

**CALL TO ORDER – 7:08PM/PLEDGE OF ALLEGIANCE/ROLL CALL:** Karow, Destree, Diedrich, Suhre and Skinner present. Also in attendance were Jamie Rybarczyk, Village Planner, David E. Cox, Village Administrator and Dusti Miller, Village Deputy Clerk/Treasurer. Commissioners Beyer and Deeter were absent.

*MOTION BY KAROW, DIEDRICH, CARRIED TO APPROVE MINUTES FROM NOVEMBER 8, 2006 DESIGN REVIEW/SPECIAL PLAN COMMISSION, AUGUST 23, 2006 PLAN COMMISSION, MAY 25, 2005 PLAN COMMISSION AND APRIL 13, 2005 SPECIAL PLAN COMMISSION MEETINGS*

**REQUESTED AMENDMENT TO THE RURAL RESIDENTIAL AND RURAL ESTATE DISTRICTS – MAJESTIC ESTATE DEVELOPERS INC. C/O ATTORNEY DAVID T. SMITH – 344<sup>TH</sup> AVENUE – PARCEL #60-4-119-341-0206 AND #60-4-119-352-0504**

Karow stated that this is essentially changing the zoning code which would be all encompassing however this is currently the only area of the Village that has this type of zoning. As we get further into this, we aren't necessarily looking at changing the zoning but adding some language to the Code in general.

David Cox said that there are two pieces to this. One is that there is a requested change or addition to the Code to allow in some way a second residence or an accessory residence. Initially the petitioner asked for the definition of an accessory building to be modified to allow an accessory residential structure for a caregiver and other types of individuals that they outlined. After discussion at the last Plan Commission meeting staff, through the Village Planner, has come back with a concept that would make a secondary structure a conditional use process which would require specific approval on a case by case basis by this Commission and the Village Board.

Jamie Rybarczyk stated that it also makes it much cleaner for our Zoning Code because in his research of other Codes he found that most accessory structures are non-habitable structures. He went over the Village's Zoning Code and he looked at the requirements for an accessory structure. He felt it was fine and that we didn't necessarily need to change it. He felt it would be more simplistic to create a secondary single family dwelling unit as a conditional use. He added that this would only apply to the rural residential and rural estate zoning districts and it would be a conditional use.

Cox clarified that this language would be inserted. The example that you have in front of you is 17.25.020 which is the Rural Residential Section. The corresponding section of the Rural Estate is 17.26.020.

Rybarczyk said that this is a new trend that they have been seeing in other communities. This is by far much shorter than what other communities have been doing. Other communities have been solely restricting it to a blood relative and not opening it to a medical practitioner or a maid or servant. It is strictly for someone's mother or father or in-laws when they don't feel it's necessary to put them into a nursing home yet they want to be close by. He has taken what these other communities have done and put together a conglomeration for the Village of Twin Lakes.

Karow added that what are currently allowed in this district are a single family residence and an accessory structure with up to a 1,200 square foot footprint. This change would allow a third structure on the property. The conditional use would require approval from the Plan Commission and the Village Board. If the Plan Commission or Village Board doesn't want to allow a third structure then they don't approve it. If a person wanted to modify an existing accessory structure and make it habitable, they would still have to come before the Plan Commission and the Village Board.

Destree added that it needs to be very clear that an accessory structure does not have habitable space. That is what leads us to adding the secondary single family dwelling unit.

Karow added that there are things that are required for a structure to be considered habitable. Those items are power and other utilities including sanitary sewer. An existing accessory structure can be turned into a habitable structure provided that the owner comes in for the necessary approvals.

Suhre asked if there is a primary residence and a secondary residence, could the owner then come in and get approval to construct a third structure.

Rybarczyk said that was his main concern. An accessory structure is a permitted use in both of these districts therefore they would not have to come in to the Plan Commission or the Board for approval.

Karow asked if the Code could indicate that if there is a secondary residence, construction of an accessory structure would then require a conditional use.

