

**Rockville Planning Commission  
SPECIAL MEETING  
PUBLIC HEARING  
March 06, 2013  
Rockville Community Center**

1. **CALL TO ORDER – ROLL CALL** – Chair Sharon Hatfield called the meeting to order at 6:30 p.m. The following members of the Rockville Planning Commission were present: Vivian Cropper, Bob Ford, and Rob Snyder. Linda Brinkley was excused. Town Clerk Elaine Harris recorded the meeting.
2. **DECLARATION OF CONFLICTS OF INTEREST WITH AN AGENDA ITEM** – No conflicts were declared.
3. **ELECTION OF A PLANNING COMMISSION CHAIR AND VICE-CHAIR** – Chair Hatfield **MOVED** to nominate Rob Snyder for the position of Planning Commission Chair. Vivian Cropper **SECONDED** the motion.

**Vote on motion:**

**Robert Ford – Aye**

**Rob Snyder – Aye**

**Vivian Cropper – Aye**

**Sharon Hatfield – Aye**

**The motion passed unanimously.**

Rob Snyder **MOVED** to nominate Sharon Hatfield for the position of Planning Commission Vice-Chair. Bob Ford **SECONDED** the motion.

**Vote on motion:**

**Robert Ford - Aye**

**Rob Snyder – Aye**

**Vivian Cropper – Aye**

**Sharon Hatfield – Aye**

**The motion passed unanimously.**

4. **PRESENTATION OF ROCKVILLE PLANNING COMMISSION PUBLIC HEARING FORMAT – CHAIR ROB SNYDER** –
  - a. Welcome and review of public hearing guidelines – Chair Snyder reviewed the public hearing guidelines.
  - b. Summary explanation and presentation of the public hearing items – Chair Snyder briefly reviewed the proposed amendments to the Land Use Code outlined in Item No. 5.

c. Question and answer period of the public hearing items –

**Todd Gabler** addressed the Commission with concerns about why a hearing officer is being appointed and to clarify when an appeal is heard. **Sharon Hatfield** explained that Rockville used to have a Board of Adjustment which is required by the State of Utah. The Planning Commission changed from a Board of Adjustment to a Variance Hearing Officer which is also allowed by the State. The Planning Commission determined that the current code was not clear enough to allow the Variance Hearing Officer to be able to hear a variance request from a resident as well as to hear an appeal. Sharon clarified that the intent of the amendment to the variance hearing officer is to allow that individual to hear appeals from Town Council decisions.

**Shirley Ballard**, in referencing Chapter 4, Item 4.1 *Appointment and Qualifications*, asked why the Planning Commission felt that it was important that the Variance Hearing Officer not be a resident of Rockville and if it was even necessary to have that statement in the Code. Shirley felt that it shouldn't make any difference whether the Variance/Appeals Hearing Officer (VAHO) is a resident of Rockville as long as all the other qualifications are met. **Sharon Hatfield** explained that the Planning Commission felt there was less chance of someone claiming we were bias because the Hearing Officer was a resident of Rockville. **Rob Snyder** also expressed that the Planning Commission's decision to use Variance Hearing Officers from outside Rockville was to avoid the appearance of bias and familiarity and not because it was felt that there was no one in Rockville qualified for the position. **Bob Ford** stated that the VAHO would be selected based on their knowledge and expertise and their willingness to understand the Code and the issues as outlined in the ordinance. Bob clarified that the choice of VAHO, due to lack of expertise or knowledge, could not be appealed but that the decision of the VAHO could be appealed by taking it to court.

5. **MOTION TO OPEN THE PUBLIC HEARING FOR PUBLIC COMMENT REGARDING PROPOSED AMENDMENTS TO THE LAND USE CODE:**

- a. Amend Chapter 1, Section 1.10, *Amendments to the Land Use Code and Zoning Maps*, relative to language housekeeping; 1.16, *Hearings*, omitting language that is in conflict with Section 1.10 and other previous noticing amendments; 1.25, *Appeals, Reconsideration and Call-up Process*, to allow for an appeals process for Town Council changes; *Notice Matrix* to add the noticing requirements of a Town Council Appeal, Economic Hardship Relief Hearing, and Takings Appeal Hearing –
- b. Amend Section 12.1.11, *Subdivision Final Plan*, relevant to requested requirements of Washington County for payment of property taxers prior to final plat approval –
- c. Amend Definition of Accessory Use or Building to place regulatory language regarding plumbing in Chapters 17, 18, 19, 20, 22 and 23 -
- d. Amend Chapter 4, *Variance Hearing Officer*, to include the ability of the Hearing Officer to also hear appeals (*Variance/Appeal Hearing Officer*) of Town Council

decisions and Taking Appeals and amend all chapters within the Code relevant to the title Variance/Appeal Hearing Officer.

Sharon Hatfield **MOVED** that the public hearing be opened. Bob Ford **SECONDED** the motion.

