor Roe noted that there would be a different issue. Mayor
47 Roe concurred with Councilmember McGehee's comment that things were improving and getting closer to
48 the desired outcome, provided the turnover in multi-use buildings could still be addressed, and the use didn't

49 intensify on the site away from intended zoning. Mayor Roe spoke to the need to retain good tools in
50 addressing those sites.

51 Councilmember Etten concurred with the comments of Mayor Roe, and his support for not kicking people
52 out of a successful business unless a significant situation or problem was in evidence. Councilmember Etten
53 stated that he agreed with the positives in using a longer term Interim Use to allow more flexibility, and
54 changing City Code accordingly. However, Councilmember Etten questioned if a business would prefer a
55 Conditional Use to ensure greater permanence for their business, and asked Mr. Bilotta for his impression of
56 that preference.

57 Mr. Bilotta responded that it would depend on whether the choice was between an Interim or Conditional
58 Use, or if the choice was between a Conditional Use or not being allowed at all, obviously then indicating a
59 preference for a Conditional Use. Regarding the current zoning of the Vogel Sheetmetal property, and their
60 proposed new use, as well as with other situations, Mr. Bilotta noted that rezoning should or could also be a
61 consideration. While it was preferable to have the zoning work for proposed uses ultimately for most
62 business uses versus the need for an Interim Use, Mr. Bilotta noted that it provided two different situations,
63 one of which was providing fluidity in the Twin Lakes area as the City Council continued to work its way to
64 resolution of zoning issues and permitted or conditional uses.

65 Councilmember McGehee noted the need for flexibility, and her personal interest in having the ability to
66 make changes, whether through Interim Uses or zoning, particularly in those areas abutting residential
67 properties and the need to correct negative situations through some option. While zoning can be changes,
68 even though the process was more lengthy and cumbersome, Councilmember McGehee noted that a
69 Conditional Use remained in place as a nonconforming use, whether or not the zoning was changed.
70 Therefore, Councilmember McGehee expressed her preference for an Interim Use versus a Conditional Use.

71 Councilmember Willmus stated that he looked at an Interim Use as temporary versus what was desired
72 long-term for the City, and rather than pushing it off continuously, it could be closely tied with a
73 Conditional Use and nonconforming uses. Councilmember Willmus opined that the City Council owed
74 some due diligence for considering the City's future vision based on the long-term Comprehensive Plan
75 guidelines, and not be placed in situations where it was continually setting aside that long-term vision.

76 Mayor Roe opined that a Conditional Use shouldn't be the way to consider a nonconforming use; and while
77 it was fine to put it there, there were conditions applied, otherwise it would be a permitted use. However, by
78 applying conditions due to certain circumstances, Mayor Roe stated that this served the purpose. Mayor
79 Roe stated that he didn't have a problem with a Conditional Use going with the land as long as it continued
80 to meet those conditions, be forced to come into compliance, or shut down due to noncompliance.

81 Mr. Bilotta clarified that Conditional Uses and nonconforming uses overlapped and while a use may be
82 inappropriate, if it was held to a certain scale or conditions, it allowed the City to broaden uses in a
83 particular zone (e.g. Terrace Drive). Mr. Bilotta noted that this permitted uses with conditions, while not
84 legalizing things preferred to be totally gone in the future as part of the long-term vision.

85 Councilmember McGehee opined that she wasn't tied to the twenty year timeframe.

86 Mayor Roe clarified that the discussion was to remove the limit.

87 Councilmember McGehee stated that she had no problem in using a Conditional Use for certain uses within
88 limits, when she could not foresee any problems (e.g. environmental or traffic), but referenced past
89 Conditional Uses for nonconformities that may not be desirable long-term; opining that this was a
90 distinction she wanted clear.

91 Councilmember Willmus suggested one distinction may be that of an asphalt plant use.

92 Vogel Property

93 Specific to the Vogel Sheetmetal property, Mr. Bilotta and Mayor Roe noted the sense of urgency for the
94 property owner for City Council guidance due to the requirements of their lending agency.

95 For the benefit of the public, and review of the City Council, Mr. Bilotta reviewed the issuance in the recent
96 past by the City Council of a five year Interim Use for Vogel Sheetmetal, anticipating rezoning to CMU,
97 which had yet to happen. Mr. Bilotta advised that before their lender agreed to a loan for improvements on
98 the property, they were balking at doing so under an Interim Use due to its short term nature, stating it was
99 insufficient for loan approval. As far as the City is concerned, Mr. Bilotta advised that they were fine with
100 having granted the Interim Use, but it was simply an issue between the company and their lender; and were
101 therefore asking the City for avenues they should take or what they could do to satisfy the conditions of their
102 lender. Mr. Bilotta noted that there were a range of things that could be done, including revising the Interim
103 Use and its term, or rezoning, along with other options that may satisfy the lender. However, before
104 pursuing any of those options, Mr. Bilotta advised that staff and the company wanted to come before the
105 City Council for their feedback. Mr. Bilotta further advised that the company had the ability to submit an
106 application for rezoning and a comprehensive plan amendment, while the City Council had no obligation to
107 grant either, especially pursuit of a comprehensive plan amendment, and therefore sought the City Council's
108 policy direction to save time if they were not amenable to do so, at which time other options could be
109 considered.

110 At the request of Mayor Roe, Mr. Bilotta reviewed the process previously initiated to rezone the area north
111 of Terrace Drive from HDR to CMU, which had gone before the Planning Commission at a public hearing,
112 and subsequently recommended by that body to the City Council for approval, but had been tabled at the
113 City Council level.

114 From his personal point of view, Mayor Roe referenced his comments at the end of the previous discussion:
115 if projects come forward for a use in the CMU zone or requesting rezoning to CMU, it made sense to him to
116 get language in code that a regulating plan was needed, which needed to be initiated by that party and get
117 the regulating plan process in place. Mayor Roe noted that this also fell into the next discussion, not
118 necessarily the Cunningham plan, but going through all the steps or three legs of the stool and involving the
119 neighborhood, developer, and City, as the most obvious way to get things done.

