

ROSEVILLE
REQUEST FOR COUNCIL ACTION

DATE: 5/24/2010
ITEM NO: 12.b

Department Approval:



City Manager Approval:



Item Description: Appeal of the administrative ruling that the Single-Family Residence (R-1) District does not regulate community gardens

1.0 REQUESTED ACTION

Based on the appeal, review whether Planning Division staff appropriately interpreted the regulations and intent of the zoning code pertaining to community gardens in the R-1 district.

Appeal Timeline

- Appeal received: April 27, 2010
- Thirty-day appeal hearing deadline, May 27 2010
- Staff report prepared: May 19, 2010
- Anticipated City Council action: May 24, 2010

2.0 BACKGROUND

2.1 North Como Presbyterian Church has plans to implement a “community garden” on its property at 965 Larpenteur Avenue. In preparation for the community garden, church representatives inquired about what process was necessary to receive approval for such a project; initial communication between North Como Presbyterian Church representatives and Planning Division staff began in mid- to late March. Planning Division staff indicated that a community garden is not regulated by the zoning code and does not require specific approval. A letter, included with the attached appeal materials, was later provided to church representatives confirming that no approvals were required.

2.2 A neighboring property owner subsequently submitted the attached appeal of staff’s determination that community gardens are not regulated by the zoning code. Section 1015.04C (Appeals) of the City Code specifies that the Board of Adjustment and Appeal, which is a role of the City Council, must hold a hearing within 30 days of the appeal to review the information considered in the formulation of the administrative ruling that is the subject of the appeal. In this case, after considering the rationale for Planning Division staff’s interpretation of the zoning code as well as the appeal, the City Council is tasked with determining whether Planning Division staff properly interpreted the intent of the zoning code.

2.3 If the City Council believes that Planning Division staff erred in its administration of the zoning code, the Council should also discuss and determine:

- a. Whether a community garden may be allowed in the R-1 district; and, if so
- b. What process is required to allow a community garden in the R-1 district.

2.4 Section 1015.04C of the City Code specifies that the only “evidence” that is to be provided to the City Council for the purpose of deciding on an appeal is the appeal itself and that information which contributed to the ruling which is the subject of the appeal. This ordinance does, however, give the City Council the discretion to seek additional information or clarification. The intent of this provision, is that the City Council receive and review only the information reviewed by staff, the nature of staff’s analysis culminating in the decision being appealed, and the appeal. To allow the unrestricted inclusion of additional information is to invite the parties on one or both sides of the appealed issue to introduce new topics which broaden and dilute the original ruling. City staff is aware that representatives of North Como Presbyterian Church, the appellant, and perhaps other members of the public are interested in providing more information and clarification of the issues beyond what has been provided to the City Council for review.

3.0 STATE STATUTES AND CASE LAW

The appellant identified several State Statutes and other legal implications in support of the appeal; the City Attorney has prepared a memorandum, included with this staff report as Attachment B, addressing these legal issues. The appeal also raised several questions pertaining to the R-1 zoning regulations; these will be addressed in the following paragraphs.

4.0 ZONING AND REGULATED/UNREGULATED USES

4.1 First, neither the Comprehensive Plan nor the City Code discusses gardens of any kind beyond general references which merely acknowledge their presence and limit the machinery used in them to household-scale rototillers and the like. Zoning codes are established to regulate the development of land uses to protect the public health, safety, and general welfare, and Euclidean (i.e., use-based) zoning codes like Roseville’s are often intended and interpreted to prohibit uses which are not included in a list of uses associated with a given zoning district. This convention serves to obviate the question of whether, say, a metal foundry may be established on an R-1 property; a metal foundry is not in the list of allowed uses and, consequently, would not be permitted. Reliance on a Euclidean list of allowed uses is not a perfect system, however; for example, the list of uses allowed in Roseville’s business districts includes auto parts stores, battery stores, and candy stores among others, but cellular phone stores are not in the list. Despite the omission of cell phone stores from the list of accepted uses in business districts, they are considered to be permitted uses. This is meant to illustrate the fact that mere exclusion from the list of allowed uses does not necessarily mean that a use is or ought to be prohibited.

4.2 The church and preschool uses on the subject property are regulated by the zoning code as conditional uses; because these uses predate Roseville’s conditional use regulations, they are considered legal, nonconformities and, as such, the church and preschool may continue to operate without requiring formal approval as conditional uses. The annual, temporary State Fair park-and-ride facility on the church property is not a church use, despite utilizing the church’s parking lot. Given the great intensity of the traffic generated by park-and-ride facilities during the State Fair, such a use would not be allowed on an R-1 property but for the fact that it was carefully reviewed for this location

75 (among others) and approved as an *interim* use with several operational conditions to
76 minimize the potentially harmful impacts.

77 4.3 Any newly-proposed use identified by a zoning district as an *accessory* or *permitted* use
78 must simply be allowed through the applicable administrative processes. Likewise, a
79 proposed use which is designated as a *conditional* use in a zoning district may only be
80 allowed through the formal conditional use review and approval process. More
81 contemporary uses which may not have been anticipated (and are not identified) by the
82 zoning code are regularly brought to the attention of Planning Division staff; if staff
83 believes that such uses are consistent with the intent of the particular zoning district but
84 could have significant adverse impacts on surrounding properties, the appropriate course
85 of action is to amend the zoning code to identify the new use as a *conditional* use and
86 then to seek the required conditional approval. Conversely, and contrary to an assertion
87 made in the appeal, City staff certainly may not arbitrarily require that a new use seek
88 conditional approval if the use is believed to be consistent with the purpose of the
89 applicable zoning district and to be similar in nature (or have potential impacts that are
90 comparable) to other uses permitted in the same zoning district. The purpose statement of
91 the R-1 zoning district is as follows:

92 The R-1 District is designed to be the most restrictive of the residential districts. The intent is to
93 provide for a residential environment of predominantly low to moderate density one-family detached
94 residential structures along with other residentially related facilities that serve the residents in the
95 district or local neighborhood. [The purpose statement continues with more information about
96 maximum residential densities and additional requirements for specified conditional and permitted
97 uses.]

98 4.4 In addition to the land uses that are specifically regulated by the R-1 zoning district's use
99 list and the unanticipated uses that are not in the list, several structures and other features
100 or uses which are commonly found in neighborhood settings are omitted from the list
101 because they are not regulated. Although people may fall off of playground sets, drown
102 in koi ponds, be injured by collapsing pergolas, or be pierced by thorn-bearing shrubs,
103 uses and features of this sort are not regulated because they don't normally pose any risk
104 to the public health, safety, and general welfare. Planning Division staff has determined
105 that the same is true of well-maintained vegetable gardens, whether of a personal or
106 community scale.

107 4.5 Significant stress is given by the appellant to the point that a community garden is
108 identical to an agricultural or farming use and that Planning Division staff has recklessly
109 overlooked this fact. Planning Division staff agrees that gardening at any scale is an
110 inherently agricultural activity and, for this very reason, disagrees with the notion that a
111 community garden cries out for regulation as a conditional use simply because it is a kind
112 of agricultural activity. Whether "community garden", "urban agriculture", or some other
113 terminology is used to describe the activity, the nature of the use remains the same. A
114 community garden may well be larger than a typical private, suburban garden, but it is
115 nonetheless the activity of a group of people who are exercising careful, intentional
116 stewardship of a relatively small area of land for their own enjoyment or for the
117 charitable benefit of others in the community at a scale which falls far short of anything
118 that would resemble commercial "farming" or industrial "agriculture".

119 4.6 The appeal alternatively insists that the proposed community garden is a home
120 occupation and that City staff is failing to recognize and regulate it as such. Despite the

statement in footnote number 13 of the appeal letter, Planning Division staff does not find room for legitimate debate about whether a church achieves the status of a residential dwelling by virtue of it being a “house of God.” While the church is indeed in a “residential” zoning district, the church plainly is not a residence, and therefore is not subject to the regulations pertaining to home occupations. What’s more, zoning codes must treat *similar uses* equitably without regard to what zoning district they’re in, rather than treating *diverse uses* similarly simply because they’re in the same zoning district, as the appellant seems to suggest in the same footnote.

4.7 As further evidence that the proposed community garden is a commercial venture of the sort which is anathema to the neighborhood setting, the appeal points to the proposed sign. Signs certainly can serve a commercial, advertising function, but they can also merely identify something – like at least one home in Roseville which has a small, personal vineyard with a sign posted in the yard, naming the vineyard. Signs are regulated by the zoning code and, even though the proposed sign likely is not intended to increase the business of the community garden, a new sign on the subject property will have to comply with the applicable zoning requirements.

5.0 ZONING AND QUASI-PUBLIC USES

5.1 Notwithstanding the preceding discussion, there is room for debate as to whether the proposed community garden is an unregulated activity by the private, church community or whether it would fall under the regulations pertaining to public and quasi-public uses. On one hand, the church’s explicit intent for the community garden is that it would be another expression of the congregation’s ministry: helping to grow and provide produce for food shelves and community members. On the other hand, the proposed community garden can be seen as a low- or moderate-impact quasi-public use as defined below:

Low-impact quasi-public uses:

- a. Are sponsored by a quasi-public organization;
- b. Have minor impacts in terms of:
 - 1. Traffic generation;
 - 2. Hours of operation;
 - 3. Activities conducted; and
 - 4. Light or noise generated;
- c. Require no more than:
 - 1. 10 employees; or
 - 2. 15 parking spaces;
- d. Must not involve:
 - 1. Retailing;
 - 2. Wholesaling; or
 - 3. Warehousing of materials other than normal office supplies;
- e. Render services which are essentially public

Moderate-impact quasi-public uses:

- a. Are sponsored by a quasi-public organization;
- b. Have moderate impacts in terms of:
 - 1. Area requirements;
 - 2. Traffic generation;
 - 3. Parking requirements;
 - 4. Hours of operation;
 - 5. Number of employees; and
 - 6. Light or noise generated;
- c. Require more than:
 - 1. 10 employees; or
 - 2. 15 parking spaces
- d. Must not involve:
 - 1. Retailing;
 - 2. Wholesaling; or
 - 3. Warehousing of materials other than normal office supplies;
- e. Render services which are essentially public

5.2 If the proposed community garden is determined to be a quasi-public use, more or less separate from the church use, the question remains as to the level of impact of the

activity; “low-impact” quasi-public uses are *permitted* in the R-1 district, whereas “moderate-impact” quasi-public uses require approval as *conditional* uses. Planning Division staff believes that the proposed community garden falls short of the definition of “moderate-impact” based on the following findings:

a. A community garden which is not organized by the City may be viewed as a quasi-public activity, although the church sponsor is a private organization.

b. **Area requirements:** The proposal includes about 25 proposed gardening plots in roughly 9,000 square feet, which is a little larger than 5% of the overall property.

Traffic generation: Assuming that everyone would drive the site, one could expect vehicles corresponding to all 25 plots to converge on the property at the same time only on rare occasions. The rest of the growing season would likely see each of those 25 vehicles at the site more sporadically, perhaps once or twice each week, when the individual gardeners are able to make time to tend their respective plots.

Parking requirements: Parking spaces would not be required to accommodate such a low level of traffic. This is not unlike some City parks with playground equipment, picnic tables, walking trails, and other recreational space; all of these features draw people to the park, but no parking spaces are required or provided. Users of such a park either walk or park on the street, but the church has a parking lot which could accommodate some of the people driving to the property.

Hours of operation: Aside from construction activities, home occupations, and Shopping Center districts (with grocery stores and other “24-hour” uses), the City Code does not regulate hours of business, institutional, or household activities. Nevertheless, Planning Division staff would anticipate the gardening work to be limited to the daylight hours during the growing season.

Number of employees: A community garden as proposed is not a commercial or business venture so it would have no employees, although one could debate whether the gardeners (or volunteers in another quasi-public activity elsewhere) are to be considered “employees” in the analysis of whether a given quasi-public use qualifies as moderate or low impact.

Light or noise generated: Any lights that may be installed would be subject to pertinent City Code regulations. And aside from occasional rototiller use and the potential for children playing and gardeners conversing from their plots several yards apart, a community garden should not be expected to generate excessive levels of noise.

c. The participation guidelines for an existing 120-plot community garden at Oasis Park indicate that gardeners should park in the nearby parking lot. The paved parking area is about 60 feet wide by 150 feet deep; according to the standard requirements for parking areas, this would allow for 30 parking spaces. If this ratio of 1 parking space for every 4 plots is applied as a parking “requirement”, the proposed community garden would need about 7 parking spaces.

d. Although a nominal fee would be collected in connection with the garden plots, the fee would help to cover the costs of equipment, water use, and so on. The

plot-reservation fees would not constitute a meaningful revenue stream for the church, nor is the produce intended for commercial or business purposes. For this reason, Planning Division staff does not anticipate any retailing, wholesaling, or warehousing activities connected to the proposed community garden.

- e. “Community gardening” would seem apt to fit the description of an essentially-public activity.

5.3 As noted above, a community garden already exists in Roseville at Oasis Park. It has been operated by Roseville’s Parks and Recreation staff in this location for at least 20 years, it is approximately 4 or 5 times the size of the proposed community garden, and it shares a property line with five single-family residences. Neither Roseville’s Parks and Recreation staff nor Code Enforcement staff members have received a single complaint regarding nuisances generated by the community garden at Oasis Park. This track record further suggests that the impacts of even a 35,000 square-foot/120-plot community garden can be something less than “moderate”.

5.4 To address nuisance situations, should they arise, Chapter 407 (Nuisances) of the City Code establishes the authority and procedures for Code Enforcement staff to correct and/or abate nuisances as necessary.

6.0 FUTURE IMPLICATIONS

6.1 Section 1013.01 (Conditional Uses) of the City Code requires the Planning Commission and City Council to consider the following specific criteria when reviewing a conditional use application:

- Impact on traffic;
- Impact on parks, streets, and other public facilities;
- Compatibility of the site plan, internal traffic circulation, landscaping, and structures with contiguous properties;
- Impact of the use on the market value of contiguous properties;
- Impact on the general public health, safety, and welfare; and
- Compatibility with the City’s Comprehensive Plan.

Borrowing from the analyses discussed in previous sections of this report, Planning Division staff has found that community gardens have, and could be expected to have, negligible adverse impacts on traffic; parks, streets, and other public facilities; and the general public health, safety, and welfare. Further, Planning Division staff believes that the proposed community garden is compatible with schools, churches, and other uses intended for properties such as this that are guided by the Comprehensive Plan for Institutional land uses. And staff is unaware of any formal market studies which suggest that community gardens have negative impacts on residential property values. The remaining, unevaluated criterion pertains to the compatibility of the layout and activities on the site with contiguous properties; staff’s original determination that a community garden is not a regulated use is evidence that a community garden is believed to be compatible with a neighborhood setting.

The preceding paragraph is an indication that Planning Division staff has found that the potential negative impacts of community gardens are slight enough that the standard

268 conditional use criteria do not offer any meaningful help in identifying and mitigating
269 such impacts. If the City Council believes that community gardens need to be regulated
270 as conditional uses (either specifically as community gardens or as moderate-impact
271 quasi-public uses), Planning Division staff would request that the Council identify other
272 criteria that may be more helpful in addressing potentially negative impacts.

273 6.2 Another church in a different part of Roseville has independently inquired about whether
274 vacant space on its lot may be used for a community garden. Planning Division staff
275 informed the pastor of that church that the zoning code doesn't regulate such uses, but
276 advised waiting to implement a community garden until the City Council has acted on the
277 current appeal.

278 6.3 Finally, while the proposed community garden has been, and must be, evaluated in the
279 context of the current zoning regulations, consideration of the ongoing zoning code
280 update is also important. Drafts of zoning district regulations dating back to January,
281 prior to City staff's awareness of North Como Presbyterian Church's proposal, have
282 identified community gardens as permitted uses on institutional properties, and the draft
283 definition of a community garden is, interestingly, the same as is utilized by the City of
284 Cleveland, Ohio; to wit:

285 An area of land managed and maintained by a group of individuals to grow and harvest food crops
286 and/or non-food, ornamental crops, such as flowers, for personal or group use, consumption or
287 donation. Community gardens may be divided into separate plots for cultivation by one or more
288 individuals or may be farmed collectively by members of the group and may include common areas
289 maintained and used by group members.

290 Of course, these are only draft ordinances which have not been approved, but they serve
291 to indicate that City staff has been considering the role of community gardens and how
292 they may be more formally incorporated into Roseville's zoning regulations.

293 7.0 RECOMMENDED ACTION

294 After considering the rationale for Planning Division staff's interpretation of the zoning
295 code as well as the appeal, the City Council is tasked with determining whether Planning
296 Division staff properly interpreted the intent of the zoning code. If the City Council
297 believes that Planning Division staff erred in its administration of the zoning code, the
298 Council should also discuss and determine:

299 a. Whether a community garden may be allowed in the R-1 district; and, if so

300 b. What process is required to allow a community garden in the R-1 district.

301 **Prepared by:** Associate Planner Bryan Lloyd (651-792-7073)

Attachments: A: Appeal letter (including the original staff ruling) C: NCPC response to the appeal
B: City Attorney memorandum D: Supplemental information and public comment

April 26, 2010

Bill Malinen
Roseville City Manager
2660 Civic Center Drive
Roseville, MN 55113

Re: Appeal of City Planning Division's "Administrative Determination" on the proposed use of North Como Presbyterian Church ("NCPC") property.¹

Dear Mr. Malinen:

This letter is being sent to you for the purpose of appealing the Roseville City Planning Division's "Administrative Determination" regarding the proposed use of NCPC's property as a so-called "community garden." As you will see by the attachments to this appeal, the Administrative Determination took two forms. First, an initial determination by Brian Lloyd (associate city planner) that was conveyed by letter to NCPC on April 8, 2010. Then, Mr. Lloyd confirmed his initial determination; with concurrence from the City Planner and Community Development Director; by a follow up email on April 14, 2010. Together the Administrative Determination held that implementation of the planned "community garden" would not conflict with Roseville's zoning ordinances because the R-1 zoning district "does not regulate gardens."

We, the affected neighbors whose signatures are affixed hereto, vigorously disagree with this ad hoc determination because (1) the general term "garden" as used by the planning division clearly ignores the substance and character of the proposed land use, (2) the proposed land use violates the current residential zoning ordinances, (3) the proposed land use violates Minn. Stat. § 315.47 (2008), and (4) the proposed land use has a significant likelihood of bringing nuisances to the affected neighborhood. Therefore, we strongly urge the City of Roseville to require that NCPC apply for a conditional use permit for the planned use of its land as a "community garden" - also known as an "urban agriculture" site.²

The Substance and Character of NCPC's Planned Land Use Is Agricultural.

While the city does not purportedly regulate "gardens" in R-1 districts, the deep concern of the affected neighborhood is that what is planned by NCPC is not a private garden as the R-1 district obviously contemplates by reference to backyard garden sheds in the city ordinance.³ Rather, the planned land use is a material alteration of the present use of the NCPC land to an

¹ 965 Larpenet Avenue West, Roseville, MN 55113.

² The United States Department of Agriculture (USDA) uses the terms "community garden" and "urban agriculture" interchangeably. See, e.g., http://afsic.nal.usda.gov/nal_display/index.php?info_center=2&tax_level=2&tax_subject=301&topic_id=1444; see also *Access to Affordable and Nutritious Food: Measuring and Understanding Food Deserts and Their Consequences*, United States Department of Agriculture <http://www.ers.usda.gov/Publications/AP/AP036/AP036g.pdf>; see also Dena Sacha Warman, *Community Gardens: A Tool for Community Building*, Urban Agriculture Notes (last modified Feb. 12, 2001) <http://www.cityfarmer.org/waterlooCG.html#waterloo>.

³ See Ord. 1004.01(A)(2). The zoning ordinance, while referencing "garden shed," does not define "garden."