**Vote on motion:**

**Robert Ford – Aye**

**Rob Snyder – Aye**

**Vivian Cropper – Aye**

**Sharon Hatfield – Aye**

**The motion passed unanimously.**

**Rob Snyder** asked for comments on amending Chapter 1, Section 1.10, *Amendments to the Land Use Code and Zoning Maps*

**Todd Gabler** expressed concern about the changes to the town ordinances and how he is to know exactly what the Planning Commission considers to be a housekeeping measure without seeing a document. Todd asked if the information could either be sent out or placed at the back of the room prior to the meeting. **Vivian Cropper** informed Todd that the information can be picked up prior to the meeting from the Town Clerk.

**Rob Snyder** asked for comments on the amendments to Chapter 1.16, *Hearings*; Chapter 1.25, *Appeals, Reconsideration and Call-up Process*; or changes in the *Notice Matrix*.

**Elaine Harris** added some clarification for Section 1.25. Item L of Section 1.25 has been broken out to differentiate between an appeal for a Town Council administrative decision, an appeal for a Town Council legislative decision and an appeal for a decision by the Variance/Appeal Hearing Officer.

**Todd Gabler** expressed concern that allowing a Variance/Appeal Hearing Officer to overturn the decisions of elected officials, who were elected by the community, is inherently unconstitutional and disenfranchises him of his right to vote for people who govern his community. The buck should stop with the folks that were elected. When asked by **Bob Ford** to clarify the problem, Todd explained that he does not have a problem with an appointed appeals person dealing with the decisions of the Planning Commission because they are appointed. But any appointed person who overrides the authority of the people who are elected is inherently wrong.

**Bob Ford** asked for clarification that the Variance/Appeals Hearing Officer can hear appeals from decisions made by both the Planning Commission and the Town Council. **Rob Snyder** explained that the VAHO can hear only appeals from administrative decisions. The VAHO cannot hear appeals on legislative decisions. **Megan Honer-Orton** commented that it is her understanding that the Town Council cannot reverse a decision of the Planning Commission unless the Council goes to a Variance/Appeals Hearing Officer. **Sharon Hatfield** further

clarified that the Town Council would have to go through the appeals process and pay the fee just like anyone else does. The Planning Commission can recall its own final decision and rethink it. The Town Council can do the same. But one entity cannot do that for the other without going through an appeals process.

**Rob Snyder** asked for comments on amendments to Chapter 12.1.11, *Subdivision Final Plan*.

**Rob Snyder** asked for comments on amending the definition of accessory use or building to place regulatory language regarding plumbing in Chapters 17, 18, 19, 20, 22 and 23.

**Rob Snyder** asked for comments on amendments to Chapter 4, *Variance Hearing Officer*.

**Todd Gabler** remarked that it doesn't make any sense that the Town Council, the people he voted for, can't make a decision or take an appeal from the Planning Commission's decisions or do anything about their appointed official's decisions. Todd feels that the process is getting incredibly complex and wonders why the Town Council can't just make a decision about whether or not it was reasonable for the Planning Commission to act in the way it did. It makes no sense to have a VAHO after the Town Council has made its decision.

**Pam Leach**, in an effort to clarify what a variance is and the purpose of a VAHO, stated that this process is mandated by State Law. In the event, a party submit an application to do something with their property and the Planning Commission or the Town Council denies their application, the Government requires that there be a process allowing the applicant to appeal that decision. The appeal process will determine if the decision that was made was, in fact, based on Code and law. As a property owner, you are entitled to an appeal process for decisions affecting you or your property. It is really a protective ordinance for a person requesting or making application for something.

**Todd Gabler** expressed concern about the fairness of the process that allows the Town Council to pick the VAHO. He asked if it would be fair in the eyes of the District Court Judge that the people who just voted against his interests are going to appoint a fair and impartial person to hear an appeal to affirm their own decision.

**Dan McGuire** commented that there is an appeals process available at the District Court and questioned why the State is demanding that there be an appeals process. Dan agreed with Todd's points that elected officials should be the place to make the final decision and it's not fair to appoint a VAHO to hear the things we don't like. **Sharon Hatfield** explained that we are required by law to have an appeals process. It can either be a Board of Adjustment or a Variance Hearing Officer. The Town Council asked the Planning Commission to change the process from a Board of Adjustment to a Variance Hearing Officer because we had such a terrible time getting a Board of Adjustment. In response to taking appeals directly to court, Sharon explained that State law requires that we go through all the remedies offered by the Town before going to court unless it's a Town Council legislative decision or a taking issue.

**Rob Snyder** read a statement from Joseph Hood, the lawyer for the League of Cities and Towns, that says if there is an application for a land use permit to build or develop a project,

but not amend or adopt a new zoning ordinance or zoning map; this is an administrative matter and you must have a Town appeal process to a land use appeal authority either a Board of Adjustment or a Variance Hearing Officer. Thus, indicating that we do have to have an appeal authority.

