

PLANNING COMMISSION

JUNE 8, 2020

6:30 O'CLOCK P.M.

1. Call to Order
2. Minutes of the Previous Meeting – May 18, 2020
3. Tabled Heaser Variance Request
4. Zoning Ordinance Rewrite
5. Annexation Discussion
6. Other
7. Adjourn

1 MINUTES OF PLANNING COMMISSION MEETING

2 May 18, 2020

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4 Pursuant to due call and notice thereof, a regular Planning Commission meeting was held at
5 City Hall on the 18th day of May, 2020 at 6:30 PM

6
7 **THE FOLLOWING WERE PRESENT:** Commissioner Ferris, Commissioner Zelinske, Commissioner
8 Torkelson, Commissioner Thompson, Commissioner Burton and Commissioner Fitch

9 **THE FOLLOWING WERE ABSENT:** Commissioner Tinsley

10 **THE FOLLOWING WERE ALSO PRESENT:** Administrator Ibisch, Clerk Rappe, City Attorney Leth,
11 Anthony Heaser, and Barry O'Neil

12 **CALL TO ORDER AT 6:30PM**

13
14 **MINUTES OF THE PREVIOUS MEETING APRIL 20, 2020 - Motion made to Approve the April 20,**
15 **2020 Meeting Minutes made by Commissioner Thompson, second by Commissioner Burton with All**
16 **Voting Aye.**

17 **PUBLIC HEARING HEASER VARIANCE REQUEST** – Chairman Ferris opened the Public Hearing
18 Administrator Ibisch stated that the memo from the Zoning Administrator and the emails from
19 the City Attorney and the City Engineer and the encroachment agreement that was made with
20 the Murry's, the letter from the previous City Administrator and findings of fact. Staff
21 recommendation is negative on this request. From the city's perspective the issue is between
22 the previous owner of the property and the current owner.

23
24 Tony Heaser - 903 12th Ave NW – he highlighted the building permit allowing the house to be
25 built on the easement and the building inspector approved it and issued a certificate of
26 occupancy. He was not notified by the previous owners or his title company and lawyer. He
27 wants to build an addition and is asking for a 2 ½ foot vacation of the easement on the north
28 side. From the street back 22 feet to behind the garage. City Attorney Leth stated that Jay
29 Hanson, the buyer's attorney, asked that this issue be addressed. So the time to address this
30 would have been at closing. Attorney Leth stated that the encroachment agreement was
31 recorded by Jay Hanson, Heaser's Attorney on July 16, the closing was on July 13 the agreement
32 was passed by the City Council on July 11

33 Barry O Neil, representing Jay Hanson Title, yes Jay Hanson reached out to the seller's attorney
34 Paul Kiltenen after the issue was identified. Attorney Leth stated there was never any
35 discussion of a vacation agreement only an encroachment agreement with Mr. Kiltenen. Mr.
36 O'Neill stated Jay Hanson asked Mr. Kiltenen for a vacation agreement. Mr. O'Neil threatened
37 action to rescind this agreement if we can't fix this. Mr. O'Neil stated that his conversations
38 with Mr. Theobald didn't have any problem vacating this easement.

39 Commissioner Burton asked if they can show that they can't sell the home. Attorney Leth
40 stated that Mr. Heaser closed on the house with the encroachment agreement. Mr. O'Neil is
41 only speculating that the home cannot be sold as it is. Mr. Heaser stated that the mortgage
42 insurance will not insure a clouded title.

43 Commissioner Burton stated that this is between the seller and the buyer not the City and the
44 buyer. Commissioner Burton stated that we have no evidence that the permit allows the
45 encroachment, the building permit was signed off.

46 Commissioner Thompson stated that building has been allowed in easements but it is not
47 recommended for the reason of property damage and if there is an easement that means there
48 is utilities in that easement. Building in the easement is at the builder's own risk.

49 Attorney Leth stated that the City Engineer did not have an issue with the agreement and his
50 concern is if the city needs to increase the size of the storm water main that he would not
51 support a vacation of the easement.

52 Mr. O'Neil asked that if the variance is denied that something has to be done about this
53 property. Mr. Heaser since the garage is already encroaching if the Commission would just give
54 him a variance or vacation for the current encroachment so that he could have a clear title he
55 will not put on his addition.