Rybarczyk said that requirement would be outside of the current wording but should be something that the Village should take into consideration and look at the permitted uses for both districts to see how the accessory building language is worded. There may need to be some additions to the Code.

Skinner asked if it could be required that the accessory structure be attached to the secondary dwelling unit thereby allowing only two structures on the property.

David Smith, attorney for the developer, explained that it is the intent of the developer to only allow two structures. If an owner wanted to create a secondary dwelling unit, it would have to be part of the accessory structure. They are also looking at a maximum of 3,000 square feet for an accessory structure with no more than 1,500 square feet being used for the secondary dwelling unit.

Smith added that the Board made a significant change from what was first suggested which was making it a permitted use and changing it to a conditional use. This means that the Board isn't allowing anything right now. What is being allowed is that an owner can come before the Board and make the request for the secondary dwelling unit.

Destree added that ultimately the accessory structure used as an accessory structure is not the issue. The issue is if it's going to be habitable and the number of buildings. Currently you can have a home and an accessory structure without any variances or conditional uses. Why would we now say that if you are going to have a secondary dwelling unit that you can only have two buildings?

Karow said that on a 5 acre parcel, you could easily have a residence near the front with an accessory structure at the back and then want a secondary dwelling unit located near the main residence. On a 2 acre parcel, things are more compact and the structures would be closer together. Let's be sure we look at all of the possibilities.

Dietrich said that this is where the conditional use will come in. They have to come before the Plan Commission and the Village Board for approval.

Karow stated that the issue comes when you already have a primary residence and a secondary residence and then want to construct a separate accessory structure. Anything more than two structures on a lot then becomes a conditional use.

Destree disagrees with this saying that it can't be done both ways. If you have a home and an accessory structure and then want to build a secondary dwelling unit you can't be told no because you are only allowed two structures.

Cox reminded the Plan Commission that the wording of the Zoning Code in all of the residential zoning districts gives as a permitted use accessory buildings or one private garage. So, an individual can have more than one accessory building.

Rybarczyk added that in the rural residential district the Village may want to think about taking that accessory buildings or one private garage out as a permitted use and make it a conditional use. This is the one district where the lot size may play into it. The rural estate has a minimum 5 acre lot size you could leave it as is because you have more acreage.

Smith also wanted to make it clear that they are asking that the size of the accessory structure be expanded to 3,000 square feet because up to 1,500 of that could be dwelling.

Skinner added that the square footages Smith was asking for referred to the footprint of the structure.

Rybarczyk said that on page two of his memo, Item G says that the secondary dwelling unit shall not exceed 1,500 square feet of habitable area. There needs to be a second sentence that says the total structure shall not exceed 3,000 square feet.

Destree suggested that they keep the current accessory structure square footage of 1,200 square feet bringing the total square footage of an accessory structure with habitable space to 2,700 square feet. This way, there are no changes to the accessory structure square footage requirements. That way, if somebody builds an accessory structure not attached to any habitable structure, they are following the same square footage requirements as a person who has an accessory structure connected to a secondary dwelling unit. Or do we want to give them the incentive of additional square footage for keeping the accessory structure and secondary dwelling unit connected.

Karow asked if someone only proposed 1,000 square feet of living space, would that then give them up to 1,700 square feet of accessory space. Need to clarify what is allowed in order to avoid any loopholes.

Destree questioned if they should create an incentive to attach them or should they follow the strict square footage for an accessory structure whether it's detached or attached to a secondary dwelling unit and make it a maximum of 1,200 square feet.

Rybarczyk recommends, for aesthetic purposes, that the accessory structure and secondary dwelling unit be attached so that there are only two structures on the property and not three or more.

Karow added that he feels that is what the intent is and that they are just trying to encompass all possibilities.

Smith stated that the original proposal had including wording that the square footage of the accessory structure not exceed 75% of the square footage of the principal dwelling unit. Therefore, some people would not even get to the requested maximum of 3,000 square feet.