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inconsistent agricultural use (or sharecropping) that is public by its very design. *See* Minn. Stat. § 273.13, subd. 23(f) (2008) ("Real estate of less than ten acres, which is exclusively or intensively used for raising or cultivating agricultural products, shall be considered as agricultural land"); *see Id.*, subd. 23(g) ("Land shall be classified as agricultural even if all or a portion of the agricultural use of that property is the leasing to, or use by another person for agricultural purposes");⁴ *see also* Ord. § 1002.02 (defining moderate impact quasi-public use.) Additionally, NCPC knew early on from its research into "community gardens" that its planned land use would naturally depend on neighborhood involvement.⁵

The fact that the planned use calls for (initially) 26 separate plots⁶ to be leased out to members of the surrounding communities of Roseville, St. Paul, and Falcon Heights; to some not even affiliated with NCPC; dispels any notion that the planned use is a private residential garden. Moreover, the fact that the plans call for a sign to advertise the "community garden" very much dispels any claim that the planned land use is consistent with the residential scheme as is illustrated by both the current zoning code and the comprehensive plan. Indeed, the proposed plan entails that NCPC land will be leased out (for free or otherwise) for the express purpose of growing and cultivating produce for public consumption. This is clearly an agricultural land use.

Even though NCPC's proposed agricultural land use is not contemplated by the Roseville residential zoning ordinance as a permitted use, not permitted use, accessory use, or conditional use, the mere absence of a particular use does not in itself mean that the city is without authority to regulate such use. *See Wedemeyer v. City of Minneapolis*, 540 N.W.2d 539, 542 (Minn. App. 1995) (recognizing Minnesota's long history of acknowledging the right of municipalities to exercise police powers by regulating land use and development). Clearly, as explained verbally by Bryan Lloyd, "a metal foundry is not contemplated by the residential code, but the city would not permit that to be placed in a residential district." One can come up with any number of other ridiculous examples (refinery and fertilizer/manure factory quickly come to mind), that would equally make the point that the city can indeed require a non-envisioned land use go through the conditional use permit mechanism that is designed to protect the health, safety, morals, and general welfare of the community. Agricultural use of residential land is a non-envisioned use that cries out for city regulation through the mechanism of a conditional use permit.

To be sure, the reason urban zoning codes typically do not envision agricultural or farming activities is because they are presumptively nonconforming or not permitted. This is undoubtedly why Roseville does not include a "metal foundry" in the residential zoning district list of permitted, not permitted, accessory, or conditional uses. It is self evident that such a land use would be prohibited. The same is true for a "community garden" or "urban agriculture."

⁴ While religious organizations are obviously tax exempt and not subject to the property tax provisions; Minn. Stat. § 273.13, subd. 1; the property tax classification provisions of the Minnesota statutes are quite illustrative and are often used for defining agricultural products and land use. *See e.g.*, City of Plymouth Zoning Ord. § 21005.02.

⁵ "Our tours of community gardens taught us that often a neighbor adjacent to the gardens is the 'eyes on the garden' person who can welcome and redirect gardeners, or alert coordinators as needed. We hoped you could be that person, or one of those people." (Kim Spear April 18, 2010 email to Larry Leiendecker).

⁶ "Next we had a landscape architect draft an overall plan for the community garden, revised it in several ways, and decided that a phased approach to the garden was important - do a small garden successfully and grow the effort when and if the time is right." (Kim Spear April 18, 2010 email to Larry Leiendecker) (emphasis added). The current plan calls for 26 plots to be leased out to the community, with room to grow for more. (*See* NCPC Plans.)

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While not as alien of a land use as a "metal foundry" would be in a residential district, the absence of "agricultural" uses from the residential zoning ordinance speaks for itself. Here, the affected neighborhood is not proposing that a "community garden" should be deemed "not permitted" in the residential scheme, like a metal foundry would obviously be. Rather, the affected neighborhood strongly believes that the proposed agricultural use should, at the very least, require a conditional use permit.

Moreover, it is plainly obvious after careful review of the Administrative Determination that the planning division; as evidenced by its equivocal references to "garden" in the residential scheme and the "garden" label placed on NCPC's project;⁷ completely ignored the *substance* of NCPC's proposed land use. The planning division apparently overlooked the illuminating property classifications of section 273.13. But, more significantly, the planning division ignored that the designation of "community garden" carries a specific definition different than that of a residential "garden."⁸ Indeed, a quick sampling of "community garden" definitions provided by some of the larger municipalities around the country reveals that "community garden" has a particular meaning that is synonymous with "urban agriculture."⁹

Boston	Cleveland	San Francisco
SECTION 33-8. Community Garden Open Space Subdistricts. Community Garden open space (OS-G) subdistricts shall consist of land appropriate for and limited to the cultivation of herbs, fruits, flowers, or vegetables, including the cultivation and tillage of soil and the production, cultivation, growing, and harvesting of any agricultural, floricultural, or horticultural commodity; such land may include Vacant Public Land.	336.02 DEFINITIONS (a) "Community garden" means an area of land managed and maintained by a group of individuals to grow and harvest food crops and/or non-food, ornamental crops, such as flowers, for personal or group use, consumption or donation. Community gardens may be divided into separate plots for cultivation by one or more individuals or may be farmed collectively by members of the group and may include common areas maintained and used by group members.	(Community Garden Policies § 2.0) Community garden – a site operated and maintained by committed volunteers where: • A publicly owned parcel of land is used for growing ornamentals and/or produce for non-commercial use through individual or shared plots, and • Demonstration gardening or other instructional programming may be offered, and • Shared tools and common expenses are covered through the collection of membership fees and/or donations.

⁷ See Bryan Lloyd April 14, 2010 email.

⁸ See Roseville City Code § 101.07 CONSTRUCTION OF WORDS:

Common Usage: All words and phrases used in this Code shall be interpreted and understood in accordance with the common and acceptable usage, but any technical words and phrases, or such others which have acquired a specific or peculiar meaning, shall be interpreted and understood in accordance with such technical, specific or peculiar meaning.

(emphasis added).

⁹ See *supra* note 2.

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Even our neighboring community Falcon Heights touches upon the "community garden" activity in its "suburban agriculture" definition:

Falcon Heights §113.3

Farm, suburban (agriculture) means a suburban farm is a noncommercial food-producing use primarily intended for the use of the residents, and usually on less than ten contiguous acres. Suburban agricultural uses may include production of crops such as fruit trees, shrubs, plants, flowers, vegetables, and domestic pets.

NCPC's intended use of its land is quite simply agricultural in its scope and character.¹⁰ This conclusion cannot be avoided by narrowly placing a nebulous "garden" label on NCPC's land use plans. Furthermore, as will be seen *infra*, NCPC's proposed activity qualifies as a moderate impact quasi-public use, which requires a conditional use permit under the residential zoning ordinance.¹¹

NCPC's Proposed Land Use Violates The Residential Zoning Ordinances.

NCPC, despite being a church, sits on land zoned R-1.¹² In fact, NCPC's land use as a church was a permitted use in an R-1 district at the time of its inception. Thus, the R-1 zoning ordinances are presently applicable to the NCPC property. In addition to being a church, NCPC also engages in the assorted occupations of being a pre-school and a State Fair Parking facility. These additional occupations require a conditional use permit in R-1 zoning districts. Ord. § 1004.015.

Under the residential zoning ordinance "home occupation" is defined as: "[a]ny occupation or profession engaged in by the occupant of a residential dwelling unit, which is clearly incidental and secondary to the residential use of the premises and does not change the character of said premises." Ord. § 1002.02.¹³ NCPC's planned land use as a "community

¹⁰ See *Farmington Township v. High Plains Co-op.*, 460 N.W.2d 56, 57-59 (Minn. App. 1990)(examining the substance of the land use and holding that because a lease arrangement involving a petroleum tank was more analogous to agricultural supply, the land use was not related to agriculture itself.)

¹¹ "Moderate impact public or quasi-public uses include activities with more than ten (10) employees on site for any one activity, requiring more than fifteen (15) parking spaces for any one activity.... A quasi-public use is any use which is essentially public as in its services rendered, although it is under private control or ownership." Ord. § 1002.02.

¹² However, the comprehensive plan shows the NCPC property as "institutional." Roseville Comp. Plan at 4-31. Institutional land uses include civic, school, library, church, cemetery, and correctional facilities. *Id.* at 4-10. "The Comprehensive Plan seeks to support the existing mix of land uses by... [m]aintaining the integrity of existing single-family neighborhoods that constitute the majority of land use in this district." *Id.*; see also Minn. Stat. § 473.858, subd. 1 (2008)(providing that "the zoning ordinance shall be brought into conformance with the [comprehensive municipal] plan" if there is a conflict.).

¹³ One can get hung up on whether the NCPC is a technically a "residential dwelling" or not. But, clearly, the fact that the property is zoned R-1 does not obscure the reality that (1) NCPC obtained its status in the R-1 district due to being a "house of God," (2) it is presently trying to benefit from its R-1 status by claiming that "gardens" aren't regulated in R-1 districts, and (3) the city has previously enforced R-1 conditional use permit requirements on

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garden" or "urban agriculture" is yet an additional occupation in an R-1 district. The residential zoning ordinance prohibits home occupations that are not entirely confined to the residential dwelling. "The home occupation shall be conducted entirely within the dwelling." Ord. § 1004.01(G)(2)(a). Further, only the resident plus one non-resident can be engaged in the home occupation. Ord. § 1004.01(G)(2)(b). NCPC's planned land use as a "community garden" or "urban agriculture" is clearly not confined to the dwelling; its plans call for at least 26 non-residents to engage in the occupation; and its plans materially change the character of the premises to agricultural. NCPC is therefore required to obtain a conditional use permit.

NCPC's proposed additional occupation as an "urban agriculture" site also qualifies as a moderate impact quasi-public use. Ord. §§ 1002.02; 1004.015. So, not only do its plans violate Ord. § 1004.01(G)(2), ordinance section 1004.015 expressly requires that NCPC obtain a conditional use permit for its planned moderate impact quasi-public activities.

At the same time, Roseville's recent treatment of NCPC's additional occupation as a State Fair Parking site is quite definitive. In 2008, the planning division required NCPC to obtain a conditional use permit for leasing its existing church parking areas for State Fair Parking. The City of Roseville must treat NCPC no differently now when its present plans involve the leasing of its land to the general public for the purposes of urban agriculture.

NCPC's Proposed Land Use Violates Minn. Stat. § 315.47 (2008).

Much like the Minnesota Business Corporation Act (Minn. Stat. Ch. 302A) and the Minnesota Nonprofit Corporation Act (Minn. Stat. Ch. 317A), Minnesota law also regulates religious societies and associations. Minn. Stat. Ch. 315 (2008). NCPC's governing documents were in fact "enacted pursuant to the provisions of Minnesota Statutes, Chapter 315 and where applicable are subject thereto." (NCPC Bylaws art. I, § 1.)¹⁴ Section 317.47 states in pertinent part: "[p]roperty and its income under the control of the board must be devoted only to the purposes of the association." Minn. Stat. § 315.47 (2008). Clearly, NCPC; by planning for its property to be leased, without financial benefit to itself, to others not affiliated with the church; is allowing its property to be used by other parties in a manifestly agricultural manner that is beyond the religious purpose of the NCPC association. Therefore, NCPC's proposed land use violates state law and its governing documents.

NCPC's Proposed Land Use Has A Significant Likelihood Of Causing Nuisances.

The size and scope of NCPC's "community garden" or "urban agriculture" has a significant likelihood of bringing nuisances to the nearby neighborhood. Traffic to the neighborhood will obviously be affected.¹⁵ Urban agriculture of the size and scope planned by NCPC will likely bring pests such as rats, mice, rabbits, skunks, raccoons, foxes, deer, and -

NCPC's various occupations by way of Ord. § 1004.015. See Minn. Stat. § 462.357, subd. 1 (2008) ("The regulations shall be uniform for each class or kind of buildings, structures, or land and for each class or kind of use throughout [a zoning] district.").

¹⁴ <http://www.northcomochurch.org/documents/NorthComoBy-Laws.pdf>

¹⁵ Furthermore, as is clearly deduced from the plans, the NCPC "community garden" contemplates the primary use of city street parking due to the initial 26 plots being positioned far from the existing off street parking areas of the church. (See NCPC Plans).

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judging by recent news reports - possibly bear to a residential district that also happens to be located on a very busy urban county road. See current pictures of the NCPC property below:

Corner of Larpenteur & Chatsworth



On Chatsworth Looking East



The considerable uncovered composting area; *see* NCPC Plans; will surely produce rancid odors in the affected neighborhood as well. Overall, NCPC's proposed land use as a "community garden" will significantly alter the characteristics of the immediate residential neighborhood as is illustrated by the three various "community garden" pictures shown below:

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Vandalism and security are also particularly noted problems with urban agricultural activities.¹⁶ Relying upon neighbors to patrol and generally be the "eyes on the garden"¹⁷ does not satisfy the security concerns of the affected neighborhood. In fact, there is something to be said for land use decisions being made by persons not living in the affected neighborhood (i.e., visitors) that expressly presume the meaningful involvement of affected neighbors without official public notice and dispassionate decision-making by the city council.

Additionally, NCPC's plans do not presently call for the installation of irrigation to prevent the blowing of dirt.¹⁸ Perhaps more importantly, the present plans also do not involve soil testing by the Minnesota Pollution Control Agency.¹⁹ What was once considered safe to be used on land years ago, before NCPC came into being, may not be considered safe or healthy now. Further, while some materials tend to leach out over time, others may not have. Only complete soil testing by the proper state authority would confirm the absence of harmful substances in the soil - especially if that soil is being used to grow produce for public consumption.

These are but a few of the concerns that the affected neighborhood has regarding NCPC's proposed land use as a "community garden" or an "urban agriculture" site. Public notice and a public hearing attendant to the conditional use permit requirement would likely ferret out many

¹⁶ "An 8-foot fence around the perimeter with a drive-through gate. In our experience, this is a key element of success. Don't count on eliminating all acts of vandalism or theft, but fencing will help to keep these to tolerably low levels." University of California Cooperative Extension, Community Garden Start-Up Guide, p.4; *see also id.* at 6. <http://celosangeles.ucdavis.edu/garden/articles/pdf/startup_guide.pdf>

¹⁷ *See supra* note 5.

¹⁸ "We plan to use hoses the first year to learn needs, costs, issues. Once clear on preferences, we plan to run pipes underground to more set facets [sic]. Regarding blowing dirt, we were concerned with this early on too, so we decided to not plow the area (lots of potential issues), but rather rototill a limited number of plots, keeping grass a mowers width apart rows of plots." (Kim Spear April 18, 2010 email to Larry Leiendecker). *See also* University of California Cooperative Extension, Community Garden Start-Up Guide, pp.4, 6 (identifying irrigation as a "key element" in community gardens). <http://celosangeles.ucdavis.edu/garden/articles/pdf/startup_guide.pdf>

¹⁹ "We are using the UM extension service and other UM resources." (Kim Spear April 18, 2010 email to Larry Leiendecker). It is believed; as verbally reported by NCPC's Gavin Watt to Larry Leiendecker on April 17, 2010; that the U of M extension service only tests for the presence of lead in the soil and mostly tests soil PH and soil nutrients - but does not test for the presence of harmful metals like aluminum, arsenic, cadmium, mercury, et cetera.

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more concerns regarding the environmental impact of NCPC's plans on the affected residential neighborhood.

Conclusion

In summary, the affected neighborhood disagrees with the city planning division's Administrative Determination because: (1) the general term "garden" as used by the planning division clearly overlooks the substance and character of the proposed land use; (2) the proposed land use violates the residential zoning ordinances; (3) the proposed land use violates Minn. Stat. § 315.47 (2008); and (4) the proposed land use has a significant likelihood of bringing nuisances to the affected residential neighborhood. Therefore, we strongly urge the City of Roseville to require that NCPC apply for a conditional use permit.

With Respect,

/s/ The affected neighbors whose signatures are affixed hereto on the attached signature pages.²⁰

Robert Koppy	987 Roma Ave. W.	Dennis Sager	1727 Victoria St. N.
Marilyn Saley	1715 N. Chatsworth St.	Leo Monn	1735 Victoria St. N.
Vince Pallin	1699 N. Chatsworth St.	Yvonne Monn	1735 Victoria St. N.
WJ Smith	1721 N. Chatsworth St.	Richard Runzel	1741 Victoria St. N.
Nadine Smith	1721 N. Chatsworth St.	Margo Fjelstad	1759 Victoria St. N.
Roy Bruns	1731 N. Chatsworth St.	Erica Inks	1767 Victoria St. N.
Ruth Bruns	1731 N. Chatsworth St.	Bart Inks	1767 Victoria St. N.
Kim Loeffelmacher	1757 N. Chatsworth St.	Natt Shea	1788 N. Chatsworth St.
Linda Wong	1000 Roma Ave. W.	Barbara Gontarek	1792 N. Chatsworth St.
Ralph Johnson	1837 Aglen St. N.	Bob Gontarek	1792 N. Chatsworth St.
Brian Ingvaldstad	988 Roma Ave. W.	Bill Hammond	993 Roma Ave. W.
Margaret Saley	1715 N. Chatsworth St.	Joe Anderson	999 Roma Ave. W.
Gene Strohmayer	1719 N. Chatsworth St.	Kit Gontarek	1011 Ruggles St.
Lois Nyman	1720 N. Chatsworth St.	Kelly Gontarek	1849 N. Chatsworth St.
Neil Rengel	1720 N. Chatsworth St.	Peter Gontarek	1849 N. Chatsworth St.
James Ashley	1738 N. Chatsworth St.	Joyce Johnston	1855 N. Chatsworth St.
Jack Hastings	1741 N. Chatsworth St.	Tom Johnston	1855 N. Chatsworth St.
Betty Schmidt	1744 N. Chatsworth St.	Andy Lancette	1850 N. Chatsworth St.
Colleen Green	1735 N. Chatsworth St.	Char Ciernia	1720 N. Chatsworth St.
Wendell Frerichs	1776 N. Chatsworth St.	Cheryl Holcomb	1021 Larpenteur Ave. W.
Jeanne Frerichs	1776 N. Chatsworth St.	Khonm Soum	983 Larpenteur Ave. W.
David Loeffelmacher	1757 N. Chatsworth St.	Kay Koppy	987 Roma Ave. W.
Michael Wolf	999 Larpenteur Ave. W.	Larry Leiendecker	983 Larpenteur Ave. W.
Carla Moody	1719 Victoria St. N.	Sinuon Leiendecker	983 Larpenteur Ave. W.
Dennis Moody	1719 Victoria St. N.	Karla Cole	968 Larpenteur Ave. W.

²⁰ Original signature pages on file with Larry Leiendecker, 983 Larpenteur Ave W. Roseville, MN 55113. Email: larrylesq@comcast.net

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Matthew Cole	968 Larpeur Ave. W.	Frances Belland	954 Larpeur Ave. W.
Marty Marchio	962 Larpeur Ave. W.	Steven Krause	948 Larpeur Ave. W.
Maureen Marchio	962 Larpeur Ave. W.	L. Krause	948 Larpeur Ave. W.
Richard Arendsee	958 Larpeur Ave. W.	Garret Paitich	938 Larpeur Ave. W.
Rita Arendsee	958 Larpeur Ave. W.	Richard Masson	808 Cottage Ave. W.
Andre Belland	954 Larpeur Ave. W.		