56 Public Hearing Closed

57 Commissioner Thompson – from a title standpoint is there a reason he would not have a clear
58 title and the potential buyer would have the same issue. Not unless the buyer or title would
59 object. Attorney Leth stated that she does not feel that this makes the title unmarketable, she
60 noted the request came because it was unmarketable.

61 Chairman Ferris stated that Hanson (heaser's attorney) knew about the agreement and
62 requested the agreement and still let the closing proceed.

63 Commissioner Thompson – this does not seem like this is the City's responsibility.

64 Commissioner Burton stated that this was presented as being requested by the title company
65 and does not see any burden on the City regarding this.

66 Commissioner Fitch – does not believe that this is the City's problem. Does not think we should
67 vacate our easement.

68 Commissioner Burton – this is a culmination of a bunch of errors and the City's resolve was to
69 create the encroachment agreement to let the sale go forth and does not feel the variance of
70 the easement should go forward.

71 Commissioner Thompson – this agreement happened after the fact of the building permit per
72 the request of the buyer (Heaser).

Commissioner Torkelson – is afraid that if we were to grant this what will happen to others in this same situation.

Commissioner Zelinske – asked Heaser that he bought it and closed on it and then found out about it why didn't you go after the title company. Tony stated that even if the variance is not granted we need to fix this.

Commissioner Burton – **Motion to table to allow the homeowner to get together with City staff to figure out the best way to deal with this, second by Commissioner Thompson with All Voting Aye.**

ZONING ORDINANCE REWRITE - Laura Chamberlain, HKgi, took the Planning Commission through the Executive Summary of the Zoning Ordinance Rewrite. The Planning Commission had no questions but would like a copy of her presentation for the maps at the end.

Adjourn 8:26PM

Respectfully Submitted,

Linda Rappe, City Clerk

**RESTATEMENT OF ENCROACHMENT AGREEMENT
PERMITTING ENCROACHMENT OF GARAGE**

THIS AGREEMENT is made this ____ day of June, 2020, by and between **the City of Kasson**, a municipal corporation under the laws of the State of Minnesota, herein referred to as (“City”), and **Anthony Heaser and Amanda Heaser**, husband and wife, of the City of Kasson, County of Dodge, State of Minnesota, herein referred to as (“Landowners”).

RECITALS

1. Landowners are the fee owners of real property located at 903 12th Avenue NW, Kasson, Minnesota, and legally described as follows:

Lot Four (4), Block Four (4), Bigelow-Voigt Sixth
Subdivision, in the City of Kasson, Dodge County, Minnesota
herein referred to as (“the Property”).

2. The City currently has Drainage and Utility Easements (“Easements”) over, under and across a portion of the Property as shown on the Plat known as “Bigelow-Voigt Sixth Subdivision” recorded in the Office of the County Recorder, Dodge County, Minnesota, which Easements are shown on the plat drawing attached hereto as Exhibit “A”.

3. There is now erected on the property, a house with an attached garage, the south wall of which encroaches approximately 2.5 feet into the City’s Drainage Easement located along the south boundary of the Property as shown on the plat drawing attached hereto as Exhibit “B”.

4. The City and the prior owners entered into that certain Encroachment Agreement Permitting Encroachment of Garage dated July 11, 2018, and recorded July 16, 2018, as Document Number A 225673 in the office of the Dodge County Recorder.

5. The parties wish to clarify and restate the terms of the permitted encroachment.

NOW THEREFORE, in consideration of the mutual covenants contained herein and other good and valuable consideration, the parties agree as follows:

1. The City approves the encroachment of the garage located on the Property, including eaves and overhangs, into the City's Drainage Easement as depicted on the attached Exhibit "B", for the purpose of using and maintaining Landowners' currently existing garage, to the same extent and manner as the garage now encroaches upon said easement. The Landowner, together with any future owner, shall have the right to improve, repair and/or reconstruct the garage at its expense to the same extent and manner as the garage now encroaches upon the easement.

2. The Encroachment Agreement Permitting Encroachment of Garage dated July 11, 2018, and recorded July 16, 2018, as Document Number A 225673 in the office of the Dodge County Recorder is hereby rescinded and terminated and shall be of no further force or effect.