Rybarczyk recommended that this stick with straight square footage requirements and leave out the percentage.

Destree stated that he feels they should leave the option of a third structure so that a person would not be required to attach the accessory structure to the secondary dwelling unit.

Discussion ensued between Destree and Karow regarding various ways a property owner could construct an accessory structure as a third structure on the property.

Suhre asked if, as part of the conditional use, the Village Board could indicate that construction of a third structure would not be allowed.

Destree did not feel this was appropriate because the current Code allows an accessory structure and that would be restricting a use that is allowed.

Karow added that another thing to consider is the lot coverage requirement.

Cox added that the maximum lot coverage for Rural Estate is 20% and for Rural Residential is 25%.

Rybarczyk explained that his recommendation is that they amend the Rural Residential District to allow only two structures. It is not as big of a concern for Rural Estate as you have a minimum of five acre lots.

Skinner added that what Rybarczyk is saying is that you would move the accessory building that is permitted and put it under 17.25.020 under conditional use.

Rybarczyk stated that once you do your single family dwelling unit in a Rural Residential District, if you want to do any other type of building after that, you need to come before the Village Board for a conditional use. At that time, the Village can review the property to see how many structures are on it. They can look at the lot size, location of single family residence, and then make a decision based on that.

Cox asked if under that proposal, any accessory structure is permitted. He would have a real concern with taking permitted accessory structures away.

Rybarczyk said that you may need to limit the permitted accessory structures to things like two car garages.

Karow asked what the concern was for requiring a conditional use for anything beyond two buildings.

Destree and Skinner replied that it is currently permitted to have two or more provided that all of the accessory structures are non-habitable.

Destree added that his concern is that the person who doesn't need a conditional use follows the same guidelines for accessory structures as the person who needs a conditional use. If a person has an accessory structure and they come in for a permit to construct a secondary dwelling unit they shouldn't be told no simply because they already have two structures on the property.

Suhre added that he thinks the intent here is to try to avoid having too many buildings on a property. What Destree is saying is as it stands now, if there is only a primary residence, someone could put four or five buildings up under the current code. So, why should we treat someone who has a secondary residence on their property any different than someone who doesn't?

Karow clarified that his concern is with allowing the accessory portion of the structure to be 1,500 square feet which is more than the currently allowed 1,200 square feet.

Rybarczyk said that the last recommendation was to look at the lot coverage ratio.

Suhre asked Rybarczyk to run through some of the things that he put into his recommendation as that might help sort things out and answer some of the questions that people may have.

Karow stated that before they go through all of that, the question is are we open to allowing a secondary residential structure.

Skinner said that he feels they are open to it provided that it requires a conditional use.

Robert Tomczak of Majestic Estates Developers said that when he first brought this concept up it was to be able to have the secondary dwelling unit. The covenants for this subdivision are stricter than the Village Codes. They will not allow pole buildings and the like. The covenants will allow accessory structures but they will have to resemble the primary structure. One of the things that they don't want is to see things like boats, cars and campers sitting in driveways. They want them to be inside a building. They also do not want secondary structures to be larger than the primary structure. The covenants state that accessory structures must not exceed 75% of the footprint of the residence and the maximum size for any accessory structure is 3,000 square feet. So, the chances of having an accessory structure of that size are fairly slim. In regards to the secondary residence issue, they simply want to make it an option for future property owners as many people simply cannot afford nursing home care. They feel that the current generation is having children later in life and are now raising children and taking care of their elderly parents. This is the real reason for the secondary structure. Tomczak feels that this type of situation needs to be offered for the future as more and more people find themselves having to take care of an elderly relative. Tomczak added that their covenants will not allow a third structure. The secondary dwelling unit would have to be part of the accessory structure, not exceeding a total of 3,000 square feet or 75% of the dwelling unit whichever is less.

Karow then asked what the minimum square footage would be on those lots.

Tomczak stated that the minimum footprint for a ranch is 2,500 square feet and for a two story it is 3,000 square feet.