Affected Neighborhood Signatures

Name (printed)	Address	Signature
Robert Koppa	987 Roma Ave	Robert N. Koppa
Marilyn Deloy	1715 N. Chatsworth	Marilyn Deloy
Vince Pallen	1699 Chatsworth	Vince Pallen
W. A. Sault	1721- " "	
Nedra Smith	" "	
Roy D. Bruns	1731 N. Chatsworth St.	
Ruth Bruns	" " "	"
Kim Loefelmacher	1757 Chatsworth St.	Kim McLeff
Linda Wong	1000 Roma Ave	Linda Wong
RALPH JOHNSON	1837 ALEN	Ralph Johnson
Brian Ingvaldstad	988 Roma	Brian Ingvaldstad
Margaret Deloy	1715 N. Chatsworth	Margaret Deloy
Gen Stelmayer	1719 Chatsworth St.	Gen Stelmayer

Name (printed)	Address	Signature
LOIS V. NYMAN	1720 N. CHATSWORTH	Lois V. Nyman
NEIL W. RENGEL	1720 No. Chatsworth	Neil W. Rengel
James R Ashley	1738 Chatsworth	James R Ashley
Jack Hastings	1741 Chatsworth	
Betty M Schmitt	1744 76 Chatsworth	Betty M Schmitt
Colleen Green		
Colleen Green	1735 Chatsworth	colleenmgreen
Wendell Frerichs	1776 Chatsworth	Wendell Frerichs
Jeanne Frerichs	1776 Chatsworth	Jeanne Frerichs
DAVID LOFFELMACH	1757 CHATSWORTH ST	
	999 LARPERWOOD AVE	Michael D. Wolf
CHARLA MCEDDY	1719 VICTORIA ST N	Charla McEddy
Dennis McEddy	1719 Victoria St N	Dennis McEddy
DENNIS SAGE		
Dennis Sage	1727 VICTORIA ST N	Dennis Sage

Name (printed)

Address

Signature

LEON YVONNE MONN

1735 N VICTORIA ST

Leon Yvonne Monn

Richard
Lundel

Richard Lundel

1741 N. Victoria

Richard Lundel

* Margo Fjelsstad

1759 Victoria

Margo Fjelsstad

Erica Inks

1767 Victoria St N

Erica Inks

Bart Inks

1767 Victoria St N

Bart Inks

Nath Shea

1788 Chatsworth St. N.

Nath Shea

Barbara Gontarek

1792 Chatsworth

Barbara Gontarek

Bob GONTAREK

1792 CHATSWORTH

Bob Gontarek

Bill Hammond

993 Roma

Bill Hammond

Joe Anderson

999 Roma

Joe Anderson

Kit Gontarek

1011 Ruggles St

Kit Gontarek

Kelly Gontarek

1849 N. Chatsworth St.

Kelly Gontarek

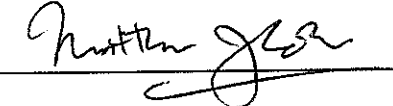
PETER Gontarek

1849 N Chatsworth

Peter Gontarek

Name (printed)	Address	Signature
Joyce Johnston	1855 Chatsworth	Joyce Johnston
Tom Johnston	1855 chatsworth	Tom Johnston
Andy Larcette	1850 Chatsworth St N	Andy Larcette
Char Ciernia	1720 Chatsworth St. N.	Char Ciernia
Cheryl Holcomb	1021 W. Larpenteur Ave	Cheryl Holcomb
Khonm Soum	983 Larpenteur Ave W.	Khonm Soum
KAY Koppy	987 ROMA AVE	Kay Koppy
Larry Leiendoeker	983 Larpenteur Ave W.	Larry Leiendoeker
Simon Leiendoeker	983 Larpenteur Ave W.	Simon Leiendoeker

**Affected Neighborhood Signatures
(St. Paul)**

Name (printed)	Address	Signature
Karla Cole	968 Larpenteur Ave W	
Matthew Cole	968 Larpenteur Ave W	
MARTY MARCHIO	962 W LARPENTEUR	
MAUREEN MARCHIO	962 W LARPENTEUR	Maureen Marchio
Richard Arendsee	959 W. LARP.	RICHARD ARENDSEE
Rita Arendsee	958 W Larpenteur	
A E Bellard	954 W. Larpenteur Ave.	
Tronca E Bellard	" "	" "
Theresa Krause	948 Larpenteur Ave W	
Travis Krause	948 Larpenteur Ave W	
GARRET PAITICH	938 Larpenteur Ave.	Garret Paitich
Richard Masson	808 Cottage Ave W	R.A. Masson

Name (printed)

Address

Signature

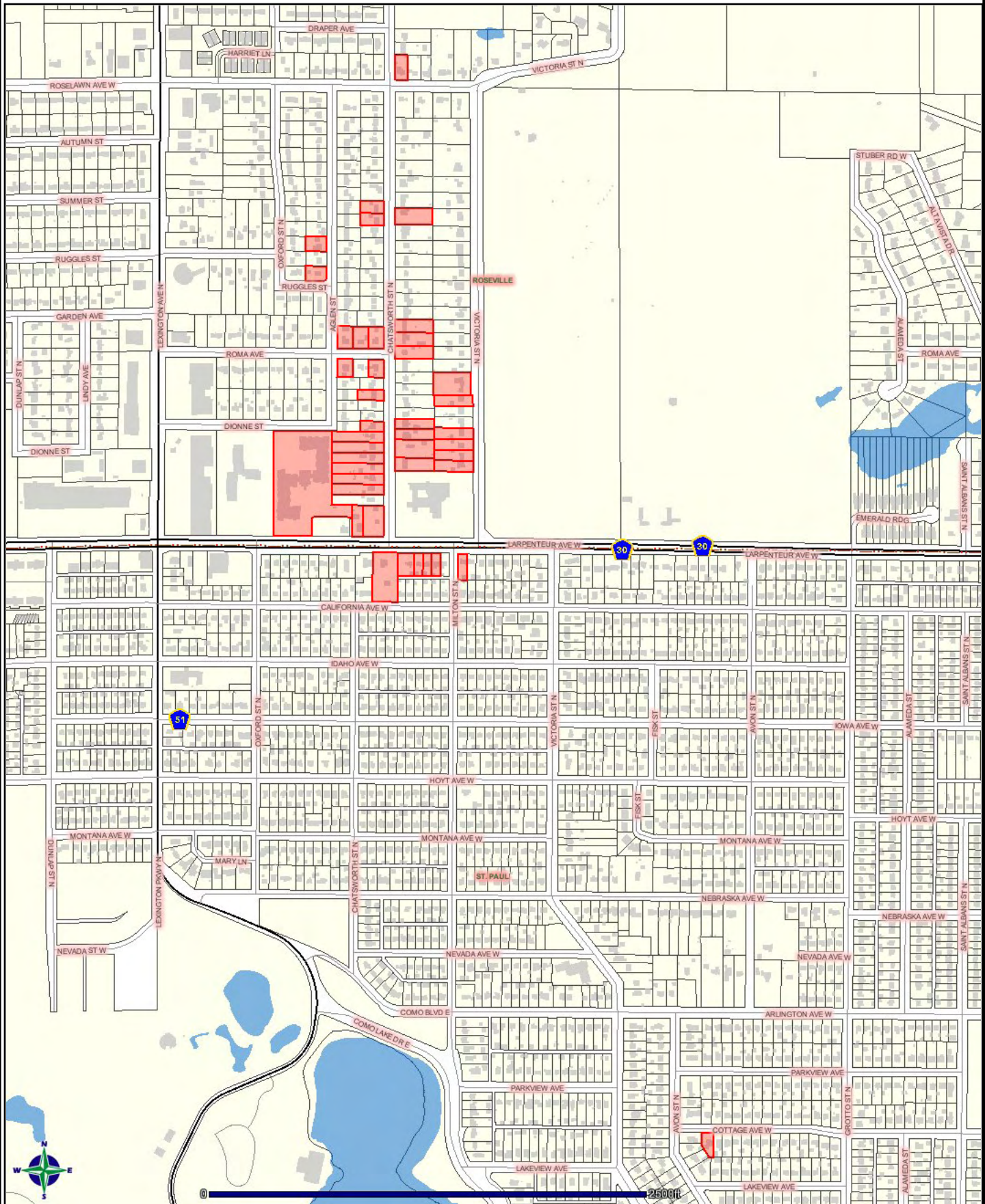
FERRAL ROBINSON 975 ROSEDALE AVE W Ferral Robinson

~~1730 N. Chatsworth~~St

Joanne Kemnitz 1730 N. Chatsworth Joanne M. Kemnitz

Robert Kemnitz 1730 N Chatsworth Robert Kemnitz

"Affected Neighborhood" petition addresses



DISCLAIMER: This map is neither a legally recorded map nor a survey and is not intended to be used as one. This map is a compilation of records, information and data located in various city, county, state and federal offices and other sources regarding the area shown, and is to be used for reference purposes only.

SOURCES: Ramsey County (March 31, 2010), The Lawrence Group; March 31, 2010 for County parcel and property records data; March 2010 for commercial and

Chatsworth (looking North)



Larpenteur Ave (NCPC property looking West)



Larpenteur Ave (NCPC property looking Northwest)



NCPC property looking South



Larpenteur Ave (looking West on St. Paul side)



Larpenteur Ave (looking East on St. Paul side)



NCPC members staking plots on 4-25-2010



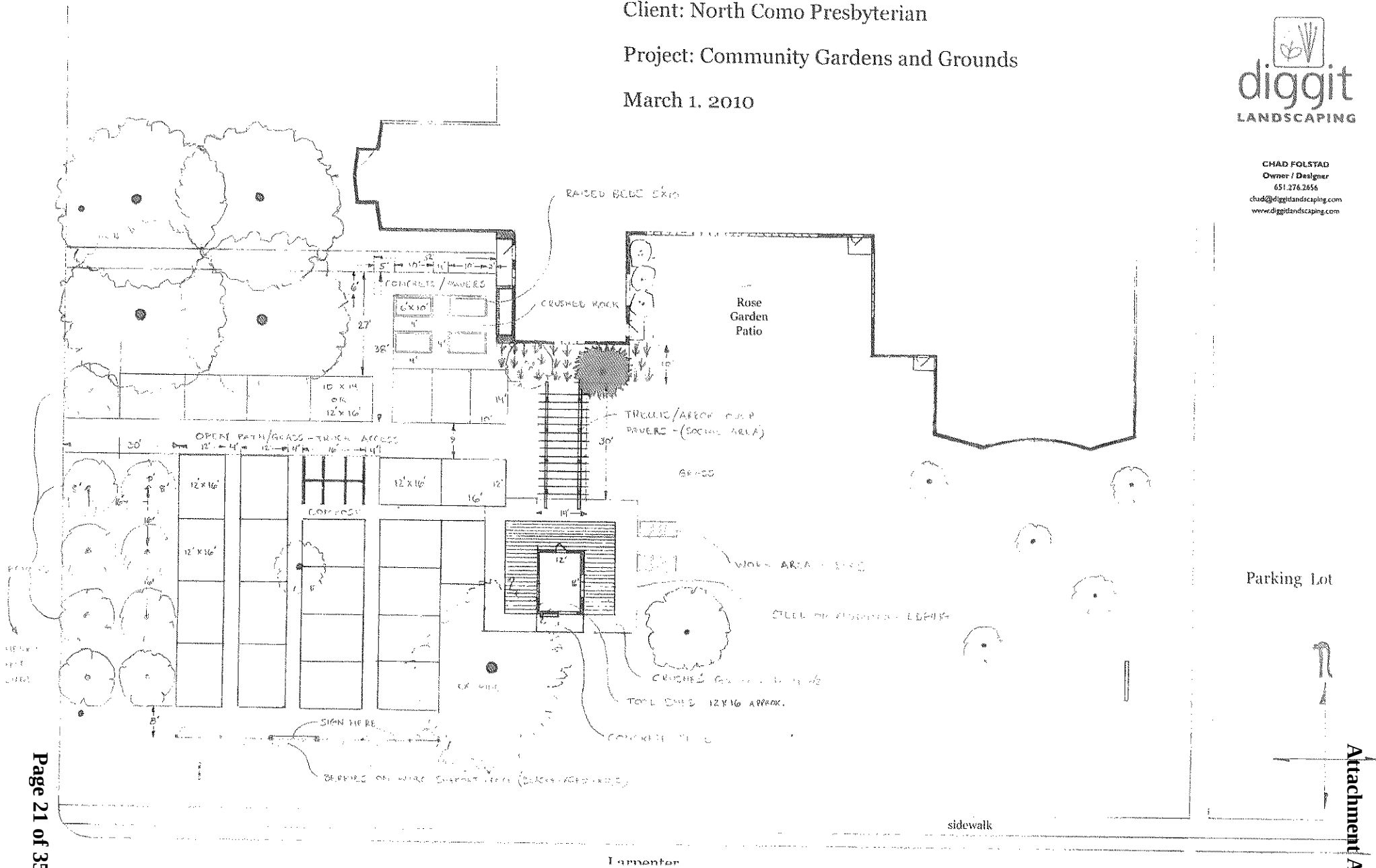
Client: North Como Presbyterian

Project: Community Gardens and Grounds

March 1, 2010



CHAD FOLSTAD
Owner / Designer
651.276.2656
chad@diggitlandscaping.com
www.diggitlandscaping.com





April 8, 2010

North Como Presbyterian Church
Attn: Kimberley Spear and Sue Rickers
965 Larpenteur Avenue
Roseville, MN 55113

RE: Community Gardens

Dear Ms. Spear and Ms. Rickers,

The North Como Presbyterian Church property is zoned R-1 Single-Family Residence District. Although the R-1 zoning district does regulate churches as conditional uses, it does not regulate gardens, so North Como Presbyterian Church would not be required to seek conditional approval of the proposed "community garden" use. There are also no required property line setbacks pertaining to garden uses.

Preliminary plans of the proposed community garden which I have seen included a composting area; City Code requirements for composting are as follows:

409.01: Definitions

COMPOSTING: a microbial process that converts plant materials to a usable organic soil amendment or mulch.

409.02: Applicability

Rules set forward in Chapter 409 are applicable only to parcels designated R-1 Single-Family Residential under Chapter 1004.

409.03: Compost Containers

Composting shall be conducted within a composting area(s) or composting container(s) not to exceed five feet in length, width, or height. Lots of up to ten thousand square feet in area may have up to two composting areas or containers per lot and lots greater than ten thousand square feet in area may have up to three composting areas or containers per lot. Compost containers shall be constructed or made of a durable material; including, but not limited to, sturdy woven wire fencing, rot-resistant wood, or a commercially purchased composting unit that will provide for adequate aeration. Containers shall be constructed and maintained in a structurally sound manner.

409.04: Location on Property

Compost container(s) shall be located in the rear yard no closer than five feet to any rear or side property line and no closer than twenty (20) feet to any habitable building, other than the resident's own home.

409.05: Compost Materials

Material such as grass clippings, leaves, soft-bodied plant materials, straw, sawdust, fruit or vegetable scraps, flowers, lake plants, coffee grounds, eggshells, and commercially

available compost ingredients may be placed in compost container(s). Material such as meat, bones, fat, oils, grease, dairy products, brush greater than one-fourth inch in diameter, human or pet waste, plastics or synthetic fibers shall not be placed in compost container(s).

409.06: Maintenance

Compost materials shall be managed to minimize odor generation and to promote effective decomposition of the materials in a safe, secure and sanitary manner.

409.07: Abatement

All compost containers and/or compost materials not in compliance with this section shall be declared a nuisance and are subject to abatement as provided in Chapter 407 of this Code.

An accessory storage building was also included on the preliminary plan; accessory structures are also permitted in the R-1 zoning district. Accessory buildings require building permits and must be located behind the front (i.e., the Larpeur Avenue side) of the church building and must be set back at least 5 feet from side and rear property lines.

Should you have any questions or comments, please do not hesitate to call me at 651-792-7073.

Sincerely,

CITY OF ROSEVILLE



Bryan Lloyd

Associate Planner

Larry Leiendecker, J.D.

From: "Bryan Lloyd" <bryan.lloyd@ci.roseville.mn.us>
Date: Wednesday, April 14, 2010 12:18 PM
To: <spear.kimberley@ci.roseville.mn.us> <larrylesq@ci.roseville.mn.us>
Cc: "Pat Trudgeon" <pat.trudgeon@ci.roseville.mn.us>; "Thomas Paschke" <thomas.paschke@ci.roseville.mn.us>
Subject: North Como community garden
Dear Ms. Spear and Mr. Leiendecker,

I have reviewed North Como Presbyterian Church's "community garden" plan with other members of Roseville's Planning Division staff: the City Planner and Community Development Director. The plan is consistent with my initial impression of the proposal from having viewed it briefly several weeks ago, and Planning Division staff has unanimously determined that implementation of such a plan would not be in conflict with Roseville's zoning ordinances if the "tool shed" and composting facility are located to the side/rear of the principal church structure as required by the City Code and as I've previously indicated in a letter sent to Ms. Spear.

The only additional specific comments I would make based on further review of the plan are: 1) five of the trees in the "orchard" are shown in the public right-of-way and would need the specific approval of Roseville's Public Works Department; and 2) installation of the proposed sign at the southern side of the community garden could only be allowed through approval of a Master Sign Plan which addresses all signage (existing and future) on a property like this.

More generally, I would encourage Church representatives to continue to engage neighbors of the property, both in Roseville and St. Paul, in an attempt to address their concerns with respect to the project. The City Code and Comprehensive Plan both make references which assume the presence of gardens, although neither document clearly defines or regulates gardens. Nevertheless, Planning Division staff believes that personal and "community" gardens are consistent with the community goals established in the Comprehensive Plan and intends to propose ordinances in the updated zoning code which better define and regulate such uses; while no language pertaining to gardens has yet been drafted, the proposed "community garden" seems to be in line with what we would expect the forthcoming ordinances to allow.

Bryan Lloyd
Associate City Planner
City of Roseville
651-792-7073
bryan.lloyd@ci.roseville.mn.us

Confidentiality Statement: The documents accompanying this transmission contain confidential information that is legally privileged. This information is intended only for the use of the individuals or entities listed above. If you are not the intended recipient, you are hereby notified that any disclosure, copying, distribution, or action taken in reliance on the contents of these documents is strictly prohibited. If you have received this information in error, please notify the sender immediately and arrange for the return or destruction of these documents.

Larry Leiendecker, J.D.

From: "Kimberley Spear" <kimberleyspear@>
Date: Sunday, April 18, 2010 7:30 PM
To: "Larry Leiendecker, J.D." <larrylesq@>
Cc: "jymhubbell" <>; "David Maghakian" <>; "Sue Rickers" <>; "Gavin Watt" <>
Subject: About Planting Seeds of Hope community garden

Hi Larry,

Happy Sunday. I write to respond to your email more fully today. I have copied a couple church members, Pastor David Maghakian (PD) and Jym Hubbell, co-coordinator Sue Rickers, and long time gardener, rose lover, and church member Gavin Watt.

The purpose of this email is to

--provide background and context for the courtesy visit where Sue Rickers and I visited you at home, when later Gavin Watt joined us

--respond to your concerns

--invite you to participate on the presently forming operational garden group

Thank you for your patience while you waited for this epistle. Sorry in advance for the length.

Background and Context - the internal conversation

In 2009-2010 North Como Presbyterian Church (NCPC) concluded its conversation about its renewal. This renewal included cultivating renewed hope and faith in the congregation, the pastor, and our outreach activities. We applied for and were awarded a grant from the Lilly Endowment Inc. to primarily support a sabbatical for our pastor, to renew hope within the congregation through a variety of activities, and a small part of the grant was seed money to develop a community garden, a summer ministry to grow food for the food shelves, and the families of congregants, neighbors and community members who receive plots.

NCPC members involved with the renewal activities invited other members of the church to step into roles of leadership for the community garden: Sue Rickers and I agreed that together we could lead the planning group. In the fall 2009 the planning group began its work. It has been a small group with evolving membership with a slow and steady pace of activity. The group reflected the church population in general, a few members doing the work, a few more members with lots of advice and no time to work. Early in the planning process, the need for a communication plan was identified with congregation and community components. A member to take this on was not found. The plan was therefore done more slowly and sporadically than was ideal.

The group toured community gardens last year, and we attended gardening conferences and presentations for our education. We decided that indeed we could do the community garden. We adopted the Twin Cities Community Garden Start-Up Guide available on the GardeningMatters.org website as the guide to our organization, agreements, worksheets, etc. At this time we approached District 10 in St. Paul, the City of Roseville and Falcon Heights to learn what they were doing related to community gardens. We talked to the City of Roseville about requirements that are necessary for a community garden on the church property. Verbally we received advice about the garden and curb cuts; no problems were identified at that time.

At the same time we surveyed the congregation to ask whether they were interested in a community garden, if they wanted a plot, did they object to the garden. Those responding were supportive of having a garden, and a group of 8 plots were designated for church uses - for members, for the pre-school, for the food shelves. Next we had a landscape architect draft an overall plan for the community garden, revised it in several ways, and decided that a phased approach to the garden was important - do a small garden successfully and grow the effort when and if the time is right.

We talked about engaging the community, both potential gardeners and neighbors of the church. We

started with the gardener conversations. We learned that there were waiting lists for community gardens plots in Roseville and the surrounding area. Hence, no marketing of the plots was likely necessary. We discussed how to do outreach to gardeners from other communities, such as families from Europe, Asia, African who live in apartments nearby and want to grow vegetables.