3. Landowners and their successors and assigns do hereby agree to defend, indemnify, and hold the City harmless from all costs, expenses, claims and liability, including attorney's fees, relating to or arising from the use of the area encroached upon by the garage, and shall hold the City harmless from any claim or damages to person or premises resulting from the use, occupancy, and possession thereof by Landowners, including third party claims against flooding issues that may occur due to interference with the easement.

4. All notices, requests, demands and other communications hereunder shall be in writing and shall be deemed given if personally delivered or mailed via certified mail, return receipt requested, to the following:

City of Kasson: City Administrator
401 Fifth Street SE
Kasson, MN 55944

Landowners: Anthony Heaser and Amanda Heaser
903 12th Avenue NW
Kasson, MN 55944

LANDOWNERS

Anthony Heaser

DATED: _____, 2020

Amanda Heaser

DATED: _____, 2020

STATE OF MINNESOTA)

) SS.

COUNTY OF DODGE)

The foregoing instrument was acknowledged before me this ____ day of June, 2020,
by Anthony Heaser and Amanda Heaser, husband and wife.

Signature of Notary Public

This Document was Drafted By:
Melanie J. Leth
Weber, Leth & Woessner, PLC
P.O. Box 130
Dodge Center, MN 55927
(507) 374-6355

Linda Rappe

From: Linda Rappe <cityclerk@cityofkasson.com>
Sent: Friday, May 22, 2020 10:15 AM
To: 'Laura Chamberlain'
Cc: Aaron Thompson; Brandon Theobald; Collin Tinsley; Duane Burton; Joe Fitch (kassonfirechief@kmtel.com); LONNIE ZELINSKE; Sheldon Torkelson (stonebystone@kmtel.com); Tim Ibisch (Cityadministrator@cityofkasson.com); Tom Ferris (ralphf@globaldairysolutions.com)
Subject: RE: Kasson Ordinance Draft Edits Deadline

Hi Laura,

I have been going through the red lined copy of the whole ordinance and I have a lot of questions. Why are setbacks changed? Was that requested? The builders right now are building out to the 6 and a half foot setback in R-1 and in some cases have asked for variances for decks.

I know this new ordinance will take some getting used to for me when doing building permits since it is not separated into districts.

Definitions: can we add a greenspace or hardcover or both definition. I found this in the City of Orono's ordinance [http://orononm.govoffice3.com/vertical/Sites/%7BCBFC8FAF-C313-4854-A229-98A3482257F0%7D/uploads/Hardcover Information Packet -January 2018.pdf](http://orononm.govoffice3.com/vertical/Sites/%7BCBFC8FAF-C313-4854-A229-98A3482257F0%7D/uploads/Hardcover%20Information%20Packet%20January%202018.pdf)

Why were some definitions removed? Some that were removed I do see in other areas but not all of them.

On page 40 the subdivision to have landscaping plans? Wouldn't that be up to each individual lot owner to landscape?

Page 97 – why remove H 1 and 2 regarding non conforming land?

Page 122 – the deposit to cover staff time?

I am having trouble with minor and major site reviews. And what each of them would be for? Building permits?

I am now starting on article 6 so I will send more questions next week.

Linda Rappe, MMC
City Clerk
City of Kasson
401 5th St SE
Kasson, MN 55944
cityclerk@cityofkasson.com
(507) 634-6324

From: Laura Chamberlain [<mailto:laura@hkgi.com>]
Sent: Friday, May 22, 2020 8:49 AM
To: 'Tim Ibisch'; Linda Rappe; Brandon Theobald; Weber, Leth & Woessner, PLC
Subject: Kasson Ordinance Draft Edits Deadline

Hello All!

Now that we've got a full rough draft of the Kasson Ordinances, I wanted to give you all the opportunity to read through the sections that are relevant to you and provide your edits, comments, and feedback. As some of this stuff is pretty dense to get through, I think a month or so for review should be enough time to get back to me. So, please get me your edits by **Friday, June 26th**. And please feel free to forward this draft onto any other staff members (public works, fire, police, etc) that may want a chance to review as well.

I've attached the Executive Summary, my slides from Monday's meeting, a clean version, and a redlined version.

Please let me know if you have any questions!

Have a great holiday weekend!