Karow asked if the average size for a ranch would be between 3,000 and 4,000 square feet.

Tomczak felt that was correct.

Karow said that based on those sizes, the accessory structures would range between 2,250 and 3,000 square feet.

Suhre said that the issue has come up a couple times in regards to blood relatives and that the intent, or how it would be marketed would be that the secondary dwelling unit would be for blood relatives or health care professional.

Tomczak added that it has been proven that health care professionals stay with the patient longer when they are on site.

Rybarczyk said that on the first page of his memo, under purpose and intent, the acceptable occupants of the secondary structure are spelled out. They include guests of the owner, private medical providers, household servants or members of the immediate family of the occupant of the primary dwelling unit.

Karow stated that the question at hand is whether the Board wants to allow an accessory structure that exceeds the currently allowed 1,200 square feet. This issue is separate from the issue of the secondary dwelling unit.

Rybarczyk feels that the two issues need to be addresses separately. The Village needs to make a motion to increase the size of the accessory structure from 1,200 to 3,000 square feet.

Discussion ensued among the commission members as to whether they should use a set square footage or if they should use a percentage of the primary structure or a combination of both. Members discussed lot coverage amounts and lot sizes as these items affect the allowable size of an accessory structure.

Destree suggested that for lots under two acres the maximum size of the accessory structure would remain at 1,200 square feet. And for lots over two acres, the maximum would be 3,000 square feet. Skinner and Karow felt that for lots less than 2 acres it should be 2,000 square feet. This would pertain only to the Rural Residential District. Lots in the Rural Estate District would have a maximum of 3,000 for accessory structures. In addition, they would like building type and materials for accessory structures to be similar to that of the primary residence.

*MOTION BY DESTREE, SKINNER, CARRIED TO AMEND THE SQUARE FOOTAGE REQUIREMENTS FOR ACCESSORY STRUCTURES WITHIN THE RURAL RESIDENTIAL DISTRICT TO A MAXIMUM OF 3,000 SQUARE FEET FOR LOTS THAT ARE IN EXCESS OF TWO ACRES AND 2,000 SQUARE FEET FOR LOTS THAT ARE TWO ACRES OR LESS. ACCESSORY STRUCTURES IN THE RURAL RESIDENTIAL DISTRICT ARE TO BE OF THE SAME BUILDING MATERIALS AND SIMILAR CONSTRUCTION AS THE PRIMARY RESIDENCE.*

*MOTION BY DESTREE, SKINNER, CARRIED TO AMEND THE SQUARE FOOTAGE REQUIREMENTS FOR ACCESSORY STRUCTURES WITHIN THE RURAL ESTATE DISTRICT TO A MAXIMUM OF 3,000 SQUARE FEET. ACCESSORY STRUCTURES IN THE RURAL ESTATE DISTRICT ARE TO BE OF THE SAME BUILDING MATERIALS AND SIMILAR CONSTRUCTION AS THE PRIMARY RESIDENCE.*

Karow stated that the Commission was now going to move on and discuss the issue of a secondary residential structure. He said that the Commission needs to first determine whether or not they want to allow this in the Rural Residential and Rural Estate Districts. He added that if the commission is going to allow the secondary residential structure, do they need to tweak any of the verbiage that has been put together by the planner.

Destree said that one main issue to work out is allowing a secondary dwelling unit and an accessory structure. Are we going to allow just a secondary building or secondary dwelling unit without the accessory structure? Are we going to allow both? Are we going to allow the two intermingled together?

Skinner pointed out that Majestic's covenants will only allow two structures on a parcel with one being the primary residence and suggested that they follow that path for the proposed changes to the Ordinance.

Destree stated that he doesn't agree with just allowing the two structures. It may be fine for this development but for others that may be coming, it may or may not work. The other issue is with the attached accessory structure and secondary dwelling unit, our motion may need to address that when the two are attached, the total square footage of the structure must not exceed 2,000 or 3,000 (depending on zoning district) square feet. They cannot add the 1,500 square feet of dwelling unit to the 2,000 or 3,000 square feet of accessory structure.