We talked about engaging the neighborhood. Early in the planning process we talked about talking to you, Larry, because of the beauty of your property, your demonstrated sense of design, and the benefit of having you engaged early in the neighborhood conversations. Our tours of community gardens taught us that often a neighbor adjacent to the gardens is the 'eyes on the garden' person who can welcome and redirect gardeners, or alert coordinators as needed. We hoped you could be that person, or one of those people.

The Neighborhood Conversation Begins

After an afternoon meeting at the church about the community garden, feeling enthusiastic and pleased with the latest version of the plan, Sue and I decided that we'd stop by to introduce ourselves and hopefully engage you with plans, ideally invite you to join us in future planning. As you know, Larry, that conversation didn't go as we planned.

Sue and I were surprised by the intensity of comments. We heard comments about zoning and permit concerns. We regretted that we didn't get to inviting you into the planning.

We did hear your concerns, Larry, and wanted to re-check the responses with the City of Roseville about land use questions. I personally called three parties in the City. Messages were all forwarded to Brian Lloyd. He and I talked extensively. He agreed to write a letter to state City positions. He emailed the letter to me and mailed a version to the church. He later requested to see the landscape plan again, and emailed a few other comments to you and me, as you know.

We continued to confer internally about the City of Roseville letter, the community garden planning, and our thoughts about next steps.

We continued to respond to gardeners who called us, people who talked to the City of Roseville and surrounding cities and called Sue and I.

We continued to plan for a community meeting. After our meeting on Saturday, April 17, we believe we have our plans clear enough to be able to host a community meeting. The purpose of the meeting is to share the congregational renewal story, the grant and the community garden, the plans, and ask for neighbor comments.

Concerns

In general, as you see from the background information, the community garden has been an idea under consideration for two years as part of congregational renewal. We continue to talk with the congregation, have two members of the appropriate committee of the church on the community garden planning group, and continue to keep the leaders of the church informed about the community garden planning.

Specifically, regarding

1) Size, scope, and purpose of the project

I understand that you have talked with Brian Lloyd, and he has responded to both of us regarding the plan. We have taken your concerns forward to the appropriate committees of the church and continue to keep the leaders of the church informed.

2) Nuisances including animals

We have discussed this issue regarding compost and the plots themselves. We anticipate that gardener agreements will address many issues, and an operational group/governing board will address nuisance issues as they come up.

3) Soil testing

We are a very environmentally concerned church in general. We have tested the soil and have a report with

results. We have another test for specific substances under way. We are using the UM extension service and other UM resources.

4) Watering/ irrigation planning to prevent blowing dirt

We plan to use hoses the first year to learn needs, costs, issues. Once clear on preferences, we plan to run pipes underground to more set facets. Regarding blowing dirt, we were concerned with this early on too, so we decided to not plow the area (lots of potential issues), but rather rototill a limited number of plots, keeping grass a mowers width apart rows of plots. The grass works well enough for wheelchairs and motorized scooter too, important to many of our congregation. Perhaps the operations group can address mulch or straw to cover beds year round.

5) Compost

We plan to have the compost piles off the front of the church, as requested by the city. Gavin is a master of composting, so we plan to use his expertise to find the right spot with the right sunlight and work on the right water/nutrients, so that odor and the visual is managed.

6) Screening

We haven't talked about screening much. Our first plan had a fence. Our finances are limited. We do have several ideas for garden beds around the perimeter.

7) Master gardeners/ agricultural consultant

We have two master gardeners available to consult, as soon as we are ready. We had one attend one meeting, he had good ideas, but our list of questions and our plans were not complete at that time. We plan to invite him and others back soon.

8) Neighborhood engagement

As described above, Sue and I stopped by your home as a courtesy to invite you into the process. We were not ready at that time to engage the entire neighborhood. We are now ready and are planning the meeting agenda, etc. Hosting a community gathering has been a part of your conversations from the beginning.

9) Planning

We have been internally talking for a time. We are ready now to talk with all neighbors and gather their good ideas and concerns.

10) City council processes

One of the conversations with Brian Lloyd involved a discussion of access to processes of the city when the city does not see a cause for use of the processes. I'd refer you back to Brian to discuss these concerns directly. I sensed that the city and planning commission were likely to not be willing to hold meetings without standing, for good reasons.

11) Personal vs. neighborhood concerns

Larry, to clarify the questions that I had regarding the second visit that you and I had on a recent Sunday afternoon, I wanted to learn your thinking about a visually pleasing design for the side of our property on Chatsworth. Nothing more or less. I anticipate much variety in responses, if I talked personally to all neighbors on Larpenteur and Chatsworth.

I hope these responses are helpful.

An Invitation

Lastly, I wanted to offer to visit with you in person about the operational group that is forming. Gavin and Sue may be available to join us too. From what I have heard of your interests and can see of your property, you have a strong sense of landscape design, a strong commitment to due process and fairness, and a devotion to your neighborhood. We believe that indeed you and your neighbors' comments will improve our plans.

Hindsight is 20/20. Clearly the visit to your home triggered responses that we did not anticipate. I am personally sorry for the stress, wonderings, and frustration that the visit created. I am sorry that the introduction to the community garden effort to the neighbors on Larpenteur and

Chatsworth may begin in a place a bit far afield from the theme of renewal. With your help, perhaps we all can move together to a place of renewal... and in time to a place where we see each other as good neighbors.

In Faith,
Kim

P.S. I work in Rochester, and am in St. Paul by 7 pm evenings. Give me a call if you'd like to visit. My cell phone is 507-202-1374

----- Original Message -----

From: David Maghakian
To: 'Larry Leiendecker, J.D.'
Cc: 'Kimberley Spear'; jymhubbell
Sent: Friday, April 16, 2010 3:21 PM
Subject: RE: North Como - "garden" plans

Dear Larry,

I did receive your email. We are in discussion on how best to be "good neighbors". Please know we will be in touch. I'd love to stop by soon, sound okay? You are more than welcome to join us for worship on Sunday – 9:45 :)

Peace and Blessings,
PD

From: Larry Leiendecker, J.D. [mailto:larrylesq@comcast.net]

Sent: Friday, April 16, 2010 1:09 PM

To: Spear, Kimberley M.

Cc: GeriF@ [REDACTED]; DavidM@ [REDACTED] ncpc@ [REDACTED]

ChrisS@ [REDACTED]; bryan.lloyd@ci.roseville.mn.us

Subject: Re: North Como - "garden" plans

Dear Kim:

Thank you for your "courtesy" reply.

With Respect,

Larry

From: Spear, Kimberley M.

Sent: Friday, April 16, 2010 1:00 PM

To: Larry Leiendecker, J.D. ; jymhubbell [REDACTED]

Cc: GeriF@ [REDACTED]; DavidM@ [REDACTED] ncpc@ [REDACTED]

ChrisS@ [REDACTED]; bryan.lloyd@ci.roseville.mn.us ; pat.trudgeon@ci.roseville.mn.us ;
thomas.paschke@ci.roseville.mn.us

Subject: RE: North Como - "garden" plans

Hi Larry,
Thanks for the note. I write to acknowledge your emails.

We appreciate the timeliness of your emails. The expectation with we will respond within certain timeframe is a bit perplexing. We will be in touch soon with fully considered responses.

Please consider that silence only means we live busy lives, just like you. We are volunteers working on the garden, around full time employment, school commitments, other obligations.

Thanks again.
Kim

Kimberley M. Spear | Department of Development | Mayo Clinic | Cell: 507-202-1374

From: Larry Leiendecker, J.D. [mailto:larrylesq@comcast.net]
Sent: Friday, April 16, 2010 12:44 PM
To: jymhubbell@n[REDACTED]
Cc: GeriF@[REDACTED]; DavidM@[REDACTED]; Spear, Kimberley M.; ncpc@[REDACTED]; ChrisS@[REDACTED]; bryan.lloyd@ci.roseville.mn.us; pat.trudgeon@ci.roseville.mn.us; thomas.paschke@ci.roseville.mn.us
Subject: North Como - "garden" plans

Dear Mr. Hubbell:

I am sending this email to you (and to the church administration) because it seems that as the North Como Treasurer you appear to be the only board member, or "Session" member, listed on the website as a contact. I apologize if I have mistaken your "treasurer" status as being part of the governing body of the church. If I am mistaken, I would appreciate it if you would forward this message on to the proper party(s).

As you may already know, I am a neighbor of the church. You might also know that the church plans a "community garden" in its front lawn and that the ground-breaking is scheduled sometime in May (at least this is what I've been told.) Below you will find email correspondence that I sent to Kim Spear and forwarded yesterday to Pastor Dave. I have yet to receive a response - not even an acknowledgement of receipt or a courtesy response to this correspondence. As you will note from Kim Spear's prior email, (see below) she has conveyed the church's desire to work with the neighborhood. However, it now appears from the lack of response to my follow-up email that the real intended audience of her particular email was the assistant city planner (Bryan Lloyd) and not necessarily me. This is too bad.

Equally disturbing is that Pastor Dave has not responded - even as a courtesy - to my correspondence. I find this particularly perplexing. In this day and age of technology, it takes but two seconds to merely write back and say: "thanks I will look into it and get back to you;" "I'm presently busy, but will get back to you in a few days;" or "boy, I didn't know you felt this way, let's meet and discuss..."

So, I am left with no choice but to bring this to the attention of the governing body of the church to make sure that it knows about the problem this "so-called "garden" is causing in the neighborhood. As the planned groundbreaking is fast approaching, "time is of the essence," as they say, and the silence on the church's end to even simple email correspondence is pushing the issue in a direction that I don't think anybody wants. It most certainly evidences the level of stress it is causing in the neighborhood. Indeed, its been the very lack of communication with the neighborhood that has prompted the deep concern, stress, sense of urgency, and debate thus far. This is not neighborly at all and is quite shocking coming from a

religious institution I have to say. In fact, I never imagined that I would ever feel so personally dismayed about my church neighbor.

Below you will see the copies of the email that were previously sent. These should provide you, and the governing body, with the necessary understanding of the issue/dispute so far.

I would only add that having further opportunity to examine the plans; that Bryan Lloyd at the city was kind enough to provide me (see attached); that the very fact that the church is planning a sign to advertise the "community garden," and its 26 plots for rent, indeed make the "garden" venture an enterprise to grow produce for public consumption, and is yet an additional "occupation" of the church in an R1 district that is not confined to the dwelling. (See Ord. § 1004.01(G)(2)(a))(see attached). I look forward to hearing from you.

With Respect,

Larry Leiendecker (your neighbor)

=====

From: Larry Leiendecker, J.D.
Sent: Thursday, April 15, 2010 1:19 PM
To: DavidM@; ncpc@
Subject: Fw: North Como community garden

Dear Pastor Dave:

Below is an email sent to Kim Spear yesterday regarding the church's plans. As you are mentioned in it, and it concerns the church, its only fair that you see what is said and what is being done (and not done) in the church's name.

With Respect,

Larry Leiendecker (your neighbor).

From: Larry Leiendecker, J.D.
Sent: Wednesday, April 14, 2010 11:45 PM
To: Spear, Kimberley M.
Cc: bryan.lloyd@ci.roseville.mn.us ; pat.trudgeon@ci.roseville.mn.us ; thomas.paschke@ci.roseville.mn.us
Subject: Re: North Como community garden

Dear Kim:

This is in reply to the email I received from you today. I hope that you don't mind me communicating with you directly. I think that you'll agree that this seems to be the better approach than standing in the middle of the street or having Bryan Lloyd being the intermediary. (I have copied him and others at the city on this email to keep them in the loop as I suspect that they are still quite interested in the situation and would be interested in the comments regarding the city planning department)

First off, I need to convey that while I am a lawyer, I do not represent anyone, but myself, with regard to the "garden" issue. Nor could I represent anyone due to the inherent conflict of

interest involved. So, please understand that when dealing with me I am acting solely on my own behalf and not on behalf of the affected neighborhood or any one person living in the affected neighborhood.

With this said, I have spoken with some of my neighbors. All that I spoke with explained to me that they haven't yet been notified by the church of the plans. Judging by what I can gather it has only been me that was notified (albeit with brief opportunity to examine the preliminary plans). I believe that this needs to change. As per your email, you are planning a meeting to discuss notification to the neighborhood. While the language used seems a bit noncommittal to actually having a meeting or providing notice - may I suggest using the church as a meeting place (coffee & cookies etc.) to show all the affected neighbors the plans and also to provide an opportunity to answer questions and concerns? May I also suggest having this meeting before ground-breaking takes place. Further, in my experience, the more information that is provided, the less people get concerned about things that may have been easily dispelled by full and complete disclosure. I have come to understand in my experience in advising corporations that this is an essential tool in risk management and overall Corporate Social Responsibility (CSR) endeavors.

In speaking with my neighbors I can confidently say that the initial reaction is very negative. Full and complete disclosure would likely dispel some of the concerns that I have been hearing. And as you know, this "notice" and disclosure issue has been my primary concern. Obviously, the city is in somewhat of a bad situation because "community gardens" aren't contemplated by the city code and they (city planning dep't) *thinks* that it may not be able to force you to provide notice to the neighbors for something that isn't specifically listed as a "conditional use" or "nonconforming use" et cetera. I vehemently disagree with this as will be made apparent below.

Nevertheless, the neighbors I have spoken with have great concerns over the size and scope of the planned project. While the city does not actually regulate "gardens" in R1 districts, the concern of the neighborhood, mine obviously included, is that what is planned is not a "private garden" as the R1 district obviously contemplates, but is rather a material alteration of the land to an "agricultural" use that 1) is not even contemplated by any city zoning designation, description, or permitted use; 2) is a rental of various portions/plots of land by agreement to others for the specific purpose of growing produce, and 3) is, moreover, being used to grow produce for public (as opposed to private) consumption. Thus, it is not the "*label*" that is placed on the project, but the character and substance of the project that we are focusing on. This is where the city planning department went very wrong.

Indeed, the mere fact that part of the church's plan is labeled as an "Orchard" dispels the "garden" land use aspect of what you have planned insofar as it conveys a purpose that is indeed commercial and enterprising in character and context - whether for-profit or nonprofit makes no difference. It is an enterprise to grow produce for public consumption.

More Importantly: one has to seriously wonder if I could use my land to grow sod (a "sod garden" if you will) and provide it for profit or for charity? I would then be using a significant portion of my land to produce sod for public use and consumption. Such a home occupation would not be permitted in the residential ordinance because it is not confined to the dwelling. "The home occupation shall be conducted entirely within the dwelling." (Ord. § 1004.01(G)(2)(a)). Further, only the homeowner plus one non-resident can be engaged in the home occupation. (Ord. § 1004.01(G)(2)(b)). Basically, the church needs to make up its mind what it wants to be. A church, a school, a parking facility, or a share-cropping enterprise in a

resident district that only allows home occupations to be conducted within the dwelling and performed by the resident plus one non-resident at any given time. (*Id.*) The renting of 26 plots for share-cropping (for charity or otherwise) is obviously outdoor and involves more than the resident plus one non-resident.

Similarly important to recognize is that a "metal foundry" for instance (as Bryan Lloyd noted to me) is not listed as a permitted use, non-permitted use, or conditional use in an R1 district, but the city would obviously not permit that being placed in an R1 area. Likewise agriculture (or share cropping) can also be constitutionally regulated as well under the city's mandate to regulate the general welfare of the city. So, I am quite baffled at the city planning department's cursory and very simplistic view of the "garden" label that has been conveniently placed on the proposed activity which has blindly led the department to its hands off approach to a "*land use*" that manifestly does not fit within the residential scheme as is illustrated by both the current zoning code and the comprehensive plan. Moreover, the proposed use also qualifies as a home occupation that is clearly not permitted by the current residential ordinance.

Apart from the legalistic "land use" dispute that is going on here is the concern from some neighbors that if the grown product is for public consumption (food shelf or otherwise) then it might well be regulated by the state agriculture rules, if not the USDA regulations. (I have no personal knowledge of the specifics of these rules BTW.) What's more, one neighbor also brought up a pollution concern. They recalled that when the condominiums were proposed nearby the contractor and land owner involved had to make sure the MN Pollution Control Agency performed soil testing to make sure any possible contaminants wouldn't be spread by the moving of dirt during construction. This neighbor has concerns that without similar testing one shouldn't be growing food for public consumption on land without knowing that it is environmentally sound (safe) for such use.

Another neighbor explained that she works for the landscape arboretum and works with many growers who might be willing to donate screening type plants to the project. While she too had concerns over the size and scope of your planned project; because of the pests, deer, and other nuisances (noise, blowing dirt, eye sore, etc) that it might attract; she suggested that if there is enough screening, management, and irrigation (to keep blowing dirt down) she would be more accepting of the proposed community garden idea.

So, as you can see, everybody has varying degrees of concern and obviously impact. To be sure, the initial impression is negative, but with more thorough information the project might garner neighborhood acceptance in the end. I've expressed to you my deep concerns and I will repeat them briefly below just to make a written record of them. Full and complete disclosure will go along way to dispelling all the neighborhood's concerns. May I suggest once again that you be very diligent in your efforts to provide notice to all affected neighbors. This is what good neighbors do. They work together. Like I explained to you last Saturday evening, I would expect no less of a religious institution that promotes righteous conduct toward others.

My primary/initial concerns:

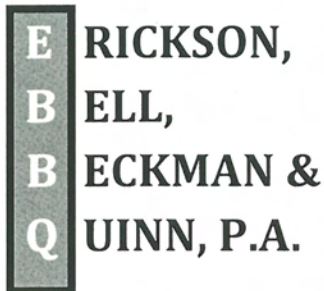
1) Size, scope, and purpose of the project is agricultural (for a public purpose) and not a private "garden" as contemplated in R1 district - or by the conditional use as a church, school or interim parking facility for the state fair. Rather, as one neighbor has pointed out - its character is "share-cropping" - not gardening. Thus, it requires public notice and regulation. It also qualifies as a home occupation in a residential district - such an occupation is not allowed

under the ordinance.

- 2) Gardening (if that is what we are going to call it) of the size and scope contemplated brings with it unanticipated nuisances (various pests, animals etc).
- 3) Pollution issues - soil testing. The regular moving of contaminated dirt causes unintended health consequences to neighbors - to say nothing of growing food in such soil. Soil testing therefore is required.
- 4) Lack of irrigation planning to prevent blowing dirt - irrigation also promotes biological activity in the soil that reduces smell.
- 5) Speaking of smell - the composting site appears not to be enclosed or covered. It is also of significant size to cause significant odor to the neighborhood especially on a windy day.
- 6) No screening (deciduous trees don't provide screening 7 months out of the year - while conifers do it for 12 months). I recall something about a requirement for a certain percentage of conifer trees being required on Roseville property. Nonetheless, I am quite positive that most of the affected neighbors want permanent screening.
- 7) Lack of agricultural consultant (e.g., U of M extension service) to advise the garden to prevent nuisances and to promote growing success.
- 8) Lack of public comment - this is a huge concern of mine. Size and scope materially alters the characteristics of the neighborhood. It also materially affects land values. Public needs input. The hair stands up on the back of my neck when I think about the lack of public notice so far. It is simply a fairness issue.
- 9) Lack of planning, the go ahead is way too soon - without amelioration of neighborhood concerns beforehand it appears that the church doesn't really care about the neighborhood - (the tax paying neighborhood BTW.)
- 10) Land use decisions of the church property are being determined by persons that don't live in the affected neighborhood. This is also a notice and fairness issue that needs addressing. This also counsels in favor of city council intervention.
- 11) Any accommodation of my concerns, (not specifically addressed by any communication thus far) does not address any concerns of other residents. What you agree to do for me might impose on my neighbor and might not be fair to him/her. It may also affect the value of his/her land.

With this said, I wish to repeat that I personally am very willing to work with you and the church to accommodate my concerns (and hopefully that of my neighbors as they too deserve an active voice). Obviously, we do not have to go down the drastic and unfortunate road that sometimes accompanies situations where neighbors are unwilling to work together. This is why I have been vehemently focusing on public input. This is also why I believe that the city must intervene - as I am certain that it is mandated by law to do. I believe that all the neighbors are willing to work with the church. But in order to work with the church the neighborhood must be completely informed. Moreover, the neighborhood should also be informed by the figurehead of the church - the Pastor. As the church's figurehead, Pastor Dave should be a very prominent member of the neighborhood. Unfortunately, heretofore, this has not been the case in my experience or knowledge. Having Pastor Dave out and about introducing himself, shaking hands, explaining plans, and generally being a friend in the neighborhood would go along way to garnering support for the church - to say nothing of its "community garden" endeavor.