120 Recognizing that things addressing green space and connectivity were already in code, Councilmember
121 McGehee expressed her advocacy for submission of a preliminary sketch plan and working with staff to
122 tweak that plan. Councilmember McGehee asked staff how or what they envisioned beyond what was
123 already in place in terms of design standards.

124 Mayor Roe clarified that those design standards weren't really in place.

125 Mr. Bilotta noted that the discussion had rolled into the next agenda item, but suggested continuing, since
126 the Vogel Sheetmetal issue had other pieces to it as part of this discussion as well.

127 In addressing regulating plans, Mr. Bilotta noted that those plans also affect design, with materials and other
128 considerations usually considered separately. Specific to a regulating plan as it applied to Terrace Drive and
129 the Vogel Sheetmetal use, Mr. Bilotta advised that the plan would control intensity. As an example, Mr.
130 Bilotta addressed previous discussions in the past related to sub-districts within a CMU district, since there
131 was no height limitation in most of the CMU district. While a lack of height limits may not be problematic
132 in the Cleveland Avenue area adjacent to an elevated highway, with no problem in allowing a 12-15 story
133 building, Mr. Bilotta noted that along Terrace Drive it was a different situation when abutting residential
134 properties. Mr. Bilotta noted the differences in the north and south side of Terrace Drive, and while
135 allowing the same types of uses, restrictions could be applied for characteristics from one versus the other.
136 Mr. Bilotta also referenced the Fairview Avenue area, which currently was close to showing an existing
137 pattern with walkable mixed use, but with commercial uses on the west side of County Road C, with the
138 right projects it could have a very different feel than Cleveland Avenue.

139 Mr. Bilotta noted that a regulating plan would address those various pieces, and advised that staff could get
140 into those descriptors in as detailed a manner as desired by the City Council. Mr. Bilotta reviewed some of
141 those issues, including height to massing, parking in front or at the rear, pedestrian connections and
142 orientation, or trails. Mr. Bilotta advised that staff could provide those interpretations visually for more

143 clarify versus narrative that may be up to interpretation, with staff's feedback on ways to address those
144 issues in the private/public sectors that made the most sense.

145 Mr. Bilotta noted that the Terrace Drive area seemed to be primed for development at this time, with so far
146 the only thing agreed upon is that the HDR zoning is not desired by anyone, meaning the only thing
147 currently allowed for development is not desired.

148 Mr. Bilotta suggested staff be directed to engage the public in a series of public meetings starting within the
149 next three weeks in-house at the staff level, in an effort to provide guidance to the City Council; and for the
150 other development area along County Road C, that developer use their consultants and finances to follow
151 the same process in meeting with the neighbors to prepare a regulating plan or modify the Cunningham plan
152 on the west side.

153 Mayor Roe clarified that the design standards referenced by Councilmember McGehee were provided in
154 Chapter 1005.02 of City Code.

155 City Planner Thomas Paschke responded that the goal in developing that chapter of City Code was to
156 eliminate regulating plans and adopt regional business standards and general requirements for the CMU
157 District.

158 At the request of Mayor Roe, Mr. Paschke reviewed the options in extrapolating the Cunningham plan if
159 adopted by reference, similar to an amended PUD.

160 Councilmember McGehee noted past discussions with Mr. Trudgeon and Mr. Paschke with the City Council
161 related to subareas, with the City Council specifying the area around Langton Lake and the north side of
162 Terrace Drive sees graduated intensity to provide protections.

163 Mayor Roe also recognized that past discussion; however, he clarified that those subzones were meant to
164 deal with adjacent areas in other ways, while this discussion was different.

165 When the City Council initiated this discussion, Councilmember Willmus noted that it was changing HDR
166 to CMU, with feedback heard provided by the business community and City Council before the
167 neighborhood came forward in August seeking a voice in the process. Before moving forward and before
168 any other changes are considered, Councilmember Willmus noted the vital need to hear from them and bring
169 them into the process. Based on what he had heard to-date from the neighbors, Councilmember Willmus
170 opined that he wasn't confident that CMU was the vision they had for their neighborhood, and before formal
171 action by the City Council, those conversations needed to be part of the process.

172 Councilmember McGehee clarified that this was the proposal made by Mr. Bilotta for staff to initiate that
173 discussion with the neighborhood over the next three weeks.

174 At the request of Mayor Roe, Mr. Bilotta advised that as long as the discussions were held in-house, staff
175 required no formal action from the City Council; but if it was determined that an outside consultant was
176 required, they would return to the City Council for their authorization. Mr. Bilotta opined that, as long as
177 the discussion was within the Terrace Drive area, and not further beyond to Cleveland Avenue, staff could
178 handle the meeting process.

179 Mr. Bilotta and Mr. Paschke clarified that a regulating plan was required, but could be done by the City or
180 the developer and created by area; and by consensus of the City Council agreed that a regulating plan
181 developed by the private sector would be amendable to the City Council for consideration as well.

182 Regarding whether to use a regulatory plan or another option, Councilmember Etten opined that it seemed
183 the regulatory plan allowed flexibility, and in previous discussion when considering creating subzones as
184 applicable, another part of that discussion was to simply leave it open, providing enough nuance without
185 changing all zoning. Councilmember Etten stated that he was in favor of the open zoning as long as it could
186 be adjusted through a regulating plan.

187 Mr. Bilotta confirmed that a regulating plan allowed some flexibility, a graphic regulatory tool would
188 address those pieces, including no build areas, future roadways, areas of lower intensity, different
189 impervious surface percentages closer to the lake and other pieces.

190 Specific to the Interim Use discussion, Councilmember Laliberte agreed with Councilmember Willmus on
191 the check-back option; questioning ramifications if that option was removed not only for this City Council
192 but future Council's as well.

193 Mayor Roe suggested language could be included for that five year - or more - check-back or a statement
194 related to renewal terms of an Interim Use.

195 Mr. Bilotta thanked the City Council for their input, and advised staff would proceed to the Planning
196 Commission for their deliberation and subsequent recommendation to the City Council.

197 Councilmember Laliberte noted that the Metropolitan Council was still requiring cities to increase their
198 housing density, and questioned if the City or Roseville would still be in compliance with this direction.