Rybarczyk said that Item D on page two of his report should be revised to say that the square footage of the secondary dwelling unit should not exceed 1,500 of habitable area. The total structure shall not exceed 3,000 square feet.

Karow asked if the square footage maximums pertain to just the first floor or if it is all encompassing.

Skinner confirmed that it refers to the footprint.

Suhre pointed out that a person could construct a 3,000 square foot accessory structure and then put 1,500 square feet of living space on the second floor giving them a 4,500 square foot structure. He asked if the Ordinance should indicate that the maximum square footage of the entire structure is 3,000, not just the footprint maximum of 3,000 square feet.

Diedrich and Destree both feel that the height restrictions will take care of the problem.

Rybarczyk read through the proposed amendment to clarify the requirements and restrictions for a secondary dwelling unit.

Karow asked Cox if a duplex could be constructed in the Rural Residential and Rural Estate Districts.

Cox stated that a duplex could be constructed provided that a conditional use permit was obtained.

Suhre addressed some of the concerns of the residents. He stated that we can't police someone who rents out a bedroom in their house. If a secondary dwelling unit is allowed, it cannot be sold or rented. These are guidelines that give enforcement capabilities. There has to be a single driveway serving both dwelling units. There can only be one electric meter, one gas meter and one well. These things will keep it from being sold as a separate unit. It will have the same design, the same color and the same building materials as the primary residence.

Wallace Hinz, 344<sup>th</sup> Avenue, questioned why the Board would be in favor of this.

Karow explained that the reason the Village is considering this is to keep some options open to future residents. He added that the developer is not going to allow the construction of two family (duplex) homes on these lots. If the developer had not included this restriction in the covenants then any property owner could come before the Board and request a conditional use to construct a duplex. Any parcel that is 10,000 square feet or more can put up a duplex.

Destree asked that the Board get back to the list of items in the proposed amendment. He also asked if there was a specific reason for a 20 foot separation between the primary and secondary residence.

Rybarczyk said that in reviewing the various Ordinances that he used to create this one, he found that the setback ranged from 10 feet to 25 feet. He did not find explanation for these varying distances. He could not say if it was due to fire codes or if it was just a rule of thumb.

Karow asked what the current fire separation distance is. Skinner replied that it is 10 feet. Joe Anselmo added that it could go as close as 5 feet if the proper fire separation construction methods are used.

Destree and Karow suggested changing the 20 foot separation to 10 feet.

Cox suggested modifying the wording regarding shared meters to say shared services, including sanitary sewer.

Destree read through the remaining items in the proposed amendment and indicated that the one item he felt still needed to be addressed was the minimum lot size required.

Skinner stated that it should be at least two acres.

**MOTION BY KAROW, DESTREE, CARRIED TO APPROVE A SECONDARY SINGLE FAMILY DWELLING UNIT AS A CONDITIONAL USE IN THE RURAL RESIDENTIAL ZONING ORDINANCE PER THE MEMO FROM PDI DATED WEDNESDAY, APRIL 18, 2007 WITH CHANGES TO SECTION 2 TO ADD A MEMBER OF THE IMMEDIATE FAMILY, CHANGE SECTION 4D TO INCLUDE TOTAL STRUCTURE SHALL NOT EXCEED A 3,000 SQUARE FOOT FOOTPRINT, CHANGE 4F TO SAY 10 FOOT SEPARATION INSTEAD OF 20 FEET, CHANGE TO 4H TO BE THE INCLUSION OF SEWER SERVICE TO THE LIST OF UTILITIES AND ALSO TO INCORPORATE AS A RESTRICTION THAT THE MINIMUM LOT SIZE WILL BE TWO ACRES.**

Motion by Skinner, Destree, Carried to adjourn at 9:41pm

**SIGNED COPY AVAILABLE AT VILLAGE HALL**

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Dusti Miller  
Deputy Clerk/Treasurer

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