Laura Chamberlain, AICP
Planner



Hoisington Koegler Group Inc.
Creating Places that Enrich People's Lives

Planning Landscape Architecture Urban Design

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EXECUTIVE SUMMARY – UPDATES TO KASSON ORDINANCES

Below is a summary of major changes to Chapters 150 – 154 of the Kasson City Code. For details on these changes, please see the redlined draft or clean draft of the ordinances.

CHAPTER 150 DEFINITIONS

This is a new chapter – previous updates to the code had tried to compile all definitions into one section, however, it sat as a section within the Building Regulations; Construction chapter. Now, as its own chapter, these definitions can stand on their own, and apply across the title (chapters 150-154).

- Outdated definitions have been updated with modern language
- Definitions for new uses and other new terms have been added
- Definitions no longer used have been deleted

CHAPTER 151 BUILDING REGULATIONS; CONSTRUCTION

This Chapter's contents have not changed, except for a few minor referenced. The Chapter number has updated to 151, as the new chapter 150, definitions, precedes it.

CHAPTER 152 MANUFACTURED HOMES

This Chapter's contents have not changed, except for the updating of the term "mobile home" to "manufactured home," as is the term used by Minnesota Statute. The Chapter number has updated to 152.

CHAPTER 153 SUBDIVISIONS

The changes to this Chapter were made with the intention of making processes and requirements clearer. Numbering throughout has updated to match new numbering function, as well to reflect the updated chapter number, 153.

ARTICLE 01 GENERAL PROVISIONS

PART 1 INTRODUCTORY PROVISIONS

There have been no changes to the first three sections of this article: Purpose, Authority, Administration, and Amendments

PART 2 COMMON PROCEDURES AND REQUIREMENTS

The sections within this Part are essentially all new, except for 153.01.23, Fees. These sections are established so that they may be referenced again for specific procedures. For example, the elements of a pre-application meeting are described here, rather than having descriptions for every procedure in the chapter.

PART 3 SUBDIVISION APPROVAL REQUIRED

The sections within this Part are entirely new. They specifically detail what is needed for a Development Agreement, Financial Guarantee, Basic Infrastructure, Warranty/Maintenance Guarantee, and Insurance. This part will need particular review by the City Attorney prior to adoption.

ARTICLE 02 REVIEW PROCESS

The changes within this article have been to make all of the different subdivision procedures formatted in the same way, so they could be easily compared and understood. Existing procedures have not been significantly changed, but the details and descriptions of each procedure have been expanded and standardized. Review Criteria have been added and clarified for each procedure; these criteria should be considered for each application, and used to develop the “findings of fact” for any decision taken by the City Council.

PART 1 MINOR SUBDIVISIONS

No major changes to the intent of Minor Subdivisions; however, wording was majorly updated. In general, minor subdivisions enable areas that have already been platted to be further subdivided, as long as they do not create more than two new lots (three lots in total). This process allows for the applicant to only submit a Certificate of Survey for the new lots, rather than an entire new Plat document. The process does not require a public hearing, but still goes before the Planning and Zoning Commission for recommendation, and the City Council for approval.

PART 2 CONCEPT PLAN

The procedure of “Concept Plan” has replaced the “General Development Plan” in the existing ordinance. The term “General Development Plan” was confusing, as it’s commonly used with Planned Unit Developments, not subdivisions in general. The term “Concept Plan” helps clarify the intention of this procedure: to provide developers a low-cost early opportunity to show City Staff, the Planning and Zoning Commission, and City Council what they are thinking for future development and for those entities to give feedback, in particular if the concept achieves zoning and subdivision intent. This process does not require a public hearing. There is also no “action” on

the part of the Planning and Zoning Commission or City Council; no Concept Plan is “approved,” and does not entitle developers to develop that concept.

PART 3 PRELIMINARY PLAT

Again, this procedure has not had any major changes, but the wording and format of the sections have changed significantly. Preliminary Plats are the most important part of the subdivision process, as its approval entitles developers to develop their property in compliance with the preliminary plat. With that in mind, the specific elements of submittal have been expanded and clarified, to ensure that the City gets full applications with all required elements to make an informed decision. A Preliminary Plat requires a public hearing with the Planning and Zoning Commission, and approval by the City Council.