- >
- > The only additional specific comments I would make based on further
- > review of the plan are: 1) five of the trees in the "orchard" are shown
- > in the public right-of-way and would need the specific approval of
- > Roseville's Public Works Department; and 2) installation of the proposed
- > sign at the southern side of the community garden could only be allowed
- > through approval of a Master Sign Plan which addresses all signage
- > (existing and future) on a property like this.
- >
- > More generally, I would encourage Church representatives to continue to
- > engage neighbors of the property, both in Roseville and St. Paul, in an
- > attempt to address their concerns with respect to the project. The City
- > Code and Comprehensive Plan both make references which assume the
- > presence of gardens, although neither document clearly defines or
- > regulates gardens. Nevertheless, Planning Division staff believes that
- > personal and "community" gardens are consistent with the community goals
- > established in the Comprehensive Plan and intends to propose ordinances
- > in the updated zoning code which better define and regulate such uses;
- > while no language pertaining to gardens has yet been drafted, the
- > proposed "community garden" seems to be in line with what we would
- > expect the forthcoming ordinances to allow.
- >
- > Bryan Lloyd
- > Associate City Planner
- > City of Roseville
- > 651-792-7073
- > bryan.lloyd@ci.roseville.mn.us
- >
- >



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Kari L. Quinn
Mark F. Gaughan
James C. Erickson, Jr.

Robert C. Bell – *of counsel*

MEMORANDUM

TO: Mayor and City Council Members

CC: Mr. Bill Malinen, Mr. Pat Trudgeon, Mr. Thomas Paschke,
Mr. Bryan Lloyd

FROM: Mark Gaughan 

DATE: May 3, 2010

RE: Appeal of City Planning Division's "Administrative Determination"
on the proposed use of the North Como Presbyterian Church
property

I have reviewed Attorney Liendecker's appeal materials in the above-referenced matter. I have also reviewed the materials forwarded to our office including the appeal documents, pictures, a Diggit Landscaping design, and various correspondence between NCPC personnel, Bryan Lloyd, and Larry Leiendecker.

The issues are primarily factual issues. However, the appeal does cite Minnesota statutes and caselaw, so review of those citations is appropriate.

The appeal raised four bases to overturn the Planning Division's administrative determination: (1) the proposed land use is agricultural; (2) the proposed land use violates the R-1 zoning ordinance; (3) the proposed land use violates Minn. Stat. s 315.47; and (4) the proposed land use is likely to cause public nuisances.

The first two bases for the appeal dovetail with each other. The appeal first argues that the community garden is an outright agricultural land use, rather than a typical residential garden, and as such is not a permitted use under the City's R-1 zoning ordinance. Regarding the appeal's citation of Minnesota Statutes section 273.13 (see pages 2 and 3 of the appeal) as evidence that the land use is purely agricultural, that statute was expressly enacted solely for the purposes of taxation of property. Therefore, this statute does not provide any precedent or authority upon which the City must rely in characterizing the proposed land use. Similarly, the appeal's third basis claims that the proposed land use violates Minnesota Statutes section 315.47. This statute,

however, pertains solely to property owned by YMCAs and YWCAs. As such this basis of the appeal is irrelevant.

The appeal does, however, correctly cite Ordinance 1004.02 as the applicable residential district zoning code. The appeal claims that urban agriculture qualifies as a “moderate impact quasi-public use” under the ordinance and therefore requires a Conditional Use Permit (CUP). This is the crux of the entire issue. Under the Ordinance 1004.02, a “moderate impact quasi-public use” does require a CUP, whereas a “low impact quasi-public use” does not. The respective definitions of such uses are found in Ordinance 1002.02.

For both low impact and moderate impact land uses, the following definitions apply:

“Public use”: a use of any area, building or structure held, used or controlled exclusively for public purposes by any department or branch of any government.

“Quasi-public use”: any use which is essentially public as in its services rendered, although it is under private control or ownership.

Clearly, the land use at NCPC does not satisfy the definition of “public use” as a church is not a governmental use. If it is “quasi-public” then you must determine if it is “low impact” or “moderate impact”. Low impact is a permitted use, moderate requires a CUP. Therefore, the Council must determine if the proposed land use is a “low impact quasi-public use”, a “moderate impact quasi-public use,” or

A **“low impact quasi-public use”** means activities that are:

- (1) Sponsored by a quasi-public organization;
- (2) The activities have minor impact on the surrounding properties, in terms of:
 - (a) traffic generation;
 - (b) hours of operation;
 - (c) activities conducted; or
 - (d) light or noise generated.
- (3) Also, the land use must require:
 - (a) no more than 10 employees on site for any one activity; and
 - (b) no more than 15 parking spaces for any one activity exclusive of public assembly.
- (4) Further, the land use must not involve:
 - (a) retailing;
 - (c) wholesaling; or
 - (d) warehousing;

of materials other than normal office supplies.

(5) Finally, the land use renders services that are essentially public.

A determination that a land use is a “low impact quasi-public use” must meet the five (5) above requirements. If the land use fails to satisfy any of the five (5) above inquiries, then it is not a “low impact quasi-public use” under City Code.

A “**moderate impact quasi-public use**” means activities that are:

(1) Sponsored by a quasi-public organization;

(2) The activities have a moderate impact on the surrounding properties, in terms of:

- (a) area requirements;
- (b) traffic generation;
- (c) parking requirements;
- (d) hours of operation;
- (e) number of employees; or
- (f) light or noise generated.

(3) Moderate impact on surrounding properties exists when the land use requires:

- (a) more than 10 employees on site for any one activity; or
- (b) more than 15 parking spaces for any one activity exclusive of those parking spaces required for public assembly.

(4) Also, the land use must not involve:

- (a) retailing;
- (b) wholesaling; or
- (c) warehousing;

of materials other than normal office supplies.

(5) Finally, the land use renders services that are essentially public.

A determination that a land use is a “moderate impact quasi-public use” must meet the five (5) above requirements. If the land use fails to satisfy any of the five (5) above inquiries, then it is not a “moderate impact quasi-public use” under City Code.

The city council in its analysis will need to determine if the church is a “quasi-public organization.” It will also need to determine if the community garden requires more than 15 parking spaces for “public assembly” and whether it is an “essentially public” service.

The appeal’s fourth basis claims that the proposed land use has a significant likelihood of causing nuisances. The appeal cites potential vandalism and pest infestation as examples of such

nuisances. This basis likely will be accounted for in the City's factual determination of whether the level of impact on surrounding properties in terms of activities conducted, per the second inquiry in "low impact quasi-public use" analysis.

Conclusion

The City's determination in the face of the present appeal largely will be a factual analysis, rather than a legal analysis. The Minnesota Statutes cited in the appeal are not applicable or authoritative to the issues herein. Factual determinations regarding the nature, scope, and impact of the proposed land are at issue. In conducting such analysis, the City must apply its factual conclusions to the elemental inquiries required of the City Code's definitions of "low impact quasi-public use" and "moderate impact quasi-public use."

MFG/kmw

May 19, 2010

Bill Malinen
Roseville City Manager
2660 Civic Center Drive
Roseville, MN 55113

Re: Petition to Appeal Planning Division's "Administrative Determination" on the proposed use of North Como Presbyterian Church property."

Dear Mr. Malinen:

We are writing to you in response to a letter you received dated April 26, 2010. This letter concerned an appeal of the City Planning Division's administrative determination on the proposed use of North Como Presbyterian Church (NCPC) property.

Our church would like to start a community garden on our property. Earlier this year we consulted with Roseville's Planning Division and were advised that no conditional use permit would be required. Upon reviewing our plans the Planning Division did require certain changes relating to the placement of tool sheds and compost piles. We have incorporated these changes into our plans. The letter from concerned neighbors you received earlier asserts that the City of Roseville has erred in its administrative determination and urges the City to require that NCPC apply for a conditional use permit.

We will do whatever the City of Roseville requires us to do. Your City Planning Division is represented by responsive, knowledgeable staff, and we appreciate the outstanding service provided. We defer to the City Planning Division as the ultimate authority on zoning and property use requirements. It is totally appropriate for Roseville (and surrounding community) citizens to have the right to appeal this administrative determination and for the City to give their concerns serious consideration. Hopefully, whatever decision is made by the City on this matter is made because it is consistent with prior and future administrative determinations involving similar circumstances.

Our garden plans were moving right along until we learned of this petition from our immediate neighbors and the review it will receive at the May 24th City Council meeting. Even though not required to do so, we hosted two community meetings on May 1 and May 2 at NCPC. Some of the most concerned petitioners who signed the letter attended these meetings. Attendees had the opportunity to learn more about the community garden project. Our neighbors

provided many good ideas for improving the garden plans and/or addressing some of their concerns. We are including some of our immediate neighbors in the group of people who will oversee the implementation and management of the garden. These meetings did nothing to address the neighbor's concern that NCPC be required to obtain a conditional use permit. But if we do proceed as planned we are off to a good start working with our immediate neighbors.

We are delighted that our community garden will shorten the waiting list of Roseville residents wanting community garden plots. Some of the plots are intended to provide fresh produce to area food shelves. Some are intended as a form of outreach to immigrant communities such as the Karen community residents in Roseville. The garden plan includes raised garden beds that are handicapped accessible (an Eagle Scout project). Not all of this will be accomplished in the first year of operation. We are starting small with just 15-18 plots planned for this summer and may expand the scope of the operation, in future years. We view all of this activity totally within the mission of our church. Community gardens building community—they bring people together and that builds networks of support. We already conduct food drives and support Minnesota Foodshare financially. Providing fresh produce to local food shelves is yet another way to help those less fortunate than us. And what better way to welcome and assist our immigrant population than to provide them opportunities to do the things they do well—like growing vegetables. We also believe that growing locally without pesticides is respecting God's creation.

Our garden plots will be in plain sight of neighbors' homes and the 20,000/day cars driving down Larpenteur Avenue. Everyone—NCPC, our neighbors and the City of Roseville-- wants this development to be visually appealing. Therefore, our garden plan includes elements of screening and landscaping that are not present in most community garden plans. The exposed boundaries of the garden will be bordered by flowers and/or shrubbery. In the near term this will have to be accomplished by fast-growing, tall annuals. In the long term we expect the screening will be accomplished by perennials, shrubbery or trees.

The assertion that "*NCPC's Proposed Land Use has A Significant Likelihood Of Causing Nuisances*" warrants comment.

- Gardeners will be instructed to park in the church parking lot nearest the gardens. That should address concerns that gardeners might park their cars on Chatsworth (which is their legal right).
- Regarding the potential for bear, deer and other "pests" being attracted to the neighborhood, consider the fact that the neighborhood already has a community garden one block away (Greenhouse Village), numerous private vegetable gardens in the surrounding neighborhood, numerous bird feeders and birdbaths and private ponds. This neighborhood is already a Garden of Eden for any pest that needs something to eat or

- drink. If the pests aren't already present, adding 16 garden plots on NCPC property certainly isn't going to cause them to appear.
- Regarding rancid odors—experienced gardeners know how to properly manage a compost pile so there are no rancid odors. There is a large compost pile just one block away at Greenhouse Village. Many of the residents in the area have compost piles. This just isn't going to be a problem. (We do not plan to have a compost pile in the first year of operation).
 - Regarding vandalism—yes, the garden may be vandalized. NCPC has maintained flower gardens along Larpenteur Avenue for years. Kids have driven bicycles right through the flower beds just for the heck of it. So, should we turn our flower beds back to grass? We fully expect there will be some incidents of kids messing with the gardens. That's a risk we are willing to take—it's a problem that all community gardens have to deal with. Roseville already has a community garden—you can judge from your own experience how serious an issue this and all the other nuisance issues really are. We have a hard time believing that adding 15-18 garden plots is going to increase crime in our immediate neighborhood.

We will be very disappointed if the City of Roseville concludes that a conditional use permit is required. This would cause at least a one-year delay in our implementation and a great disappointment to those of our Roseville (and surrounding communities) neighbors who are counting on this new community garden.

We have enclosed the community garden resources that have been used, planning documents for the NCPC Community Garden, entitled Planting Seeds of Hope Community Garden, and list of interested gardeners for your convenience.

Thank you for this opportunity to provide this additional information.

Respectfully Yours,



Kimberley M. Spear
Planning Group Coordinator
Planting Seeds of Hope Community Garden
North Como Presbyterian Church

CC: Earl Hoekman, Corporation Committee Chair, NCPC

Enclosures

Twin Cities Community Garden Start-Up Guide

PSH Gardener Agreement 2010 – draft 4

Multiple Community Outreach: congregational flyer, congregational survey,
community gathering flyer, community gathering agenda

Soil Sample Results

Metro Congregations with Community Gardens

Gardening Matters: Faith-Based Community Gardens

PSH Community Garden plot allocation list

NCPC Community Garden and Grounds plan – draft 2



Promoting and Preserving Community Gardening across the Twin Cities
 info@gardeningmatters.org 612-492-8964 www.gardeningmatters.org

Twin Cities COMMUNITY GARDEN START-UP GUIDE

Adapted for the Twin Cities metro area by GardenWorks, now Gardening Matters, September 2007, from the LA version found at http://celosangeles.ucdavis.edu/garden/articles/pdf/startup_guide.pdf, 8/15/2007, with permission.

This "Community Garden Start-Up Guide" is intended to help neighborhood groups and organizations along the path to starting and sustaining a community garden.

Why Start a Community Garden?

Many families living in the city would like to grow some of their own fruits, vegetables, herbs, and flowers. Some want to save money on their food bills. Others like the freshness, flavor and wholesomeness of homegrown produce. And for many, gardening is a relaxing way to exercise and enjoy being out-of-doors. There are also families from other cultures who would like to grow traditional foods not available in the supermarket.

Community gardens beautify neighborhoods and help bring neighbors closer together. They have been proven as tools to reduce neighborhood crime--particularly when vacant, blighted lots are targeted for garden development. Community gardens provide safe, recreational green space in urban areas with little or no parkland, and can contribute to keeping urban air clean.

Those who are lucky enough to have sunny backyards or balconies can plant a garden whenever they have the time and energy. But what about those who do not have a place to garden? For these people, community gardens may be the answer.

Step by Step to your own Community Garden

1. Get Your Neighbors Involved

There is a lot of work involved in starting a new garden. Make sure you have several people who will help you. Over the years, our experience indicates that there should be at least ten interested families to create and sustain a garden project. Survey the residents of your neighborhood to see if they are interested and would participate. Create and distribute a community flyer (page 10) inviting people to become involved. Hold monthly meetings of the interested group to develop and initiate plans, keep people posted on the garden's progress, and keep them involved in the process from day one.

2. Form a Garden Group

A garden group is a way of formally organizing your new group. It helps you make decisions and divide -up the work effectively. It also ensures that every one has a vested interest in the garden and can contribute to its design, development, and maintenance. It can be formed at any time during the process of starting a community garden; however, it's wise to do so early on. This way, group members can share in the many tasks of establishing the new garden.

Each garden group will:

- Establish garden rules
- Collect garden dues
- Pay water bills
- Resolve conflicts

The typical garden group has a shared email and phone list of members, and at least two officers: a president and a treasurer; although your garden group may have more positions.

Before the first meeting, each member should try to do some piece of homework, whether it is identifying possible properties, possible partners, or people or organizations interested in being part of the community garden. Before the end of the meeting, members should have held the elections, started the phone/email contact list, scheduled the second meeting, and identified a task for each member to accomplish before the second meeting.

Use the first meeting to draw out people's interest in the garden and what they would like to see from the garden. The worksheet, Developing a Vision for Your Garden (page 11), can guide the discussion, record the outcomes of the meeting, and be shared with people who join the garden project later. To insure that everyone feels like they were heard during this process, go round the group and ask for people's thoughts and input, and then write it down on a large pad of paper for everyone to see. Many problems and headaches can be avoided in the future by developing a vision of the garden at the very start, and can be reviewed when decisions are being made.

3. Find Land for the Garden

Look around your neighborhood for a vacant lot that gets plenty of sun--at least six to eight hours each day. A garden site should be relatively flat (although slight slopes can be terraced). It should be relatively free of large pieces of concrete left behind from demolition of structures. Any rubble or debris should be manageable --that is, volunteers clearing the lot with trash bags, wheelbarrows, and pick up trucks can remove it. Ideally, it should have a fence around it with a gate wide enough for a vehicle to enter. It is possible to work with a site that is paved with concrete or asphalt by building raised beds that sit on the surface or using containers. You can also remove the asphalt or concrete to create areas for gardens, but such a garden will be much more difficult, expensive, and time-consuming to start. A site without paving, and soil relatively free of trash and debris is best.

The potential garden site should be within walking, or no more than a short drive from you and the neighbors who have expressed interest in participating. If the lot is not already being used, make sure the community supports establishing a garden there.

It's best to select three potential sites in your neighborhood and write down their address and nearest cross streets. If you don't know the address of a vacant lot, get the addresses of the properties on both sides of the lot--this will give you the ability to make an educated guess on the address of the site. We suggest you identify at least three potential sites because one or more might not be available for you to use for various reasons, and you want to end up with at least one that works out.

Use the Garden Site Evaluation Checklist (page 13) to help assess potential sites.

4. Find out Who Owns the Land

It is illegal to use land without obtaining the owners permission. In order to obtain permission, you must first find out who owns the land.

Take the information you have written down about the location of the sites in step 3 to your county's tax assessor's office. The county or city tax assessor's office can tell you who owns the property, as this is public knowledge. Increasingly, counties and cities are making this information available online, but you may need a street address. For properties within Hennepin County, call the Public Records Division at 612-348-5139. For properties in Ramsey County, call Property Records at 651-266-2000.

5. Find out if Your Proposed Site has Water

Every garden site must have access to water. The easiest solution is to ask a neighbor resident or business to provide the garden with water. Propose a seasonal fee for the water use and discuss the need to secure hoses or locking the spigot. For information about small water meters for spigots, contact Gardening Matters. If a neighbor is not available, then contact the city's water department to get hooked up to a water hydrant. In some cases, they can connect to a hydrant through the sewer, but it depends upon the situation.

As your community garden becomes more established, the group may want to install its own water system and meter. If so, contact the water service provider in your area to find out if your potential site(s) has/have an existing water meter to hook-in to. Call your water provider's customer service department, and ask them to conduct a "site investigation". They will need the same location information that you took with you to the Tax Assessor's office. If there has been water service to the site in the past, it is relatively inexpensive to get a new water meter installed (if one doesn't already exist).

6. Contact the Land Owner

Once you have determined that your potential site is feasible, call the landowner about the proposal and see if they are open to the idea. If so, then follow-up with a letter to the landowner (page 14), asking for permission to use the property for a community garden. Be sure to mention to the landowner the value of the garden to the community and the fact the gardeners will be responsible for keeping the site clean and weed-free (this saves landowners from maintaining the site or paying city weed abatement fees).

Establish a term for use of the site, and prepare and negotiate a lease. Typically, groups lease garden sites from land owners for \$1 per year. You should attempt to negotiate a lease for at least three years (or longer if the property owner is agreeable). Many landowners are worried about their liability for injuries that might occur at the garden. Therefore, you should include a simple "hold harmless" waiver in the lease and in gardener agreement forms. For more information on the lease, and the hold harmless waiver, see 8, "Signing a Lease".

Be prepared to purchase liability insurance to protect further the property owner (and yourself) should an accident occur at the garden. For more information on the hold harmless waiver, and liability insurance, see 8, "Signing a Lease", and 9, "Obtaining Liability Insurance" below.

Land Tenure

- Is the garden site secured with a lease? Does it need to be?
- Be sure to contact the landowner each year and ask about the landowner's plans for the land
- Are there development plans for the garden site and what is the schedule?

If the land is planned for development mid-season, talk with the landowner or developer about delaying the garden's removal until November to give gardeners the remainder of season to enjoy the "fruits" of their labor. Often land is cleared months prior to any actual digging, if only to ensure that the land is ready when development is planned. Delaying a garden's removal until after the season is good public relations for the developer/landowner and good for the gardeners' morale.