199 Councilmember Willmus noted that CMU could still include housing as part of that mix.

200 Mayor Roe clarified that the Metropolitan Council was not requiring housing density, but simply projecting
201 it.

202 Mr. Paschke noted recent residential developments not yet identified by the Metropolitan Council, as well as
203 several in the planning stages, that will provide credits for the City of Roseville in meeting those
204 projections.

205 At approximately 7:06 p.m., Mayor Roe opened the discussion up to public comment related to these issues.

206 **Public Comment**

207 **Vicky Boyer, Centennial Drive**

208 Ms. Boyer expressed her appreciation of the City Council in hearing public comments, opining that it made
209 her feel more comfortable with planning going forward with input from the neighborhood.

210 Mayor Roe thanked Ms. Boyer for her positive feedback regarding how the City Council was approaching
211 this.

212 **Lisa McCormick**

213 Ms. McCormick sought clarification on her understanding on current City Code for the Vogel Interim Use
214 for five years, with optional renewal(s), which was confirmed by Mayor Roe.

215 After listening to tonight's discussion, Ms. McCormick expressed some concern and asked for caution from
216 the City Council in dealing with nonconforming uses. While appreciating looking at the overarching vision,
217 Ms. McCormick asked if there was a process in place for the City to monitor tenants and potential turnover,
218 to determine if a tenant will be intensifying a use.

219 Mr. Bilotta responded that as far as a formal process, this could become known through initiation of a
220 building permit; and from a planning perspective, a formal review could be initiated as well for certain
221 improvements. However, if a business steps into another space without any improvements, it was unlikely
222 that the City would be aware of that beyond filing of complaints for potential noncompliance. Mr. Bilotta
223 advised that staff was increasing their due diligence with property owners to make sure they alert City Hall
224 of any increased intensity in uses from one tenant to another. In response to Ms. McCormick, Mr. Bilotta
225 advised that expanding a nonconforming use would not be allowed and would not make it through a
226 building permit process.

227 Ms. McCormick noted the e-mail she'd written the City Council earlier, and had no concerns beyond that,
228 other than expressing her concerns with the next issue in considering waiving of EAW's.

229 **David Vogel, Vogel Sheetmetal**

230 Mr. Vogel clarified that his firm did need financing to move forward with their project, and made the City
231 Council aware of new information received earlier today from the Small Business Administration (SBA),
232 that they would accept a twenty year Interim Use permit for funding.

233 Mayor Roe suggested Mr. Vogel provide that information to staff for their review.

234 **Kathleen Erickson, 1790 Centennial Drive**

235 While appreciating the financial situation of Vogel Sheetmetal, Ms. Erickson opined that such was the
236 nature of doing business, for research and due diligence to know what they were facing. Ms. Erickson
237 expressed concern with a twenty-year Interim Use permit that provided a blanket continuation, asking the
238 neighbors to support that without any knowledge of the Vogel operations or their firm, but to simply trust
239 that they'll be a good neighbor. However, without check-backs or ways to ensure compliance, Ms. Erickson
240 noted past experience in the neighborhood with a previous business that applied for a building permit
241 without waiting for its approval and proceeded with their improvements. Ms. Erickson noted that this
242 significantly impacted the lives of the residential neighborhood, and sought protection in case the intent
243 didn't live up to expectations, allowing some avenue to address those issues.

244 Mayor Roe clarified that any extension of the current five year Interim Use would come before the City
245 Council and allow for public comment at that time.

246 Since the Vogel financing is now on the table with the SBA and can be discussed by the neighborhood
247 group, Councilmember McGehee suggested the twenty-year option be discussed as a viable option for
248 consideration and for the neighborhood to think about. As part of that discussion, Councilmember
249 McGehee suggested the neighbors identify what additional protections they would require, in particular
250 those properties immediately abutting Vogel; and any other conditions that would make them feel better as
251 options. Councilmember McGehee opined that the City Council would be prepared to act favorably to
252 address concerns of the neighbors, if agreeable with staff and the business owners.

253 Ms. Erickson asked the ramifications if the permit was a Conditional versus Interim Use.

254 For the benefit of Ms. Erickson and members of the audience, Mayor Roe clarified that the current permit
255 was an Interim Use with conditions, and for a term of five years, with optional renewal.

256 **Lisa McCormick**

257 Ms. McCormick noted that the SBA information provided by Mr. Vogel was new to the neighborhood; and
258 questioned the City Council's next steps in light of that new information.

259 Mr. Bilotta reviewed various options if Vogel chose to move down the twenty year Interim Use permit
260 process:

- 261 1) Change City Code through a text amendment to allow that to occur, which would require public notice,
262 a formal public hearing at the Planning Commission, and their subsequent recommendation to the City
263 Council. If once adopted, that longer-term Interim use permit would become law per City Code.

264 At the request of Mayor Roe, Mr. Paschke confirmed that the text amendment regarding interim use
265 lengths could be heard at the next Planning Commission meeting, scheduled for October 8, 2014,
266 provided direction was received to allow for publication and mailing of notice by week-end.

267 Mr. Bilotta advised that if Vogel proceeded with that process, staff would need to think through
268 additional conditions that may be different in the long-term than those currently applied to mitigate
269 neighborhood concerns for that additional fifteen year period.

- 270 2) Specific to regulatory planning along Terrace Drive, both the north and south sides, with the extension
271 west of Fairview to pick up the Sherman property and properties north of that, Mr. Bilotta reviewed the
272 process for those properties, suggesting staff meet with the public, property owners, business owners,
273 and any other interested parties to receive public input. Mr. Bilotta suggested this occur over the next
274 three weeks depending on holiday schedules, intended as listening sessions for the purpose of hearing
275 public comment. Following those meetings, Mr. Bilotta suggested a regulating plan could be developed

276 for that area defining what could or could not occur in a CMU District. However, Mr. Bilotta noted that
277 as a result of that planning exercise, the City Council may decide to rezone the area to something other
278 than CMU that may require a regulating plan as well; or other zoning districts indicated for those areas
279 or a part of those areas, or they could stay HDR, even though he didn't anticipate that happening. At
280 that point in time, Mr. Bilotta advised that the neighborhood and property owners would have a good
281 idea of why things are as they are, and key pieces would be identified, how they were defined in a plan,
282 and an understanding of what impacted that decision making with all parties clearly heard. Mr. Bilotta
283 opined this process would be good for the planning process for property owners and the neighborhood
284 to understand the overall vision and plan.