PART 4 FINAL PLAT

The Final Plat procedure has not changed significantly. The Final Plat is intended to be a more complete, finalized version of the Preliminary Plat, and as long as it substantially complies with the Preliminary Plat and meets the Preliminary Plat conditions, the developer is entitled to the Final Plat’s approval. The Final Plat does not have a public hearing, nor does it require Planning and Zoning review; instead, it just goes before City Council for review and approval once staff have determined it to be complete. The approval of the Final Plat, and its recording is also the time that the City Attorney and applicant finalize and record the Development Agreement for the subdivision.

PART 5 VARIANCES

The procedure of subdivision variances has not changed significantly, but the sections have been expanded to fit the format of other procedures.

ARTICLE 03 SUBDIVISION DESIGN STANDARDS

The various design standards within this Article are a combination of existing standards and additional standards that help achieve the City’s goals. For the most part, existing standards have just been reorganized and supplemented with additional standards to help clarify the city’s standards.

PART 1 GENERAL STANDARDS

These sections have generally been added, to provide further information to applicants as a best practice.

PART 2 BLOCKS AND LOTS

No changes to these sections

PART 3 EASEMENTS & UTILITIES

Existing language for Easements is supplemented with standards of the water supply and sanitary sewer utilities.

PART 4 STREET DESIGN

These sections have mostly been reorganized to make the standards easier to understand. One element that still needs to be addressed are the design standards for Walkways Sec. 153.03.43 (B); the existing code refers to standards established in Chapter 94 of the City Code, however, these standards do not provide standards for multi-use trail design. These standards are needed from the City Engineer or Public Works and should be established either in Chapter 94, or in the Subdivision Ordinance.

PART 5 STORMWATER, SURFACE WATER, DRAINAGE, WATER QUALITY, AND EROSION CONTROL

The sections within this part are a combination of existing standards and additional standards. Issues of stormwater management, especially during the subdivision process, was highlighted at the beginning of this project as a priority for the City. Additions to the Stormwater section still need review by the City Engineer to ensure they meet the intended goal. The remaining sections are generally the same as the existing code.

ARTICLE 04 LAND DEDICATION

PART 1 GENERAL STANDARDS

The sections regarding Land Dedication have been moved to their own Article, as they do not really fit under any of the other Articles. Few changes were made to this section.

CHAPTER 154 ZONING

The Zoning Chapter of the code saw significant changes throughout the Chapter. The intention of these changes was to:

1. Establish clear procedures that would be easy for staff to administer and for the public to understand
2. Create tables to easily compare uses, lot dimensional standards, and site dimensional standards across districts
3. Provide development and performance standards that apply across uses and districts, as well as use-specific standards that apply across districts

ARTICLE 01 GENERAL PROVISIONS

In general, not many changes were made to this Article. More specific language regarding abrogation and severability were added under Part 1: Title and Authority. The Nonconformities section was also moved to Part 2: Interpretation.

ARTICLE 02 ADMINISTRATION AND ENFORCEMENT

This article has some significant changes that will have an impact on how the City Staff and the Planning and Zoning Commission will administer the zoning ordinance.

- In general, each procedure has been updated to include the same structure; this will make it easier to compare procedures and should make it easier for applicants to understand.
- Criteria for a complete application and criteria for review have been separated out for each application type
 - Criteria for a complete application are the application materials needed.
 - Criteria for review include the considerations and the findings of fact that should direct the Planning and Zoning Commission on their recommendation and the City Council on their decision.

PART 1 ADMINISTRATION

No major changes have been made to this Part, the roles and responsibilities of each level of Administration remains relatively the same, but wording has been updated to further clarify roles.

- Enforcement Sections have been added and expanded in order to protect the City in the administration of the ordinance..

PART 2 PROCEDURES

The sections within this part have been updated significantly.

- General provisions, that can apply to many different procedures, such as a description of a public hearing, have been moved here rather than repeated across procedures
- Two new procedures have been added
 - Minor Site Review – this is for anything other than a building permit that may need zoning review for one-unit and two-unit residential uses; such as fence placement, impervious surface/driveway expansion, etc. It is reviewed and approved by the Zoning Administrator.
 - Major Site Review – this procedure is for any site alteration, construction, or change in use for properties that have three or more residential units or are non-residential. This is the process that will be used for uses labeled as “permitted with standards.” It is reviewed and approved by the Zoning Administrator.
- Procedures for PUD have been added here
 - PUDs are changing from a Conditional Use Permit (quasi-judicial) to a Rezoning (legislative action) – more details on that when we review Special Zoning Districts.
- Procedures for Comprehensive Plan Amendment have been added here
 - Need City Attorney review to determine if this addition is necessary.