7. Get Your Soil Tested

It is advisable to have the soil at the site tested for fertility, pH and presence of heavy metals, such as lead or toxins, such as arsenic. Call your city or MN Pollution Control Agency to see if they can conduct a lead hazard test or arsenic for your community garden or recommend an agency/business. For tests for soil nutrients, contact UMN's soil testing lab at 612-625-3101, <http://soiltest.cfans.umn.edu/> (click on "how to submit"). A soil test costs between \$15 to \$80, depending upon what you request.

8. Signing a Lease

Landowners of potential garden sites might be concerned about their liability should someone be injured while working in the garden. Your group should be prepared to offer the landowner a lease with a "hold harmless" waiver (see Sample Lease, page 15). This "hold harmless" waiver can simply state that should one of the gardeners be injured as a result of negligence on the part of another gardener, the landowner is

"held harmless" and will not be sued. Each gardener should be made aware of this waiver and asked to sign the waiver included in the Gardener Agreement Form (see #13).

9. Obtaining Liability Insurance

Landowners may also require that your group purchase liability insurance. Community gardeners can contact their neighborhood organization (Neighborhood Association or District Council) to get an insurance rider. Another option is to contact a non-profit or business that already has property nearby to put a rider on their insurance. It is possible to purchase insurance independently, but this often is much more expensive than finding a community partner. Call Gardening Matters for more options.

Liability insurance essentially stands between the landowner and someone who wishes to sue them for a wrong experienced on the garden site. Does the landowner require insurance? New York City does not require liability insurance for community gardens on city property

Once you have a lease signed by the landowner and liability insurance, you're free to plan and plant your garden!

10. Planning the Garden

Community members should be involved in the planning, design, and set-up of the garden. Before the design process begins, you should measure your site and make a simple, to-scale site map. Hold two or three garden design meetings at times when interested participants can attend. Make sure that group decisions are recorded in official minutes, or that someone takes accurate notes. This ensures that decisions made can be communicated to others, and progress will not be slowed. A great way to generate ideas and visualize the design is to use simple drawings or photos cut from garden magazines representing the different garden components--flower beds, compost bins, pathways, arbors, etc.--that can be moved around on the map as the group discusses layout.

We strongly recommend that garden group members take the initiative early on to connect with gardeners from other community gardens in their area or have a similar vision. Not only will group members learn the lessons of other garden groups, but also take away new ideas and new relationships with nearby and similar community gardens.

Use the Community Garden Planning Worksheet (page 16) to guide discussion when designing the layout of the garden and how the garden will operate. This Planning Worksheet is a good document to review with gardeners at the annual spring meeting (see #13) and make changes as needed.

Please note that community gardens can be laid out as allotment gardens where folks sign up for a plot or they can be gardened collectively growing either flowers, food or both. A tomato icon (→) will be used for sections that refer specifically to allotment gardens. If the garden will be gardened collectively (i.e. no individual ownership in the garden), then please skip these sections.



a. Basic Elements of a Community Garden

Although there are exceptions to every rule, community gardens should almost always include:

- At least 15 plots assigned to community members. These should be placed in the sunniest part of the garden. Without plots for individual participation, it is very difficult to achieve long-term community involvement. Raised bed plots, which are more expensive, should be no more than 4 feet wide (to facilitate access to plants from the sides without stepping into the bed), and between 8 and 12 feet long (it is advisable to construct your raised beds in sizes that are found in readily-available lumber, or that can be cut without too much waste). Inground plots can be from 10 x 10 up to 20 x 20 feet. Pathways between beds and plots should be at least 3 feet wide to allow space for wheelbarrows. The soil in both raised bed and in-ground plots should be amended with aged compost or manure to improve its fertility and increase its organic matter content.



- Access to water. Develop a watering system for the community garden depending upon the resources available. Many gardens use a combination of hoses and water barrels (55 gallon food-grade barrels).
- An adjacent delivery site for large quantities of woodchips and compost. This area should be accessible by large trucks and set-up to contain the delivered materials, such as a short wood or stone retaining wall to eliminate runoff and discourage neighbors from parking on it.
- A fence around the perimeter with a hedge, and a drive-through gate if the delivery site for compost and woodchips is inside the fence. In our experience, this is a key element of success. Don't count on eliminating all acts of vandalism or theft, but fencing will help to keep these to tolerably low levels.
- A tool shed or other structure for storing tools, supplies, and materials.
- A bench or picnic table where gardeners can sit, relax, and take a break--preferably in shade. If there are no shade trees on the site, a simple arbor can be constructed from wood or pipe, and planted with vines.
- A sign with the garden's name, address (street location), sponsors, and a contact phone number for more information. If your community is bilingual, include information in both languages.
- A shared composting area for the community gardeners. Wood pallets are easy to come by and (when stood on-end, attached in an U-shape, and the inside covered with galvanized rabbit-wire) make excellent compost bins.

b. Nice Additions to Your Garden Plan

- A small fruit tree orchard, whose care and harvest can be shared by all the members. The orchard can also create shade for people as well as shade-loving plants.
- Perimeter landscaping, which can focus on native drought tolerant flowers and shrubs, plants which attract butterflies and hummingbirds, or roses and other flowers suitable for cutting bouquets. Herbs are also well-suited to perimeter landscaping and help to create barriers to unwanted pest insects who do not like the smell of their essential oils.
- A children's area, which can include special small plots for children and a covered sand box.
- A meeting area, which could range from a semi-circle of hay bales or tree stumps, to a simple amphitheater built of recycled, broken concrete. Building a shade structure above, would be beneficial as well.
- A community bulletin board where rules, meeting notices, and other important information can be posted.
-  A plot for the food shelf. Contact your local foodshelf to see what items they would like. Consider shelf-life. If not food, then consider donating a bouquet of flowers to an organization that serves the community.
- A simple irrigation system with one hose bib or faucet for every four plots. Hand watering with a hose is the most practical and affordable for individual plots (and it's almost a necessity when you start plants from seed). Drip and soaker-hose irrigation can be used in all areas of the garden for transplanted and established plants, but especially for deep-rooted fruit trees and ornamentals. If no one in your group is knowledgeable about irrigation, you might need some assistance in designing and maintaining your irrigation system. Seek out a landscape contractor or nursery or garden center professional to help you develop a basic layout and materials list.

11. Creating a Garden Budget

Use your design to develop a materials list and cost-out the project. You will need to call-around to get prices on fencing and other items. You might be surprised at the total cost once the individual items from the Basic Elements List (above) are added together. At this point, your group might decide to scale back

on initial plans and save some design ideas for a "Phase Two" of the garden. Use the Sample Budget Worksheet (page 20) to develop the garden's budget and determine a priority list. A budget will help identify annual expenses and determine how much to charge for a plot.

12. Where to Get Materials and Money

While some start-up funds will be needed, through determination and hard work, you can obtain donations of materials for your project. Community businesses might assist, and provide anything from fencing to lumber to plants. The important thing is to ask. Develop a Donation Letter (page 21) that tells merchants about your project and why it's important to the community. Attach your "wish list", but be reasonable. Try to personalize this letter for each business you approach. Drop it off personally with the store manager, preferably with a couple of cute kids who will be gardening in tow! Then, follow up by phone. Be patient, persistent, and polite. Your efforts will pay off, with at least some of the businesses you approach. Be sure to thank these key supporters and recognize them on your garden sign, at a garden grand opening, or other special event.

Money, which will be needed to purchase items not donated, can be obtained through community fundraisers such as car washes, craft and rummage sales, pancake breakfasts, and bake sales. They can also be obtained by writing grants. Contact the foundation to see if the community garden is a good fit and what is the process for applying for a grant. Be aware grant writing efforts can take six months or longer to yield results, and you will need a fiscal sponsor or agent with tax-exempt 501(c)3 status (such as a church or non-profit corporation) that agrees to administer the funds.

13. Make Sure Your Garden Infrastructure is in Place

If you have not yet formed a garden group, now's the time to do so. It's also time to establish garden rules, develop a garden application form (see sample gardener agreement, page 18) for those who wish to participate, set up a bank account, and determine what garden dues will be if these things have not already been done. This is also the time to begin having monthly meetings if you have not already done so. Also, if you haven't already contacted your city councilperson, he or she can be helpful in many ways including helping your group obtain city services such as trash pick-up. Their staff can also help you with community organizing and soliciting for material donations. Review Preserving the Garden: Elements of Sustainability (page 22) for additional suggestions for a solid garden infrastructure.

Many gardens have an annual spring meeting in March for the garden group members. During this meeting,

- Review the Community Gardening Planning Worksheet (page 16) with the garden group – see if there are any questions.
- Reassess the garden rules (often listed as part of the Community Gardener Agreement, page 18)
- Review Job Descriptions as a group to see what is working and what needs to be changed. Assign people to each job.
- Determine garden officers for following year, if applicable
- Review the Community Garden Health and Safety Policy (page 24) and go over safe practices within the garden.
- Schedule workdays and special events and assign people to committees for each workday or event.

Visit our website at
www.gardeningmatters.org
 for additional ideas for
 garden rules and job
 descriptions compiled from
 local community gardens

14. Get Growing!

Many new garden groups make the mistake of remaining in the planning, design and fundraising stage for an extended period of time. There is a fine line between planning well and over planning. After several months of the initial research, designing, planning, and outreach efforts, group members will very likely be feeling frustrated and will begin to wonder if all their efforts will ever result in a garden. That's why it's important to plant something on your site as soon as possible. People need to see visible results or they will begin to lose interest in the project. To keep the momentum going, initiate the following steps even if you are still seeking donations and funds for your project (but not until you have signed a lease and obtained insurance).

a. Clean up the Site

Schedule community workdays to clean up the site. How many work days you need will depend on the size of the site, and how much and what kind of debris are on site.

Major projects in the garden may require additional assistance (extra backs and arms!). Some businesses look for opportunities for their employees to volunteer together. Also many social service organizations have programs for youth or other populations and are also looking for outdoor opportunities for their clients to help the community. Gardening Matters can help you identify potential partners.

b. Set-up the Water System

Without water, you can't grow anything. So get this key element into place as soon as possible. There are plenty of opportunities for community involvement – from preparing water barrels to setting up spigots.

c. Plant Something

Once you have water, there are many options for in-garden action. Stake out beds and pathways by marking them with stakes and twine. Mulch pathways. You can also plant shade and fruit trees and begin to landscape the site. If you do not yet have a source of donated plants, plant annual flower seeds which will grow quickly and can be replaced later. Consult Gardening Matters for sources of free or discounted woodchips, compost, seeds and seedlings.

d. Continue to construct the garden as materials and funds become available.

15. Celebrate!

At this point, your ideas and hard work have finally become a community garden! Be sure to take time to celebrate. Have a grand opening, barbecue, or some other fun event to give everyone who helped to make this happen a special thank you. This is the time to give all those who donated materials or time a special certificate, bouquet, or other form of recognition.

16. Troubleshooting as the Garden Develops

All community gardens will experience problems somewhere along the way. Don't get discouraged—get organized. The key to success for community gardens is not only preventing problems from ever occurring, but also working together to solve them when they do inevitably occur. In our experience, these are some of the most common problems that "crop-up" in community gardens, and our suggestions for solving them

a. Vandalism

Most gardens experience occasional vandalism. The best action you can take is to replant immediately. Generally the vandals become bored after a while and stop. Good community outreach, especially to youth and the garden's immediate neighbors is also important. Most important--don't get too discouraged. It happens. Get over it and keep going. What about barbed wired or razor wire to make the garden more secure? Our advice-- don't. It's bad for community relations, looks awful, and is sometimes illegal to install without a permit. If you need more physical deterrents to keep vandals out, plant roses or barberry or other thorn-enhanced plants along your fence, their thorns will do the trick! (As with all thorny plants, maintenance tends to slack over time unless there is a concerted effort to maintain them.)

b. Security

Invite the community officer from your local precinct to a garden meeting to get their suggestions on making the garden more secure. Community officers can also be a great help in solving problems with garden vandalism, and dealing with drug dealers, and gang members in the area.

c. Communication

Clear and well-enforced garden rules and a strong garden coordinator/committee can go a long way towards minimizing misunderstandings in the garden. But communication problems do arise. It's the job of the garden group to resolve those issues. If it's something not clearly spelled out in the rules, the membership can take a vote to add new rules and make modifications to existing rules.

Language barriers are a very common source of misunderstandings. Garden club leadership should make every effort to have a translator at garden meetings where participants are bilingual--perhaps a family member of one of the garden members who speaks the language will offer to help.

d. Gardener Drop-Out

There has been, and probably always will be, some turnover in community gardens. Often, people sign up for plots and then don't follow through. Remember, gardening is hard work for some people, especially in the heat of summer. Be sure to have a clause in your gardener agreement which states gardeners forfeit their right to their plot if they don't plant it within one month, or if they don't maintain it. While gardeners should be given every opportunity to follow through, if after several reminders, either by letter or phone, nothing changes, it is time for the group to reassign the plot or open to someone on the waiting list.

It is also advisable that every year, the leadership conduct a renewed community outreach campaign by contacting churches and other groups in the neighborhood to let them know about the garden and that plots are available.

e. Trash

It's important to get your compost system going right away and get some training for gardeners on how to use it. If gardeners don't compost, large quantities of waste will begin to build up, create an eyesore, and could hurt your relationships with neighbors and the property owner. Waste can also become a fire hazard. Make sure gardeners know how to sort trash properly, what to compost, and what to recycle. Trash cans placed in accessible areas are helpful to keep a neat and tidy garden.

f. Weeds

Early in the season, it becomes clear which gardeners are having difficulty tending to their plot. Be sure to address this concern with them early on and see if they want to share the plot or relinquish it to another gardener. Toward the end of summer, gardeners usually let the weeds go as their plants are typically established enough to contend with weeds. This is a good time to have a neighborhood event (such as the Parade of Community Gardens) at the garden, to encourage gardeners to tidy up the garden and their plots.

Also, schedule garden workdays in advance since you know you'll need them at least once a month and at the end of the season to put the garden to bed for the winter. Encourage gardeners to apply a thick layer of mulch or hay to the beds and paths to reduce weed proliferation.

Good luck with your community garden project!

Gardening Matters
2801 21st Avenue South, Suite 110
Minneapolis, MN 55407
Phone: 612-278-7123
Fax: 612-278-7101

Email: info@GardeningMattersMN.org
Web: www.GardeningMattersMN.org (check monthly for updates)
Email List: Email to join the community gardener listserv, COMGAR, hosted by UMN.

Attachments

Community Flyer – page 10 – An invitation to the community to get involved in starting a new community garden by Augsburg College's Tim Dougherty.

Developing a Vision for Your Garden – page 11 – A worksheet designed to guide a discussion and record decisions about the garden's purpose.

Garden Site Evaluation Checklist – page 13 – A worksheet to help folks assess potential garden sites.

Sample Letter to the Landowner – page 14 – This sample letter is provided as a template for constructing a letter asking the landowner for permission to create a community garden on their land.

Sample Lease Agreement – page 15 – Documentation of the agreement between the landowner and the community garden group for the terms of use

Community Garden Planning Worksheet – page 16 – Designed to guide group decision-making about how the community garden will operate.

 **Community Gardener Agreement** – page 18 – This form is solely an example of a gardener agreement that could be adapted for your garden group. For more examples or other possible garden rules, visit the Gardening Matters website.

Sample Budget Worksheet – page 20 – An example of how to calculate cash flow for the garden. To be adapted for your situation.

Donation Letter – page 21 – A sample letter to be used by gardeners for asking local merchants and others for donations. Adapt to your situation.

Preserving the Garden: Elements of Sustainability – page 22 – Information that every community garden group should have readily on-hand.

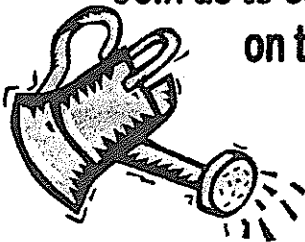
Community Garden Health and Safety Policy – page 24 – From the Totem Town Community Garden in St. Paul, this form is distributed during annual spring meeting to remind gardeners to be safe and protocol for potential hazards in the garden.

Community Flyer

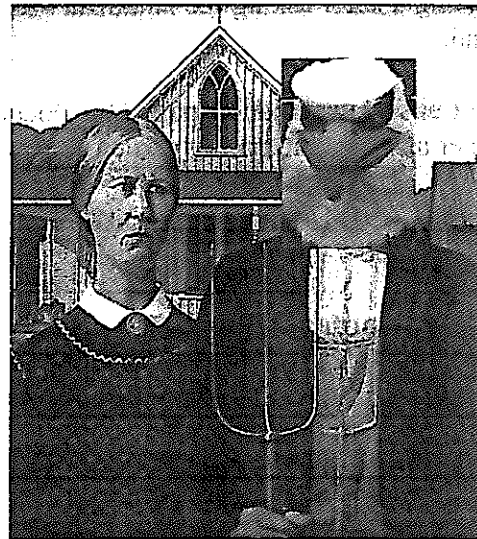
This is an example of a flyer inviting community and neighborhood people to learn more and become involved in the new community garden. Flyer by Tim Dougherty, Augsburg College.

Show Us Your Green Thumb!

Join us to create an Augsburg Community Garden *NLPC*
on the corner of 20th Ave & 6th St

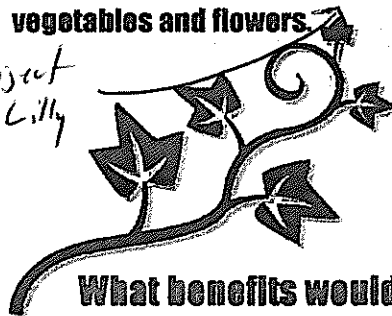


What is a Community Garden?
A community garden is a piece of land shared by the community to grow vegetables and flowers.



different.

Funding for this project is provided by our Lilly grant.



What benefits would we gain from having a community garden? *NLPC*

- Garden plots would be offered to members of the Augsburg community and the surrounding neighborhood
- Opportunity for positive social interaction ~~both on campus & in the neighborhood~~
- ~~Creation of a supervised youth gardening and nutrition program through Campus Kitchens~~
- ~~Integration of gardening into Augsburg's curriculum~~
- Opportunity to grow & donate food for the local food bank
- ~~Establishment of an educational & beautiful landmark in our community~~



Outreach to the surrounding community

Want to get involved? Give input? Have questions?

Contact Tim Dougherty at (612) 330-1208 or doughert@augsb.org

Kim at _____ @ _____
or *Sue* at _____ @ _____

Developing a Vision for Your Garden

Defining why you want to develop a community garden will help you create a vision for your garden project. Similarly, it will help you (your garden group) identify what you want to accomplish and how you will prioritize your garden's goals. This will help to recruit new garden members and gain community support.

Developing A Vision for Your Garden

A Community garden doesn't just happen, it takes hard work and commitment.

List three reasons why you (your group) want(s) to develop a garden.

1. Summer ministry - outreach (Christian)
- activity for community & neighbors
- opportunity - membership & growth
2. food for food shelves
3. food
- family
- gardeners

Define what you want to accomplish and prioritize your goals.

Example 1. Our primary goal is to produce fresh nutritious food for our families and our neighbors.

2. We want to improve our neighborhood block and create a beautiful garden where people can come together.

3. We want to educate youth about gardening and the importance of environmental stewardship.

List three goals your garden group wants to accomplish and then prioritize

4. Fellowship & building community

2. food

5. outreach

(over)

Use your garden goals to create a brief mission statement

Example: "Our mission is to ~~strengthen our neighborhood~~ by maintaining a community garden that provides a common ground for neighborhood members to garden together and get to know each other."

Create a mission statement that unites the group and the garden to a larger purpose.

1. Plant seeds of hope by...

+ 2. to provide fresh produce to families &

Identify how your garden project will benefit your neighborhood and community.

Think of examples: community food shelves

1. continue cony to community
 2. builds a ^{growing} community that nurtures long term the longevity
 3. serves neighborhood need
 4. opportunity to children to experience nature
 5. physical activity & exercise (congregation & pre school)
 6. food
 7. another way to introduce NCPL to neighborhood
 8. diversifies the church grounds (not all lawn) into a more sustainable and useful purpose.
- attracts attention to church grounds.