285 At the request of Mayor Roe, Mr. Bilotta advised that there was no reason that both processes could not
286 go on concurrently; but that the text amendment process would be pursued by staff no matter the results
287 of the second process.

288 At the request of Ms. McCormick, Mr. Bilotta confirmed that the public hearing for the text amendment
289 would be held at the October 8, 2014 Planning Commission meeting. Mr. Bilotta clarified that Vogel
290 Sheetmetal could not apply for an extended Interim Use Permit until the text amendment was approved;
291 and further that the Planning Commission could not make any recommendation regarding the length of
292 an Interim Use Permit beyond what was contained in current code. Mr. Bilotta noted that the part that
293 can proceed ahead of this proposed process is consideration of the text amendment, but not anything
294 specifically related to the Vogel request for a longer-term Interim Use Permit; but would eventually
295 work into that approval process with relevant information from the neighborhood meetings as proposed.

296 At the request of Mayor Roe, Mr. Bilotta advised that a CMU zoning request had been received by staff
297 from Vogel Sheetmetal, but had not been formally reviewed by staff at this time.

298 In expressing his concern with a twenty-year Interim Use (IU) Permit, Councilmember Willmus asked
299 for an explanation of the process staff would pursue even at five year increments if noncompliance was
300 found.

301 Mr. Bilotta responded that, if it was found they were not meeting the conditions of the IU, the City had
302 the ability to revoke it through a process to the City Council with evidence from staff of noncompliance
303 and a subsequent determination, through a public hearing, to allow input from the property owner and
304 community.

305 Councilmember Willmus questioned if this process would be prolonged with attorney involvement
306 versus simply having a five year IU that could lapse without renewal, providing for no discussion and
307 no debate. Councilmember Willmus noted his concern in the difference in a five year IU citywide
308 versus a reactionary IU extended up to twenty years for one case or situation, especially when that
309 situation was immediately abutting residential properties.

310 Mayor Roe noted tonight's discussion revolving around the text amendment was to address any future
311 application that came forward.

312 Mr. Bilotta clarified that it may be that the City Council doesn't approve a particular IU beyond five
313 years, but this text amendment allowed them the flexibility to do so at their discretion.

314 Councilmember Laliberte concurred with Councilmember Willmus; opining that in the course of daily
315 business, she could not see the need for a twenty year CU beyond this issue; and no need to make a
316 change based on one situation.

317 Mayor Roe further noted that, under the existing IU, if there was a change of zoning and the Vogel
318 Sheetmetal operation became a permitted use under that rezoning, there would no longer be a need for
319 an IU and it could lapse at that point.

320 Councilmember Willmus noted this assumed rezoning would be approved.

321 Mayor Roe noted that this is why it was written as a condition of the IU.

322 Councilmember Laliberte recognized the interest in going down both pathways; but expressed her
323 preference for the touchback and renewal versus a blanker period of time; opining that a different City
324 Council could take a more aggressive stand than this one, making her nervous.

325 Councilmember McGehee opined that she didn't find this specific to Vogel Sheetmetal; and with many
326 things coming before the City Council that were reasonable, this provided lenders the ability to approve
327 loans and make business opportunities possible. Councilmember McGehee opined that the City should
328 have the flexibility but be able to decide on an individual basis without getting into legal situations.

329 **Lisa McCormick**

330 Ms. McCormick asked that, at some point, if the language included IU's for twenty years, language also
331 include incremental five year check-backs be built into that approval.

332 Mr. Bilotta stated that staff would check into that to see if it was a possibility; however, he expressed his
333 suspicion that it may be problematic for lenders.

334 **Todd Cummings, 1800 County Road C-2**

335 Mr. Cummings opined that from his perspective the Vogel acquisition and the entire process seemed
336 disorganized. Mr. Cummings opined that he would expect a company to come forward fully prepared
337 versus the City having to hold their hand and make things work for them without them performing their own
338 due diligence beforehand. While being all for helping someone, Mr. Cummings opined that the firm should
339 already have had these things in place already through their legal counsel and lenders; opining that this
340 approach seemed amateur to him and shouldn't be happening at this stage or on this scale. While
341 recognizing that the Vogel Sheetmetal firm may provide a great opportunity for everyone, Mr. Cummings
342 expressed his frustration in the disorganized process.

343 With no one else coming to speak on this issue, Mayor Roe closed public comment at approximately 7:36
344 p.m.

345

**EXTRACT OF THE MINUTES OF THE OCTOBER 8, 2014,
ROSEVILLE PLANNING COMMISSION**

**d. Project File 0017-Amendment 23
Request by the Community Development Department to amend certain requirements contained in Roseville City Code, Section 1009.03 (Interim Uses)**

Chair Gisselquist opened the Public Hearing at 8:12 p.m.

City Planner Thomas Paschke reviewed the request as detailed in the staff report dated October 8, 2014, specifically highlighting the proposed amendment for Interim Use in lines 63 – 71 of the report. In addition to the proposed amendments noted in the report, Mr. Paschke suggested another possible amendment to Item 3 (lines 70-71) to read: “[*Upon an event*] that will terminate...” Mr. Paschke advised that this language was based on MN State Statute 2013, Section 394.303 Interim Uses, and was the preferred language of the Community Development Department versus totally eliminating the language in #3 (line 70).

Chair Gisselquist asked staff to clarify the scope of the action, noting that the Vogel Sheetmetal case had been acted on previously, and was not before the Commission as part of this request, with that already at the City Council level; and the purpose of this proposed text amendment was to allow more flexibility in terms.

Mr. Paschke confirmed that the Vogel Sheetmetal Interim Use had been approved by the City Council and was moving forward in the process.

Chair Gisselquist further asked staff to address how this could impact the Vogel Sheetmetal Interim Use, as they were seeking financing to make their improvements and the only way to obtain it was through changed zoning and comprehensive plan amendment to make the site and use a permitted use; or through seeking an Interim Use that could support a duration of twenty years with other conditions applied. In order to do anything different, Chair Gisselquist clarified that even if the Commission recommended amending the language today, anyone wanting to do something different, including the Vogel's, would need to reapply.