6. **MOTION TO CLOSE THE PUBLIC HEARING** – Sharon Hatfield **MOVED** to close the public hearing. Vivian Cropper **SECONDED** the motion.

**Vote on motion:**

**Robert Ford – Aye**

**Rob Snyder – Aye**

**Vivian Cropper – Aye**

**Sharon Hatfield – Aye**

**The motion passed unanimously.**

7. **ACTION ON RECOMMENDATIONS TO THE TOWN COUNCIL FOR THE ABOVE AS A RESULT OF THE PUBLIC HEARING** – The Commissioners discussed the appeals process – the types of appeals that the VAHO can hear, the fact that appeals are extremely rare and the rights of land owners to access an appeals process—and ultimately concluded that requirements for a town municipality to have an appeals process are very clear.

The second item discussed was the comment made to the effect that the Variance Hearing Officer could be a Rockville resident as well as a non-Rockville resident. The Commissioners discussed the idea of removing the limitation of having to use a non-Rockville resident as the VAHO. The selection of a VAHO should be based on the best qualified person – expertise, knowledge of State Law and Rockville Code, someone to be deemed unbiased and impartial -- regardless of whether they are a resident or not.

Sharon Hatfield **MOVED** to recommend to the Town Council that they approve the amendments to Section 1.10, *Amendments to the Land Use Code*, to clarify language relative to notice and timing requirements regarding hearings held before the Planning Commission for the purpose of amending the Land Use Code and Zoning Maps. I further recommend that the Town Council approve the proposed change to Section 1.16, *Hearings*, to delete language relative to posting requirements where in conflict with posting requirement language in Section 1.10. I further move that the Planning Commission recommend that the Town Council approve the changes to Section 1.25, *Appeals, Reconsideration and Call-up Process*, to allow for an appeals process for Town Council decisions, to clarify the criteria related to who shall have standing to appeal a final action, added language to clarify the requirements standards for the review of appeals including providing relevant documents and maps and fees, clarification of forum requirements for the Town Council action on appeals and added language to clarify the appeals process, language to clarify legislative appeals from administrative appeals, and general language housekeeping; to add the noticing

requirements of a Town Council Appeal, Economic Hardship Relief Hearing, and Takings Appeal Hearing. Vivian Cropper **SECONDED** the motion.

**Action on Motion:**

**Robert Ford – Aye**

**Rob Snyder – Aye**

**Vivian Cropper – Aye**

**Sharon Hatfield – Aye**

**Motion passed unanimously.**

Robert Ford **MOVED** that the Planning Commission recommend that the Town Council approve the changes to Section 12.1.11, *Subdivision Final Plan*, to allow changes relevant to requested requirements of Washington County for payment of property taxes prior to final plat approval. Vivian Cropper **SECONDED** the motion.

**Action on Motion:**

**Robert Ford – Aye**

**Rob Snyder – Aye**

**Vivian Cropper – Aye**

**Sharon Hatfield – Aye**

**Motion passed unanimously.**

Sharon Hatfield **MOVED** the Planning Commission recommend the Town Council approve Chapter 2, *Definitions*, to remove a regulatory statement from the definition “Accessory Use or Building” and add it to Chapters 17, 18, 19, 20, 22 and 23 where it’s more appropriately belongs. Robert Ford **SECONDED** the motion.

**Discussion:** Rob Snyder reviewed that we are just taking a sentence out of the definition and putting it into the ordinances into the zones where the statement belongs. It’s the same statement just putting it in a more appropriate place.

**Action on Motion:**

**Robert Ford – Aye**

**Rob Snyder – Aye**

**Vivian Cropper – Aye**

**Sharon Hatfield – Aye**

**Motion passed unanimously.**

Bob Ford **MOVED** that the Planning Commission recommend the Town Council approve Chapter 4, *Variance Hearing Officer* but without the statement that it must not be resident Rockville. Sharon Hatfield **SECONDED** the motion.

**Action on Motion:**

**Robert Ford – Aye**

**Rob Snyder – Nay**

**Vivian Cropper – Aye**

**Sharon Hatfield – Aye**

**Motion passed 3 to 1.**

8. ADJOURN - Sharon Hatfield **MOVED** to adjourn. Bob Ford **SECONDED** the motion.

**Action on Motion:**

**Robert Ford – Aye**

**Rob Snyder – Aye**

**Vivian Cropper – Aye**

**Sharon Hatfield – Aye**

**Motion passed unanimously.**

The Planning Commission Meeting adjourned at 7:37 p.m.

Minutes prepared by:

Vicki S. Bell

Deputy Town Clerk

APPROVED:

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Planning Commission Chair

The foregoing minutes were posted in the cabinet of the Rockville Town Office by \_\_\_\_\_  
at approximately \_\_\_\_\_ AM/PM on \_\_\_\_\_ and on the Rockville Website.

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