Roseville

Adapted from the Guide to Community Gardening (2002) by Urban Lands Program, Sustainable Resources Center. Resources used in developing the original worksheet are:

1. Growing Power, Inc. Milwaukee, WI www.growingpower.org
2. Philadelphia Green. Philadelphia, PA www.pennsylvaniahorticulturalsociety.org
3. Neighborhood Gardens Program. Cincinnati, OH www.civiegardencenter.org

Garden Site Evaluation Checklist

Sun:

Shade/ Partial Shade/ Full Sun (6-8hrs):
Shading Structure Description:
Facing Southwest/South/Southeast/North/Northeast/Northwest:

Soil:

Texture (sand/silt/clay/organic matter):
Drainage (wet-moderate-dry):
Depth of Topsoil (where darker soil ends):
Compact/Loose:
ph level (soil test):
Nutrient levels (soil test): N-P-K
Lead or Other Toxins (soil test):

Topography:

Flat or sloped (degree)

Water Access:

On-site/Neighboring Apt./Home/Business/Church
Type and Proximity to Garden and Future Plots:

Site Amenities:

Shed or Tool Box Site:
Composting Site:
Estimate of # of Plots:
Visibility (safety and publicity):
Parking:
Restroom Access:
Power:
Site History (parking lot/gas station/residential):
Vehicle Access:

Neighborhood:

Interest/Involvement Level of Neighbors:
Demographic Profile (Children/young adults/adults/senior citizens):
Crime (drugs/vandalism/violent crime/theft):
Animals (deer/raccoons from the hills/ dogs):

Quick Sketch of Property:

Sample Letter to Landowner

Property Owner
123 Grand Avenue
Our Fair City, MN 55000

Dear [name of landowner],

My name is [your name]. I am contacting you on behalf of the Sunshine Community Garden Committee, a group of Neighborhood residents working on starting a community garden in the Neighborhood. Our committee has met several times for planning meetings and has started building a strong and diversified coalition of supporters for the garden including a representative of the Community Hospital Employee Advisory Council (who offered volunteers), the Sweet Library Branch, the Neighborhood Community Council, and the Lutheran Baptist church. We've also had the ongoing support of an experienced community garden organizer from the local non-profit organization, Gardening Matters, who has attended most of our meetings.

We've been searching for potential sites for the Sunshine Community Garden (SCG) and have come across your property at 9th Street and Grand Avenue (926 Grand Avenue). As you might guess, the purpose of this letter is to inquire about the possibility of using your land as the site of the garden.

We'd love to speak with you in person or over the phone to discuss what hosting a community garden on your property would entail. We'd also like to present to you the beautiful and vibrant community gathering space we envision and discuss our proposal in detail.

In general, the garden would be a place where community members who don't have their own gardening space (those living in apartment buildings), or who have too much shade (like so many residents in the Neighborhood) could grow nutritious produce on plots that they would rent for the cost of maintaining the garden each year. In addition to making individual plots available to community members, the garden would serve as a gathering place facilitating positive social interactions. Other possible uses for community gardens include offering adult educational workshops, youth gardening programs, growing food for local food bank, and integration within senior centers.

The garden would be managed by the not-for-profit Sunshine Community Garden Committee and there would be an elected Garden Coordinator to oversee the project in its entirety, a Treasurer to handle the money generated by fundraising and the plot rental fee, and a Garden Steward who would be in charge of general maintenance of the garden and to make sure that all the gardeners are maintaining their individual plots (this means you would no longer need to take care of the site yourself).

Some of the technical issues that would need to be discussed include negotiating a lease, liability insurance, garden rules and regulations, and water access and billing. Of course, all costs for the community garden project would be covered by the SCG Committee and the gardeners.

I've included with this letter some general information about community gardens provided by Gardening Matters, including a list of some of the benefits community gardens can bring to a community. The SCG Committee is a well-organized group of interested Neighborhood residents committed to the creation and continued upkeep of a community garden in the Neighborhood.

Thank you for your consideration of our proposal. Please feel free to contact me over the phone, email, or by letter to discuss the community garden project in more detail. My phone number, email address, and mailing address are included below. Thanks again.

Respectfully,

From Brian Huertson and Wasatch Community Gardens staff. *From Neglected Parcels to Community Gardens: A Handbook* (2005)

Sample Lease Agreement

For
Community Garden Site at
926 Grand Avenue

This lease is between Property Owner, the owner of the property at 926 Grand Avenue, and the lessees: the Sunshine Community Garden and the Neighborhood Council (their address).

The duration of the lease shall be from March 31, 2008 to November 30, 2008 and will be renewed a yearly basis after November 30, 2008 unless one of the three parties does not approve. There shall be no charge for use of the land for the purpose specified herein.

The lease is for use of land for the purpose of building and operating a community garden. The garden shall be located on the eastern portions of the lot owned by Property Owner. The Property owner shall provide access to and reasonable use of water.

The Sunshine Community Garden will prepare a plan for the garden in consultation with the church showing the location of the beds and submit the plan to the church for approval.

In the future, features may be added to the garden such as a decorative fence, compost bins, a pergola/gazebo type structure, a sign, etc. Plans for such improvements will be presented to the church for design and location approval.

Liability insurance will be provided The Neighborhood Council, and the Sunshine Community Garden and Property Owner will be listed as additional insured parties on the insurance policy.

Signing of this agreement constitutes acceptance of the above terms and conditions.

Property Owner

Date

Sunshine Community Garden

Date

The Neighborhood Council

Date

COMMUNITY GARDEN PLANNING WORKSHEET

Discuss these questions and work together to generate ideas and policies for your community garden. Add more questions as necessary and delete when appropriate.

Garden name _____

Garden Opening Date _____ Closing Date _____



People & Plots

How many plots? _____ How many people? _____

Will there be plot fees? _____ If so, how much? _____

What do plot fees include? (water tilling, tools, etc.) _____

What is the process for plot selection? _____

What about for last year's gardeners? _____

What are specific plot care requirements (weed control, etc.) _____

What if the plot is not planted or maintained? _____

Will a warning be given? _____ By whom? _____ After how long? _____

What should gardeners have accomplished by the closing date? _____

Will a portion of the fee be refunded if gardener leaves plot in good condition? _____

What are the rules on pesticides, herbicides and fertilizers? (Gardening Matters strongly recommends only organic pest controls and fertilizers, and no herbicide use).

Policies _____

If a garden OK's chemical use, what are application rules? (for example on windy days?) _____

What are the garden's policies on:

Compost Bin and its maintenance: _____

Water _____

Tools _____

Overripe/diseased vegetables _____

Structures/supports _____

More Possible Policies

What are the garden's policies on:

Trash _____

Parking _____

Locking of gate _____

Are gardeners responsible for a common garden task? _____

Are gardeners responsible for weeding the paths around their plots? _____

It is OK to grow tall or vining plants? _____

Are non-gardeners and children permitted in the garden? _____

What about pets? _____

Who should be notified if there is a problem in the garden? _____

Organization

What should a gardener do in case of an extended absence? _____

Will there be a treasurer? _____ A bank account? _____

Who will cut grass on borders and boulevards? _____

Will the garden have a bulletin board or information kiosk? _____

Do gardeners want to order seeds or plants as a group? _____

Will the garden:

Garden Features

Set aside a plot for a food shelf? _____ Who will tend it? _____

Include plots accessible by wheelchair? _____

Have a picnic table, bench, trellis or sandbox? _____

Set aside space for perennial plants (raspberries, strawberries) or fruit trees? _____

Have a flower border? _____ Who will tend it? _____

What about a spring work day? _____

Must gardeners attend group work day? _____ When? _____

Parties!

What about a regular gardening time? _____

What about a harvest potluck? _____

Where is the key?

Where are the potluck parties?



Community Gardener Agreement

(Information in parentheses to be determined by individual garden)

(Watts Family) Community Garden Agreement Rules, Terms, and Conditions for Participation 2009

Introduction

The (organization/garden coordinator/committee) is the highest governing authority at the (Watts Family) Community Garden.

Breaking any rules, terms, and conditions is cause for exclusion from the garden and loss of your plot.

1. You will receive one verbal warning from the garden coordinator/committee.
2. If no response or correction has been made, you will receive written notice two weeks later.
3. In another two weeks, if no response or correction has been made, you will receive written final notification that you have forfeited your gardening privileges and plot.
4. You will be allowed to reapply for another garden plot only after one year, and only at the discretion of the garden coordinator/committee.

Rules, Terms, and Conditions for Participation

If accepted as a gardener, I will abide by the following rules, terms, and conditions:

1. I use this garden at the sole discretion of (Watts Family) Community Garden. I agree to abide by its policies and practices.
2. The fee for the use of the garden is (\$32.00) per plot, per year (January 1 – December 31), due on or before (January 1). Fee for half a year after (beginning July 1 or later) is (\$16.00). There are no refunds.
3. Once I have been assigned a plot, I will cultivate and plant it within two weeks. My plot cannot be left fallow or unused for any period of three weeks or longer.
4. My plot is (20 x 20) feet. I will not expand my plot beyond this measurement or into paths or other plots. I will keep all my plants within the limits of my garden plot and will not allow any plants to grow more than six feet high. I must keep my plot free of weeds, pests and diseases.
5. I will keep my plot, paths, and surrounding areas clean and neat. I will completely separate my trash into three groups: 1) dead plants, leaves, and other green waste plant parts; 2) rocks, stones, and asphalt; and 3) paper, plastic, cardboard, wood, metal, etc. I will put each type of trash only in the areas designated specifically for each. Anything I bring from my home I will take back home. I will not bring household trash and leave it at the (Watts Family) Community Garden.
6. I will have no more than two plots in the (Watts Family) Community Garden. If I adopt an abandoned plot during the season, I will be happy to relinquish it the following year.
7. I will not plant any illegal plant. I will not smoke, drink alcoholic beverages, use illegal drugs, or gamble in the garden. I will not come to the garden while under the influence of alcohol or illegal drugs. I will not bring weapons or pets or other animals to the garden.

8. (If the garden is fenced and locked) Guests and visitors, including children, may enter the garden only if I accompany them. They must follow all rules, terms, and conditions stated here. I will supervise my children at all times when they are in the garden. I am solely responsible for the behavior of my guests.
9. The garden coordinator/committee will assign me general garden maintenance tasks each month, and I must complete them by the end of the month that I am assigned them.
10. I will water my plot according to water-wise guidelines. (If I use more than the recommended amount of water, I will pay a fee each month to cover the cost of this additional water.)
11. I will attend the regular ~~(bi-monthly)~~ garden club meetings. If workshops are offered, I will attend at least one on each of the following topics: soil preparation and maintenance, watering the vegetable garden, and pest and disease control.
12. I will not apply any pesticides ^{herbicide} in the garden without the approval of the garden coordinator/committee. *Approved*
13. I will not make duplicate keys of any locks at the garden or give my key or lock combination to another person. *disapprove*
14. I will not take food or plants from other gardeners' plots. I will not take anything from the garden that is not rightfully mine.
15. I will respect other gardeners, and I will not use abusive or profane language or discriminate against others.
16. I will work to keep the garden a happy, secure, and enjoyable place where all participants can garden and socialize peacefully in a neighborly manner.
17. I forfeit my right to sue the owner of the property.

Commitment

I have read and understand the application and accept these rules, terms, and conditions stated above for the participation in the (Watts Family) Community Garden.

Signed: _____ Date: _____
Gardener

Approved: _____ Date: _____
Garden Coordinator/Committee Member

9/07 (be sure to change this date when the agreement form is changed, and we suggest adding the date to the electronic version as well. Be sure to change the year at the top each season)

and 18. Fencing allowed: Safe, low, ~~see~~ non blocking.

Sample Budget Worksheet

Use this worksheet to list anticipated costs for items that your garden group have planned. Record actual expenditures and donations as they occur.

We've included some typical expenses for gardens here in this sample budget.
Please note the dollar amounts used in the worksheet are not estimates and are only illustrative.

Line Items	1 st Year	2 nd Year	3 rd Year
Revenue/Income			
Plot Fees (20plots x \$25/plot)	\$500	\$500	\$500
Neighborhood Start-up Grant	\$500		
Garage Sale Fundraiser			\$300
Balance from previous year	--	\$700	\$600
Total Income	\$1,000	\$1,200	\$1,400
Expenses/ Costs			
Basic Elements			
Water bill (meter and/or hydrant hook-up)	\$100	\$100	\$100
Water system (supplies, like hoses & barrels)	\$100		
Tool storage and combo lock		\$100	
Hand tools (shovels, rakes, trowels, pruners)		\$100	
Lease fee (if applicable)			
Liability insurance (if applicable)	\$100	\$100	\$100
Woodchips			
Compost or topsoil		\$100	
Plant materials (seeds & seedlings)			
Printing (agreements, flyers, etc)			
Garden sign -construction materials (stakes, board, paint, brushes)		\$100	
Nice Additions (Wishlist)			
Bulletin board - construction materials			\$100
Pavers			
Fence			\$100
Hedges			\$100
Picnic table			\$100
Arbor			
Tree(s)			\$100
Total Expenses	\$300	\$600	\$700
NET INCOME (income-expenses)	\$700	\$600	\$700

Penning 1st yr.

Donation Letter

Tailor to fit your situation

Urban Garden Nursery
123 Hip Hop Street
My Fair City, MN 554XX

Dear Store Manager or Owner,

There is a new community garden starting in your neighborhood, The Sunshine Community Garden! Our mission is to build community through gardening by creating a space for people to come together to grow food and flowers together, sharing gardening techniques and recipes. We have identified the land, developed the design for the garden, and built a strong contingent of gardeners in the process!

We are asking Urban Garden Nursery, to help the community garden get started by providing the hedges that will go around the perimeter of the garden. We will acknowledge your donation on our garden sign.

One of our gardeners will be in contact with you within the week to follow-up our letter. Thank you for your consideration!

See you in the garden!

Sunshine Community Gardeners

Sally Sunrise
155 Hip Hop Street

Abel Artichoke
234 BeeBop Street

Horace Hortiman
521 Jazz Avenue

Mimi Mananas
111 Ska Avenue

Pepe Pepperino
243 Greengrass Street

Telly Tomato, community organizer
Sunshine Neighborhood Council
411 Salsa Street

Word of Advice:

Include a **list of plants** and the garden design (a rough sketch is ok) with this letter. Even if plant names are included in the sketch, it is easier of the potential donor to read if the plants are also listed separately in an easy to read format. It's also helpful if plants are listed by both the common and the latin name.

Communicate which plants are first priority, such as any hedges, thorny vines or other anchor plantings.

Have all the gardeners sign the letter above their respective name, but one person should do the follow-up. Addresses let the business know that the garden is serving the local community – their clientele.

Preserving the Garden: Elements of Sustainability

Anything can happen suddenly to the garden coordinator, and with them the information they hold that makes the garden go each year. By being proactive, an accident or suddenly moving away won't leave the garden group in the lurch and necessitate "reinventing the wheel".

Be sure that at least three people know the logistics of the community garden and where information is located, such as...

1. Bank Account

Bank Name:

Bank Address:

Name on Bank Account:

Account-holders' name(s) (if different):

Bank Account number:

2. Landowner contact information and lease agreement

Address of Community Garden Site:

Parcel Number of garden site:

Name of landowner:

Name of contact person:

Mailing address:

Phone:

Annual Fee (if any):

Email:

End of Lease Date:

Comments:

3. Liability Insurance renewal

Name of Insurance Holder:

Contact person:

Mailing address:

Phone:

Fee (if any):

Email:

Expiration Date:

4. Water system (how is water handled for the garden?)

Water source: _____
(neighbor, water hydrant, on-site water system, etc.)

Fee:

Contact name, phone and email:

Payment Schedule:

Briefly describe the arrangement and how the water system works:

5. Garbage pick-up (if applicable)

Name of Garbage Service:

Account Number:

Fee:

Name of Account holder:

Payment Schedule:

6. Information about the organizations associated with the community garden.

Name of organization/ agency	Relationship to the garden	Contact person and title (if applicable)	Contact info: mailing address, phone, email
<i>Sample spreadsheet</i>			

7. For the Garden

a) Ward: _____ City Councilmember & ph: _____

b) Neighborhood Association/District Council: _____

8. Contact information for all gardeners

Name of Garden member	Phone number	Email address (if have one)	Mailing address	Plot number (if applicable)
<i>Sample spreadsheet</i>				

7. Garden Contact information

Mailing Address if not the coordinator:

Phone number:

Billing address for phone bill (if applicable):

Garden Email address:

Who is in charge of checking the email address:

Website Address:

Website host, name of company:

Contact info for website host:

Community Garden Health and Safety Policy

March 21, 2006

This safety policy is intended to demonstrate that the Totem Town Community Garden (TTCG) recognizes our responsibility to conduct our gardening activities in a reasonable manner and to maintain reasonably healthy and safe conditions in the TTCG.

For the purposes of this policy, any reference to the TTCG, "the garden" or "the garden site" means the general boundaries of the garden.

1. Adult gardeners are responsible for their own safety. Children of gardeners are expected to be under the control of their parent(s) or guardians(s) when at the garden site. Do not allow children to run in the garden or play on the roadway to the compost site. Young children should be escorted across the roadway if they are going to the nearby playground or to the portable toilet on the compost site.
2. If you see a hazard, unsafe condition, or situation that could result in injury or ill health, take the appropriate action. Eliminate the hazard or unsafe condition only if you are able to do it safely and are comfortable taking the action to correct the hazard or unsafe condition. Otherwise, notify the garden organizer as soon as possible.
3. Rototillers, lawn mowers, power weed trimmers, wood chippers, chain saws, or other power equipment will be operated in the garden only by individuals over the age of 16 who own the equipment or have themselves leased the equipment for use. These individuals use this equipment at their own risk.
4. The use of chemical herbicides, pesticides, and fertilizer is allowable only with the consent of the garden group and with strict adherence to all safety precautions pertaining to the product. These products may not be stored or mixed on garden site.
5. Be aware of your surroundings. Avoid being in the garden alone. Avoid secluded areas with high vegetation. If individuals or groups of people taunt, bother, or seem threatening, leave the situation immediately.
 - ✓ For life threatening or other significant incidents, call 911 immediately. Also, call the garden coordinator.
 - ✓ For minor, non-emergency, incidents gardeners can notify Saint Paul Police dispatch at 291-1111. Also, contact the garden coordinator as soon as possible.
6. Do not leave garden tools at the garden site. They should be taken away from the garden when a gardener leaves the TTCG.
7. No fires or fireworks will be used on the TTCG site.
8. Drugs or alcohol shall not be consumed on the garden site.
9. Urination and defecation on the open ground is not allowed. Gardeners have permission to use the portable toilet located on the Ramsey County Compost Site.
10. Gardeners agree to hold harmless the TTCG volunteer organizers and work leaders, their partnering organizations and their employees, Board Members, Officers, Volunteers and other persons and land owner(s) garden(s) from any liability, damages, loss, injury or claim that occurs in connection with association with the TTCG.

Checklist provided by Totem Town Community Gardeners. April 2007. St. Paul, MN

Sponsored by North Como Presbyterian Church

**Gardener Agreement 2010
Rules, Terms and Conditions
DRAFT 4**

The Garden Coordinating Committee governs the Planting Seeds of Hope Community Garden, in coordination with the North Como Presbyterian Church and its Corporation Committee.

Rules and Conditions for Participation

I will abide by the following rules and conditions:

1. I will use this garden at the sole discretion of the Planting Seeds of Hope Community Garden and agree to abide by its policies and procedures.
2. The fee for each garden plot is \$25.00 per year from (January 1 – December 31) which is non-refundable.
3. I will cultivate and plant my assigned plot within two weeks of the start of the season. My plot cannot be left fallow or unused for any period of three weeks or longer.
4. My plot is 12' x 16' and I will not extend my plot beyond this measurement. I will keep all my garden plants within these limits and will not allow any plants to grow more than six feet tall. I will keep my plot free of weeds, pests, disease, and will not plant any illegal plants.
5. I will keep my plot, path and surrounding areas clean and neat. I will separate my trash into three groups, 1) dead plants, leaves and other green waste plant parts; 2) rocks, stones, asphalt; and 3) paper, plastic, cardboard, wood, etc. I will place each type of trash only in the designated area. Anything I bring from home I will return to home. I will not bring household trash and dispose of it at this community garden.
6. I will have no more than 2 plots per year. If I adopt an abandoned plot during the season, I will relinquish it the following year.
7. I will not smoke, drink alcoholic beverages, use illegal drugs or gamble in the garden. I will not come to the garden while under the influence of alcohol or illegal drugs. I will not bring weapons, pets or other animals to the garden.
8. All guests and visitors may enter the garden only if I accompany them (if the garden is fenced and locked). They must follow all rules and conditions stated here. I will supervise my children at all times when they are in the garden and I am solely responsible for the behavior of my guests.
9. The Garden Coordinating Committee may assign general garden maintenance tasks from time to time. I will complete them no later than the end of the month in which they were assigned.
10. I will water my plot according to water-wise guidelines and will pay a fee of \$ _____ if I use more than the recommended amount of water.