Mr. Paschke advised that not a lot of people sought to extend their Interim Use, but anyone was able to apply for an Interim Use. As he'd indicated in his summary before, the Interim Use was for a use not currently allowed in City Code, and there were not many currently out there other than Vogel that came immediately to mind.

At the prompting of Member Daire related to the Spire Credit Union on tonight's agenda, Mr. Paschke clarified that the Planning Commission's recommendation for approval of their Interim Use request for signage had yet to be approved by the City Council. Mr. Paschke further noted that the State Fair could seek a longer exemption than their current five year renewals; but again clarified that each Interim use was no different than any other Planning application and was reviewed on its own merits and requirements on a case by case basis. If these amendments are approved, Mr. Paschke opined that the Commission would probably see Vogel Sheetmetal seeking an amendment to their current Interim Use permit to seek an extension of their timeframe to allow improvements to be made to the building.

Chair Gisselquist stated that he had gotten the impression from reports and NextDoor comments that this discussion was focused on Vogel Sheetmetal; however, he now understood that it has impacts not only to their Permit, but others as well.

Attachment B

Member Boguszewski recognized staff's intent in presenting the Statute language, to make everyone aware that if the Commission recommended this amendment it was within the City's authority to do, but not necessarily meaning that the City should loosen the language. However, Member Boguszewski opined that it occurred to him that within Interim Use approvals, even for a five year duration, other things could inadvertently become part of that approval. Member Boguszewski opined that the expiration could essentially become irrelevant, as it could expire within any timeframe whatever as part of the underlying regulation. Member Boguszewski opined that he had a problem with that, since in effect, writing a term into infinity didn't jive with his understanding of the term "interim." Another concern is that the Interim Use could run with the land, and eventually impact the neighborhood if extended infinitum.

Chair Gisselquist clarified that the Interim Use did not run with the property, and that only a Conditional Use ran with the land.

On its face, Member Boguszewski opined that he shuddered to consider long-term implications of this proposed amendment, and instead, suggesting laying things out on the table since he saw no other reason in doing to except to facilitate this single case for the Vogel Sheetmetal application. Unless he was contradicted, Member Boguszewski suspected the purpose is for Vogel, allowing their resubmission of their Interim Use permit following this amendment, allowing a twenty-year term. While being pro-business, Member Boguszewski opined that he could not see the rationale if in the dynamics of an individual situation and the demands of the Vogel's lender or bank in changing the entire process to require something beyond the underlying limits placed on such an action, and therefore could not see changing the City Code language from what it has been. Member Boguszewski questioned the number of banks or lenders making this demand and saying that an Interim Use limited to five years was severely limiting their ability to work with a business. Member Boguszewski opined that, to him on the face of this, is a desire to change an underlying base regulation of City Code for this one exception to allow it to happen; and unless he found compelling reasons in further discussion, could not support this request at all.

From another direction, Member Murphy referenced the last part of the State Statute for definition, and until zoning regulations no longer permit the Interim Use. Member Murphy questioned the definition and if the zoning regulations allowed an exception under Item 4 of the Statute and the process for sun-setting or terminating the Interim Use.

Without the benefit of a City Attorney interpretation of State Statute, Mr. Paschke provided staff's interpretation, since some cities don't allow Interim Uses, but rely on State Statute, but if their zoning code doesn't support Interim Uses, they can't have them. Mr. Paschke noted that some cities may have Interim Uses and create other processes, such as special use permits supported by State Statute, and in those instances, if an Interim Use is in existence they are terminated as they are no longer supported under their zoning ordinance. While unsure of the State Statute intent without the City Attorney's advice, Mr. Paschke suggested that Interim Uses have been historically utilized for things not supported by zoning ordinance in most communities in which he was familiar.

Member Murphy asked if, in the case of Roseville, Mr. Paschke would see an Interim Use being terminated by a change in the zoning by amendment.

Mr. Paschke responded that if the City decided it did not want to extend or offer an Interim Use anymore, it could eliminate that tool for certain types of uses; and

potentially it would become a termination point for Interim Uses. Mr. Paschke advised that he was not aware of any cases where an Interim Use was grandfathered in, but rather addressed by a specific date or certain event.

Chair Gisselquist suggested a more simple approach was that the Commission could adopt the ordinance as is and subsequently someone suggests an Interim use for only one year, which is allowed under State Statute, and provides a municipality the ability to be flexible.

Member Murphy questioned if rezoning could be used to regulate use and all Interim Uses could then be found null and void; and questioned if the City had ever done anything like that

Mr. Paschke responded that he was not aware of any such instance, nor to his knowledge could it be done through a comprehensive plan amendment, without modifying ordinances to specifically call that out. Mr. Paschke noted that even an event certain would be eliminated if the ordinance no longer supported Interim Uses and a certain number of days the use of your property ceases, which he didn't see the City doing, but if so, he could see that potentially changing the use of Interim Uses allowed in the past.

To be clear, Member Cunningham, clarified that essentially right now the intent was to remove current City Code to allow Interim Uses for a maximum of five years, subject to extension; and this would remove any time limit allowing a date to be set or at the discretion of the City; to which Mr. Paschke responded affirmatively.

Member Daire noted that the City updated its comprehensive plan every ten years, and that the comprehensive plan map showed this area north of Terrace Drive where Vogel Sheetmetal was locating, to be zoned high density residential (HDR). Member Daire questioned the rationale in that designation in 2010, and proposed future land use and subsequent zoning code changed accordingly.

Mr. Paschke noted that the entire City's zoning was reviewed and many areas rezoned and re-guided during the 2009-2010 process, and this was only one of many changes to the comprehensive plan and zoning code at that time.