PART 3 ENFORCEMENT

Enforcement Sections have been added and expanded in order to protect the City in the administration of the ordinance

ARTICLE 03 ZONING ESTABLISHED

The sections within this article have moved within the code, but most of the features remain the same. The existing Agriculture district has been changed to "Development Holding District," with more information in the following article. PUDs have also been moved to Special Districts

ARTICLE 04 BASE DISTRICTS

This Article provides a new approach to how Zoning Districts will be organized within the Code. Rather than have each zoning district list uses and lot standards, these elements have been combined into easy-to-read tables, so that staff and applicants can compare across districts easily.

PART 1 GENERAL PROVISIONS

The purpose statements for each base zoning district have been moved here. As mentioned above, the Agriculture District has been replaced with the Development Holding District (DH). The DH District will allow for existing uses that come in under annexation to continue on the property, but new uses are not allowed until the property is rezoned in compliance with the Comprehensive Plan and possibly subdivided.

PART 2 USES

Changes to the organization of the Base Zoning Districts continue, with all uses now put into an easy-to-read table, comparing across zoning districts. A new type of use has been added to the code: "permitted with standards" – these uses are administratively reviewed and approved, but have additional standards beyond just the zoning district standards and the development standards. These are called, "use-specific standards" and are listed in Article 06; conditional use permits also have use-specific standards, but are held to a higher degree of review, as they require a public hearing and approval by the City Council.

Finally, as no uses but existing uses are allowed to continue within the Development Holding District, special provisions specifically for this district are established within this Part.

PART 3 LOT AND SITE DIMENSION STANDARDS

All district-specific lot dimensional standards (lot area, lot width) and site dimensional standards (yard setbacks, impervious surfaces, etc.) have been compiled and moved to these sections. In general, few dimensions have changed from the existing standards, however, some have been modernized or filled in where there were blanks.

ARTICLE 05 SPECIAL DISTRICTS

This Article contains the zoning districts that may still have a base zoning, but have additional provisions tied to them as well.

PART 1 FLOODPLAIN MANAGEMENT DISTRICTS

This part was moved from the existing Chapter 153 in its entirety. The scope of this project was not to make any changes to these standards, as the County and DNR are working on updating the Floodplain maps and may have new standards to apply to them then. In general, the administrative section of this Part should likely be removed or combined with Article 02

Administration and Enforcement, but that can be addressed at the time of the new floodplain maps.

PART 2 PLANNED UNIT DEVELOPMENTS

One of the significant changes of this ordinance update is moving PUDs from a Conditional Use Permit to processing them as rezonings. Rezonings, which are considered amendments to the zoning ordinance, are a legislative action, while CUPs are a quasi-judicial action. Processing PUDs as a rezoning will allow for the specifics of the PUD (whether it's different setbacks, additional uses, etc.) to be established and then adopted as part of the zoning ordinance.

All existing PUDs will remain as they are, with their conditions of approval still in place – they will, however, be rezoned to the “Planned Unit Development Fixed District,” which allows them to continue as is. All new PUDs will be adopted as their own individual PUD ordinance (PUD-1, PUD-2, etc.) and added as a new section at the end of this Part. The City Attorney still needs to give special attention to the review of this Part, as the transition from CUP to rezoning may be a tricky one.

ARTICLE 06 USE-SPECIFIC STANDARDS

All uses established in Article 04, Part 2, that are permitted with standards or a conditional use permit, will have use-specific standards addressed in this Article. These standards apply to the use, across zoning district. Many were standards already established within the ordinance, the other have been filled in, where needed.

ARTICLE 07 DEVELOPMENT STANDARDS

Development standards are zoning standards that apply despite the use or the zoning district. These are where we address things like noise, glare, landscaping, buffers, fences, and off-street parking.

ARTICLE 08 SIGN REGULATIONS

The regulations regarding signs have not changed from the existing ordinance. The provisions, however, have been moved to their own Article, as Signs have specific regulations to them outside of uses and development standards.