In previous Vogel Sheetmetal discussions, Member Daire recalled that discussions included that since rezoning in 2010, no one anticipated the depressed economic turn, and had that been known, it may have changed those recommendations. In addition to dealing with Vogel in seeking an Interim Use, Member Daire recalled that the Interim Use was to sunset within a timeframe allowing re-examination of the land use for HDR in that area and subsequent zoning. Member Daire noted that this may possibly address itself to the Vogel situation, which he recalled had been supported by the Commission at that time for the former Aramark building, with significant conditions applied to the Interim Use for screening the northern lot line from adjacent residential properties and mitigating any noise issues to make it more compatible with those residents as well. Member Daire opined that the current Interim use would serve to anchor the business until almost 2020 as the City addressed more permanent needs of Vogel and their future operation. Member Daire further opined that this occurred to him as a good illustration of the use of an Interim Permit in addition to meeting the needs of Vogel Sheetmetal, in case any future comprehensive plan proved significant.

Chair Gisselquist refocused discussion on the request currently before the body, potential amendments to language to amend the Interim Use portion of City Code.

Mr. Paschke clarified that the term could be determined by consideration of a particular use, on a case by case basis, but noted that Statutes provided no specific timeframe.

Public Comment

Andy Broggert, 1694 Millwood

Mr. Broggert suggested adding another “or” statement on line 68 rather than making it seem mutually exclusive; and concurred with the comments of Member Boguszewski. Mr. Broggert supported replacement language for Item 2 (line 69) to read: “Upon another expiration date not to exceed the five year limit identified in Item 1.” Mr. Broggert opined that he didn’t want an open-ended term for Interim Uses, and that some time period needed to be established, but not open-ended. Mr. Broggert spoke in support of the event clause in line 71; however, he opined that it still needed a date associated with it, so the event couldn’t happen after the five years on or before an event that would terminate the Interim Use. Mr. Broggert asked for additional language, referencing City Council notes regarding periodic reviews, and that those reviews be included to make sure the use remained as intended, and if not, the Interim Use could expire, giving authority for terminating the use.

Mr. Broggert noted that the City had a long-term comprehensive plan, and if the City adopted an open-ended Interim Use clause, it further deferred accomplishing that long-term plan and goals, especially if the term is open-ended at twenty years or more, requiring waiting another ten years after that to accomplish those long-term goals. While Interim Uses are an important tool, Mr. Broggert opined that they needed some restraints.

Gary Grefenberg, 91 Mid Oaks Lane

Mr. Grefenberg clarified that he was appearing as a Roseville resident and also as a coordinator of SWARN. While understanding and appreciating the comments of Chair Gisselquist, Mr. Grefenberg opined that he did not approve of Interim Uses for specific issues, but in response to Member Daire, when this Interim Use for Vogel Sheetmetal was approved in June by this body, no one was aware that the bank financing sought by Vogel would require a twenty year term, further opining that that was the main reason this request is before the body, with the bank dictating what the City needed to do to follow their financial arrangements. Being part of a neighborhood association, Mr. Grefenberg questioned why the City was attempting to solve the Vogel issue by applying such an amendment throughout the City that only serves to invite open-endedness and discredits the intent of the comprehensive plan and zoning. Mr. Grefenberg questioned what the zoning code meant if an Interim Use was allowed for up to twenty years; and expressed his resentment in the bank trying to tell the City what to do with its land use policy and applying it city-wide. Mr. Grefenberg noted that the City wasn’t concerned with financing his home, and as a member of the community outside the immediate neighborhood, he could not envision how the City thought it was going to solve a single problem by making a change city-wide allowing Interim Uses for twenty years or longer. Mr. Grefenberg opined that there were limits needed.

Kathleen Erickson, 1790 Centennial Drive

Ms. Erickson spoke in support of retaining the five year maximum time limit for Interim Uses. As a long-term resident of Roseville, twenty-nine of them at this location adjacent to Vogel Sheetmetal, Ms. Erickson opined that a limited term was her only protection by the City, as the City used the Interim Use to determine if such a nonconforming use fit with the adjacent neighborhood. Ms. Erickson noted that residents couldn’t move their homes if this business use didn’t work for them; and noted the length of a twenty-year use. Ms. Erickson stated that the residential property owners were attempting to be a good neighbor, but there were many unknowns with the Vogel property and use, and the Interim Use for a limit of five years provided the residential property owners some level

of confidence that their rights and interests were being looked after by the City, not just the interests and needs of commercial property owners and their allowing a nonconforming use to locate there.

Ms. Erickson openly admitted her bias, but also noted the view from her deck directly onto this property; and while not against trying it out, any zoning code changes could eliminate those protections, and allow use and operation of that property under the applied Interim Use guidelines. While the onus should be on the Interim Use applicant, Ms. Erickson noted that the onus instead is with the adjacent property owners with City staff waiting for complaints, and having no periodic monitoring of Interim Uses. Ms. Erickson reiterated the neighborhood's negative experience with Aramark, and opined that it was unfair to put the onus back on the residential neighbors, requiring them to report, rather than looking out for their interests as well as those of business owners.

Member Boguszewski clarified that the intent of this proposed amendment, and as referenced by Mayor Roe in the City Council meeting minutes, it could extend the life of an Interim Use even beyond twenty years on a case by case basis.

Bonnie Vogel, Vogel Sheetmetal Owner

While not having attended the September 15, 2014 meeting, Ms. Vogel asked to address the Interim Use, current zoning situation, and the requirements of their bank for financing. Mr. Vogel clarified that their firm was pre-approved for their loan for a complete renovation of the project subject to zoning in accordance with SBA requirements. Ms. Vogel opined that it was their error from the beginning in agreeing with staff that in the "interim" it would serve their purpose to apply for an Interim Use until the current zoning and comprehensive plan amendments were processed. Ms. Vogel noted that it was subsequent action of the City Council in not approving the rezoning, and their desire to look at zoning and comprehensive plan guidance for the Aramark building and that area; and whether this use was good in the long-term. Ms. Vogel read part of the record from that meeting discussion, with Community Development Director Paul Bilotta commenting that the current zoning designation for HDR was not desirable at this time either.

Ms. Vogel advised that their firm was looking for a new and long-term building for their business, and the bank needed to assess their risk, with the market value of the building directly tied to zoning of the property. As another example, Ms. Vogel noted that they now own a property zoned HDR, and were led to seek an Interim use because a nonconforming use property was typically appraised significantly lower than the tax base, which makes a big dollar difference; and created a situation where they were unable to obtain a loan on the appraised taxable value since the bank was looking at the zoning value. Ms. Vogel advised that the only way the Interim Use could work for their firm and satisfy the SBA loan and other private bankers she'd consulted, would be for a permanent zoning change or a transferrable Interim Use, again tied to property value. Ms. Vogel further clarified that the former Aramark building was not usable as is due to previous damages from vandalism and an absentee landlord resulting in a burst sprinkler system; and therefore was unusable without a significant investment, which they were willing to do, but not if they do so within four years and subsequently find out in the fifth year, when the Interim Use expires, that a new City Council chooses not to renew, or neighbors decide they're not suitable in that area and they're told to leave or vacate that use. From an investment standpoint, Ms. Vogel advised that this isn't only about their business, but as a tool for the City to take into consideration for the future.

At the request of Member Daire, Ms. Vogel reviewed the SBA loan term of twenty years, and their unwillingness to accept anything less than a matching Interim Use term with

the loan tied to it., and not willing to take a risk if Vogel or a similar use cannot locate on that property.

At the request of Member Cunningham, Mr. Paschke advised that an Interim Use was not transferrable to someone else or if the business was sold.

At the request of Member Murphy, Ms. Vogel advised that their interim bridge financing for the building itself, as part of the SBA loan, would be called on December 31, 2014. Ms. Vogel advised that they now owned the building which they purchased at a discounted cost due to significant issues with the building and property. In hindsight, Ms. Vogel noted that their firm took a risk in buying the property due to variety of reasons, and perhaps it was not a good choice. Ms. Vogel advised that part of the building was already financed as part of the project, but SBA loans didn't close out until construction was completed, but would be subject to call pending full commitment assurance.

Ms. Vogel stated that, could she back up the clock, she would have gone for a zoning change and forced the issue, but in trying to play nice, they agreed to this Interim Use route and didn't anticipate it would take this long or that they would become involved in this political quagmire.

City Planner Paschke

In an effort to clarify things, and regarding Ms. Vogel's desire to rewind the clock, Mr. Paschke clarified that the Planning Commission had reviewed and unanimously approved and supported the Interim Use, as well as the parallel comprehensive plan and rezoning amendments.

Mr. Paschke noted that all the properties north of Terrace Drive, previously guided HDR in the comprehensive plan and updated zoning code adopted in 2010 had been adopted; with subsequent further revisions to change that HDR guidance to Community Mixed Use (CMU), which was in process along with a number of text amendments, and which supported the Vogel project and requests. Based on that Planning Commission recommendation and support, the applications proceeded to the City Council where they had unfortunately been stalled. Up until that point, Mr. Paschke clarified that staff suggesting bridging the time between Vogel's application and approval of the comprehensive plan amendment and zoning text amendment, through use of an Interim Use permit awaiting support of the City Council. Mr. Paschke advised that the flavor of all those discussions suggested that the Interim Use was the best way to get started without further delay, and had been presented as such and in good faith to the Planning Commission and City Council. Mr. Paschke advised that he could not support the allegation that Vogel had received the wrong information from staff, but admitted the process had proceeded in a different direction than the original intent. Mr. Paschke noted that the Commission had already reviewed the steps taken by Vogel on their own and tied to the broader picture.

However, as much as one may choose to tie the Interim Use proposed language amendments to the Vogel situation, Mr. Paschke clarified that this was not the intent of Community Development Director Bilotta, but that it was an attempt to allow more flexibility with future applications seeking Interim Uses as a development tool. Mr. Paschke noted that current Interim Use language didn't necessarily provide a drop dead date of 3 or 5 years or whatever a situation indicates and is allowed, and actually an Interim Use wasn't even considered interim under current language, Mr. Paschke advised that the attempt was to broaden language to allow broader flexibility when

experiencing a downward economy when you couldn't predict those situations and tended to create havoc in some zoning areas and before property is ripe for development.

While appreciating the flexibility argument, Member Murphy expressed his concern with the open-endedness, even though another date didn't seem compatible in deriving fixed goals of the comprehensive plan. Member Murphy opined that it was necessary to have that periodic and necessary review of an Interim Use before considering extending it to allow additional public comment and a check for the neighborhood before achieving a longer period of time. By having a long-term date, Member Murphy opined that it shifted the burden to a complaint/adversarial process from abutting property owners.

Mr. Paschke expressed his respect for that perspective; however, from his point of view, the Commission and City Council are allowed to identify – on a case-by-case basis – a date when they feel an Interim Use should be terminated; and noted that conditions could be built allowing for a check-back clause for review and determination as to whether the Interim Use was meeting requirements as conditions, no matter the term. At that time, Mr. Paschke noted that the body could determine if additional improvements were needed or the review deadline adjusted or kept as is; thereby providing methods beyond people calling City Hall as is currently done in other situations for other Interim Uses.

Lisa McCormick

Ms. McCormick advised that she was speaking as an individual and adjacent resident, as well as Chair of the newly-formed Twin Lakes Neighborhood Association.

In response to Planning Commission comments, Ms. McCormick advised that she disagreed with the comments of Mr. Paschke as this being only a slight change to the zoning code, opining that it had significant impacts as discussed by individual commissioners. Regarding whether a change in zoning was ever seen and the Interim Use terminated, Ms. McCormick opined that, as alluded, that was the intention all along, with the Interim Use perceived and granted in anticipation of the rezoning, at which time the Interim Use would cease to exist. Based on her perception of the City Council discussion, Ms. McCormick advised that she asked at that time about the renewable aspect of an Interim Use based on whether the bank would accept anything beyond a fixed date or a renewable five year Interim Use.

Going back to the entire code, Ms. McCormick opined that it would be remiss to consider this proposed amendment separate from the current application process. When the Vogel application first came up for hearing, Ms. McCormick noted her questions related to the landscape plan, and in reviewing the proposed plans, found them very ambiguous related to the site, landscaping, grading and drainage, and at that time questioned what was required and what was at the discretion of the Community Development Director. In speaking on behalf of the neighborhood, Ms. McCormick assured that they were trying to be reasonable, and expressed their empathy for the unfortunate situation Vogel is now in. However, in her research of City document archives, she found seventy documents, with all of those instances of Interim Uses falling into two categories for temporary uses (e.g. sign permits, State Fair parking, or interim seasonal use) and another for the demolition at Reservoir Woods, all of which she found to make sense. While some other uses were of a longer term, Ms. McCormick noted that it seemed like renewable Interim Uses were used in the place of a Conditional Use, which created a long-standing use in some cases which she found particularly concerning. Ms. McCormick noted one such example was the Minnesota Irrigation Corporation and boat storage along County Road C, both Interim Uses. In the one instance, Ms. McCormick noted that the Interim Use had actually lapsed for almost a decade, and another had

lapsed for two years, without City staff being aware of it, which from her perspective meant that they did not have an effective monitoring process in place to ensure Interim Uses were kept current, and if that was the case, how could they be expected to provide periodic check backs. In the Interim Use provided to Minnesota Irrigation in 2010, the staff report provided statements from Community Development Director Trudgeon referring that Interim Uses essentially set up a contentious relationship between residents and businesses; and staff admitted at that time that there was insufficient code enforcement officers available to address or correct violations, and therefore, staff relied on complaints to monitor those situations. Ms. McCormick opined that a complaint driven code enforcement program created a weakness in that enforcement, and beyond putting a company out of business, and putting the burden on property owners, situations often resulted in long-standing renewable Interim Uses. Ms. McCormick noted that Interim Uses essentially put parcels outside the City's building code, when those neighbors were relying on the City to make sure businesses were compatible to protect neighbors.

Specific to the requirements, Ms. McCormick opined that additional planning documents were necessary, and in this case, one finding was that there should be no additional cost to the public if required to take a property back after a nonconforming use. However, Ms. McCormick opined that often environmental contamination had occurred requiring mediation, which was at taxpayer expense.

Ms. McCormick advised that she reviewed peer cities, those used in the City's compensation plan review done in 2013, comparing the cities of Arden Hills, New Brighton, St. Paul and Minneapolis among others, and found that those communities all had terms of three to five years for their Interim Use, and while admittedly State Statute has no stated timeframe, those not having a timeframe were significantly more stringent in their planning requirements requiring more detailed plans to allow the city to accurately assess long-term use of those sites. Ms. McCormick opined that the Cities of Arden Hills and Minnetonka struck her as good examples to review if the City of Roseville was serious about this proposed amendment.

While everyone had made their comments that this amendment is not in response to the Vogel situation, Ms. McCormick respectfully disagreed with that position, noting that there weren't a lot of people seeking Interim Uses and requiring this amount of flexibility other than Vogel; and therefore she could see no urgency in making this amendment. Ms. McCormick referenced the Ramsey County mapping tool she had used to identify the 431 residential parcels in their neighborhood and collective amount of property taxes they paid, which proved that as a group they contributed significantly to the financial well-being of the community as well as the business community.

Ms. McCormick opined that this would be a poor policy to make this open-ended given the current issue unless the intent was to review the planning process to ensure residents are guaranteed periodic inspections and adequate enforcement.

Chair Gisselquist closed the Public Hearing at 9:15 p.m.

Discussion

Chair Gisselquist stated that he was inclined not to act and leave the language as is, since he considered this event-driven, and preferred to shy away from changing the zoning code for specific events. Member Boguszewski opined that he liked the five year term, and while perhaps amenable to a little more time, he considered any longer term to create the need to think about rezoning a parcel.

However it's worded, Member Boguszewski opined that the heart of the proposal was to make Interim Uses more open-ended; and everything preferred to add checks and balances would essentially be stripped away by making it open ended. Member Boguszewski stated that he could not support the proposed language.

From a procedural perspective, Member Murphy asked if there was a way to convey to the City Council and public that the Commission preferred to retain the maximum of five years for Interim Uses; and if the amendment was voted on and the failed significantly, would it serve to state that purpose, rather than simply not taking action.

Member Boguszewski, with consensus of the body, opined that he would like to have a record of the vote to provide documentation of the culmination of the will of the Planning Commission. Member Boguszewski advised that his personal vote would be prejudiced, as he considered this the wrong way to go about solving a real problem.

MOTION

Member Murphy moved, seconded by Member Gisselquist to adopt the proposed amendment in lines 64-71 of the staff report dated October 8, 2014; amending language consistent with language in Minnesota State Statute MN 2013, Section 394.303 for Interim Uses

Member Murphy spoke against the motion for reasons as stated previously during tonight's discussion.

Chair Gisselquist spoke in support of current language; and stated his opposition to changes based on specific events, as compelling as they may be, opining that the City's laws should be drafted to provide guidance rather than changing them for a specific reason, and further opined that a twenty year term was not an interim time period.

Member Cunningham concurred with Chair Gisselquist's comments, opining that 20 years was not an interim period.

From his personal perspective, Member Daire opined that an Interim Use should be transitional to what is actually desired on a property, further noting several comments about whether or not HDR was even a desired use in that location, particularly with regard to current economic situations. Member Daire stated that he would have to vote against the motion, noting that the comprehensive plan period is only ten years, and the current Interim Use time period is half of that at five years; and his expectation would be that within that timeframe a property should be able to transition into its new use. While he didn't personally see that happening, Member Daire stated that he would stand with the rest of the Commission in opposition to the proposed language changes.

Ayes: 0

Nays: 5

Motion failed unanimously.

City of Roseville

ORDINANCE NO. ____

AN ORDINANCE AMENDING SELECTED TEXT OF TITLE 10 ZONING ORDINANCE
OF THE ROSEVILLE CITY CODE

THE CITY OF ROSEVILLE ORDAINS:

SECTION 1. Purpose: The Roseville City Code is hereby amended to revise the requirements for Interim Uses.

SECTION 2. §1009.03, Interim Uses, is hereby amended as follows:

E. **Expiration:** An interim use approval shall expire and an approved interim use shall cease, at the earliest of:

1. 5 years from the date of the approval;
2. Upon the **another** expiration date established in the approval; or
3. ~~Upon reaching some other expiration threshold established as a condition of approval.~~
The event that will terminate the use can be identified with certainty.

SECTION 3. Effective Date. This ordinance amendment to the Roseville City Code shall take effect upon passage and publication.

Passed this 1st day of December, 2014