- Attachment C
11. I will attend the regular community garden meetings. If workshops are offered, I will attend one meeting on each of the topics offered.
 12. I will not apply any pesticides or herbicides and only use fertilizers approved by the Garden Coordinating Committee.
 13. When/if the garden is gated, I will not make any duplicate key or give my key to another person.
 14. I will not take plants or food from another gardeners' plots. I will not take anything from the garden that is not rightfully mine.
 15. I will respect other gardeners, and I will not use abusive or profane language or discriminate against others.
 16. I will work to keep the garden a happy, secure, and enjoyable place where all participants can garden and socialize peacefully in a neighborly manner.
 17. Low visibility fencing will be limited to _____ (to be decided).
 18. I will park in the church parking lot, not on Chatsworth or Larpenteur.
 19. I will cover my plot with mulch year round to retain moisture and reduce the risk of blowing dirt.
 20. I forfeit my right to sue the owner of the property.

Consequences of Violation of Rules, Terms, and Conditions

The breaking of any rules, terms and or conditions of this agreement is cause for exclusion from the garden and loss of my plot.

1. I will receive one verbal warning from Garden Coordinating Committee members (first notice).
2. If no correction or response is made, I will receive written notice two to three weeks later (second notice).
3. If no response/correction has been made two weeks following the first notice, I will receive final notification that I have forfeited my gardening privileges and plot (third and final notice).
4. I will be allowed to reapply for another plot only after one year, and only if approved by the Garden Coordinating Committee.

Commitment

I have read and understand this agreement and accept the rules, terms and conditions stated above for participation in the Planting Seeds of Hope Community Garden.

Signed: _____ Date: _____
Gardener

Approved: _____ Date: _____
Garden Coordinating Committee Chair



SHOW US YOUR GREEN THUMB!
**Help create a North Como Presbyterian Church
Community Garden**

on Larpenteur Avenue
between
Chatsworth Ave. and Victoria Ave.

What is a community garden?

A community garden is a piece of land shared by the local community to grow vegetables and flowers. Starting in the spring of 2010, North Como Presbyterian Church, with funding provided by the Lilly Endowment grant, will begin cultivating some of our property to create a community garden.

Garden plots will be offered to
members of the North Como Presbyterian Church community
and surrounding neighbors.

What are the benefits of a community garden?

- An opportunity to plant and grow your own vegetables and flowers;
- An opportunity for social activism within our local neighborhood community;
- An opportunity to share by growing and donating food to a local food shelf;
- An opportunity to support and advocate for sustainable living and the Church's commitment to Sustainability.

Want to get involved?

Give input? Have questions?

Please contact us, we want your input to help this program succeed and GROW!

NCPC garden Coordinators

Kim Spear at cell 507-202-1374 or kimberleyspear52@comcast.net
Sue Rickers at 651-487-7189 or rick0053@umn.edu

North Como Presbyterian Church

Phone: 651-488-5581
email: ncpc@northcomochurch.org
965 Larpenteur Avenue West, Roseville, MN 55113



PLANTING SEEDS OF HOPE

NCPC Community Garden Congregational Survey

You are invited to participate in the planning activities of the Community Garden task force. As you may be aware, NCPC applied for and was awarded a Lilly Endowment grant for several purposes; one of them was a community garden of vegetables on the lawn of the church, calling the new space "Planting Seeds of Hope". Neighbors in the community will be given the opportunity to garden on a plot in our church yard. We plan to continue this new summer ministry for years to come. Extra produce will be taken to our local food shelf to provide nourishment and hope for those in need in our community.

We are in the planning stages of the community garden. We are using Gardening Matters www.gardeningmatters.org and congregational members as key resources. Copies of the *Twin Cities Community Garden Start Up Guide* will be made available on the opportunities table.

NAME: BILL & MARILYN STOCK
 Phone: [REDACTED]
 Email: [REDACTED]

Many decisions depend on congregational interests and support. We need your opinions and perspectives. Please take a few moments TODAY to complete these questions.

1) Are you interested in having a plot for you and your family?

☐ Yes ☒ No

2) Do you want to participate with other congregation members in growing food in the community plot?

☐ Yes ☒ No

3). Would you be willing to join the planning group?

☐ Yes ☒ No

3) Would you be willing to help maintain the garden outdoors?

☐ Yes ☒ No

4) Do you have any objections to the project?

☐ Yes ☒ No (If yes, please describe.)

5) Please provide your questions or comments and Sue Rickers or Kim Spear will contact you.

WHILE MARILYN AND I HAVE CHOSEN NOT TO BE REGULAR PARTICIPANTS
 IF YOU RUN INTO SITUATIONS WHERE YOU NEED SOMEONE TO FILL IN WITH
 WATERING OR THE LIKE I WOULD BE WILLING TO LEND A HAND. BILL STOCK
 QUESTIONS? : NCPC garden coordinators Kim Spear at cell 507-202-1374 or kimberleyspear52@comcast.net and Sue Rickers at 651-487-7189 or rick0053@umn.edu .

Thank you. NCPC Community Garden Task Force Members



Planting Seeds of Hope Community Garden

COMMUNITY GATHERINGS

Come join us in the planning process!

WHEN?

Saturday, May 1, 4pm

Sunday, May 2, 1pm

WHERE?

North Como Presbyterian Church

What is a community garden?

A community garden is a piece of land shared by the local community to grow vegetables and flowers. Starting in the spring of 2010, North Como Presbyterian Church, with funding provided by a Lilly Endowment grant, will begin cultivating some of our property to create a community garden.

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- An opportunity to plant and grow your own vegetables and flowers;
- An opportunity for social activism within our local neighborhood community;
- An opportunity to share by growing and donating food to a local food shelf;
- An opportunity to support and advocate for sustainable living and the Church's commitment to sustainability.

NCPC garden Coordinators

Kim Spear at cell 507-202-1374 or kimberleyspear52@comcast.net

Sue Rickers at 651-487-7189 or rick0053@umn.edu

North Como Presbyterian Church

Phone: 651-488-5581 email: ncpc@northcomochurch.org

965 Larpenteur Avenue West, Roseville, MN 55113

NCPC Planting Seeds of Hope Community Garden
Community Gatherings
Saturday, May 1, 2010, 4 pm
Sunday, May 2, 2010, 1 pm

Welcome, Prayer, Introductions, Sign ups - Dan Graham, Renewal Pastor

- ❖ PSH Community Garden Planning Committee
- ❖ PSH Community Garden Coordinating Committee
- ❖ Neighbors interested in garden plots and garden information

Overview of Interest in a Community Garden at NCPC - Kim Spear, PSH GPC

- ❖ Renewal effort, Lilly Endowment Inc. grant
- ❖ Planting Seeds of Hope – summer ministry for communities
- ❖ Planning phase – Planning Committee efforts
 - Twin Cities Community Garden Start-up Guide, tours, conferences, sessions
 - City of Roseville conversations – Inspections and Zoning, Parks and Rec. Eyes on the garden
 - Master gardeners
 - Soil samples
 - Landscape design
 - Budgets
 - Engaging the communities – the congregation, the neighbors, the outreach communities
 - Survey – interested in planning, gardening, helping, objections
 - Neighbors – Roseville, Falcon Heights, District 10. Community gatherings. Eyes on the garden.

PSH Coordinating Committee - Kim, Darby Laing/ Eric Brandsness, Kirsten Alexejun

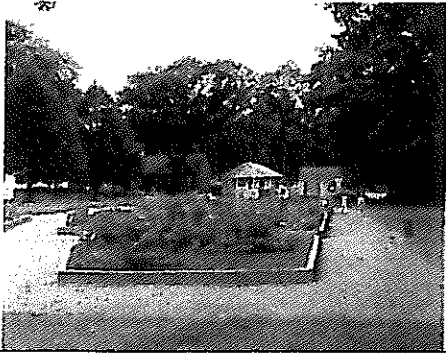
- Garden management – principles, agreements, operating decisions
- Approach to the plan – continuing to be good neighbors, a work in process
- Overview of the plan – 3 communities concept, review the plan, the first year plan
- Concerns
 - ❖ Size, scope, purpose
 - ❖ Nuisances including animals
 - ❖ Soil testing
 - ❖ Watering/irrigation planning to prevent blowing dirt
 - ❖ Compost
 - ❖ Screening – Berms, Fences, Plants
 - ❖ Master gardeners/ other consultants
 - ❖ Neighborhood involvement
 - ❖ Planning
 - ❖ City council processes

Q&A – Dan Graham

Next steps – Kim, Darby/Eric, Kirsten

Metro Congregations with Community Gardens

www.gardeningmatters.org www.afors.org



Lutheran Church of the Reformation – SLP 952-929-0439

<http://reformationslp.org/index.php?page=neighborhood>

Birchwood Community Gardens LCR provides Community Gardens for our neighbors – Started in 1997 with 24 raised bed plots, the Birchwood Community Gardens give SLP families and individuals an opportunity to grow fresh produce for themselves and others.

The garden also features six additional plots for **perennial flowers, climbing roses** on pathway arches and an accompanying fire pit for neighborhood gatherings. Two of the garden plots are used to grow produce for the **St. Louis Park Emergency Program (STEP)** and is tended to by the Garden Coordinator.

Youth Gardening Program The Birchwood Community Gardens' Youth Gardening Program joins volunteer mentors with small groups of kids to help plant, care for, harvest and cook various vegetables. The program aims to foster a connection to the earth and our community, build self-esteem and teambuilding skills, and be lots of fun! This program is open to anyone in the community. (Please have an adult accompany children under 5.) We will meet Saturday mornings beginning in April, rain or shine (indoors if raining). Fee is \$15 for the season, but no one will be turned away due to an inability to pay. If interested, please contact Danielle Fehring through the church office at office@reformationslp.org or at 952-929-0439

Redeemer Center for Life North Minneapolis, Community Living Room <http://www.redeemercenter.org/>

Harriet Oyera, (612) 377-5385 or hoyera@redeermpls.org

"I come from Northern Uganda that suffered war and violent conflict since 1986. I left Uganda in 2005 without having any idea how and when I would leave my country. I mean it was a hard decision to reach. I am here to rebuild my life and live in safety and peace. Getting to know me well and knowing the community well, in late July, 2008, I started a Community Garden from which the community was able to get some healthy egg plants, tomatoes, squash, green beans, reddish, peas, cilantro. We are planning, preparing and hoping to have a better Community garden that will involve people of all ages around. I feel my search for belongingness is fulfilled."

St. Luke Presbyterian – Mtk www.stluke.mn Judy Gregg (952) 474-3001 Amelia@mm.com
Creating a 3 acre permaculture food production area in partnership with their community school, working with Paula Westmoreland, 612-998-1712 paula@ecologicalgardens.com www.pricoldclimate.org

Guardian Angels – Catholic Church Oakdale (651) 738-2223 www.guardian-angels.org

Food Shelf Parish Garden: A one-half acre plot of ground, immediately adjacent to the entrance, is planted and tended by parish volunteers. All produce is donated to area food shelves and social service agencies for distribution to needy families. The garden coordinators are Barb Prokop (458-1629) and Maggie Lindberg (770-2544).

Notes on additional local congregations and their projects:



Faith-Based Community Gardens

(Workshop at the Resource Fair, March 27, 2010)

1. What are the unique assets that congregations have to offer faith based community gardens?

- ♥ Land
- ♥ Water
- ♥ Kitchen, tables
- ♥ Pool of volunteers
- ♥ All generations, different ages

2. What are the opportunities for congregations to benefit from organizing or sponsoring a community garden?

- ♦ Opportunity to meet new people
- ♦ Can benefit local schools with classes or projects
- ♦ Love outside the walls
- ♦ Utilize youth in the neighborhood, educate
- ♦ Physical aspect of spiritual growth

3. What are your best ideas for people starting or growing their faith-based community garden?

- ✚ Be intentional with intergenerational outreach
- ✚ Grow extra food for a local food shelf
- ✚ "Share the Bounty" activity
- ✚ Host a harvest festival
- ✚ Turn a bad situation into POSITIVE!
- ✚ Money to food shelf

Final discussion notes from the Faith-Based Community Gardens workshop on March 27, 2010. Facilitators: Harriet Oyera, Redeemer Community Garden; and Rachel Hefte, U of M Extension, Hennepin County.

SOIL TEST RESULTS

[illegible]

Phosphorus (P) P

5	10	15	20	25
Low	Medium		High	V. High

Potassium (K)	KKKKKKKKKKKKKKKKKKKK
---------------	----------------------

25	75	125	175	225
Low	Medium		High	V. High

pH

3.0 4.0 5.0 6.0 7.0 8.0 9.0

Acid Optimum Alkaline

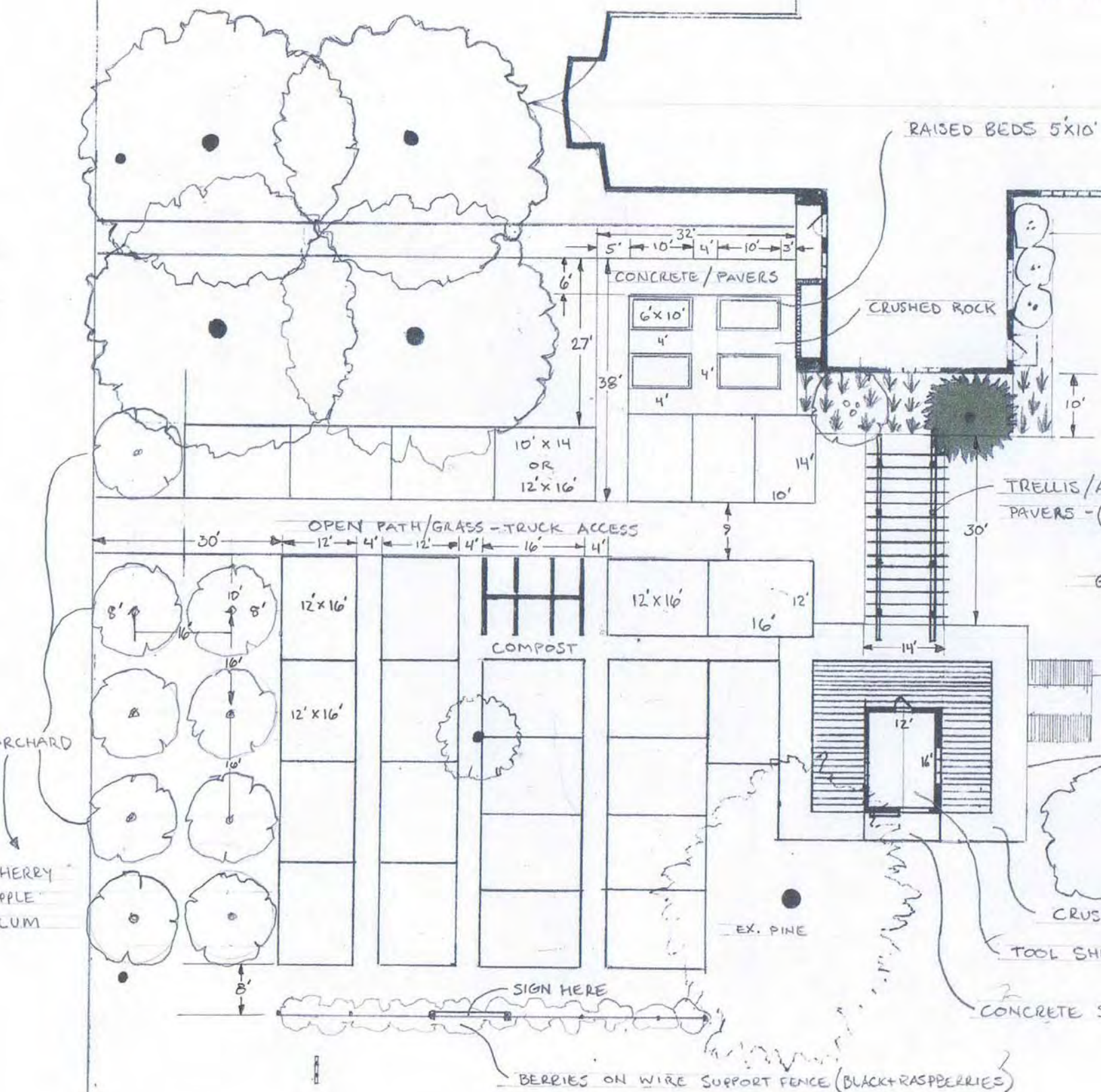
Soluble Salts

0 1.0 2.0 3.0 4.0 5.0 6.0 7.0 8.0 9.0 10.0

Satisfactory Possible Problem Excessive Salts

0.2 LBS/100 SQ.FT.

County: RAMSEY. For additional information, contact the YARD & GARDEN LINE: Phone: 612-624-4771 Website: www.extension.umn.edu/yardandgarden



Planting Seeds of Hope Community Garden Plot Allocation

Kim Benson-Johnson 651
Dawn Miller 651
Patty Sargent 651
Ardys Randall
Mari Hirabayashi 651

x
x
x
x
x

HAS FLOWERS

PLANNING COMMITTEE

Kim Spear
Sue Rickers
Gavin Watt
Jym Hubbell
Carolyn Peterson
Heather/Charlie Good
Darby Laing/Eric Brandsness
Michael Wilson
Ordean & Dorothy Finkelson
Carole Rust
Jim/Rita Amey
Dan Graham, Sabbatical Pastor
Justin Miller
Conrad/Dawn Miller

.net
1759 N Dunlap #305, Roseville, MN 55113

NEIGHBORS

Larry Leiendecker, J.D.
Colleen Green
Julia Holmdick
Marty Marchio
Matt Shea
Emme Bruns
Brian Ingvaldstad
Marilyn Salay

n
net
m

Planting Seeds of Hope Community Garden
Plot Allocation

NAME	PHONE	EMAIL	ADDRESS	CHURCH MEMBER
PLOT GARDENERS				
Dallas Watkins				x
JT Haines				x
Kim Benson-Johnson				x
Dawn Miller			1567 Huron Street Saint Paul MN 55105	x
			1151 Colette Place	
Linda Hoekman			St. Paul, MN 55116	x
Rob & Sue Weum			1176 Skillman Ave. W. Roseville, Mn. 55113	
Libby Rupp (2)			1035 California Ave W St. Paul, MN 55117	
Kirsten Alexejun			910 Nevada Ave. W. St. Paul, MN 55117	
Sunday AnderJohn			1243 Draper Ave. Roseville MN 55113	
Lou Sagert (2)			497 Curfew St. St Paul, MN 55104-4912	
Karen Ortt				
Mary Montagne			1524 Canfield Ave St Paul MN 55108	
Elisabeth Klarqvist	701 Roma Ave, Roseville MN 55113			
Food Shelf Plots (2)				
Raised Bed Plots (?)				
NCPC FOOD SHELF GARDENERS				
Dallas Watkins				x
Bobbie & Greg Bigwood				x
Jim & Jean Sargent				x
<u>Laing/Brandsness</u>				x
Steve Sarrazin				x
Kim Spear & Michael Wilson				x
JT Haines				x
Luke Heikkila				x

(Emails are grouped by author and then ordered chronologically)

Re: North Como Presbyterian Church

Mon 4/19/2010 4:31 PM

From: Marilyn Salay

To: Bryan Lloyd, Pat Trudgeon, Thomas Paschke

Hello. I own a home directly across from North Como Church where these "community gardens" are being planned.

I am very frustrated and disappointed in both the "church" and the "City of Roseville" for permitting such a unsuitable location for such a project.

I would list all the negatives but professionally you should be aware of the con's since that is you as a city employees are getting paid to do. I do feel it indeed a "noble" project but not a good fit to the location. The church has not invited the neighbors to the table to inform them as to what they propose. They have no interest whatsoever is being a good neighbor since they do not live there in the nearby area to this "garden". And a huge factor is Chatsworth and Larpenteur is a busy intersection enough. Trying to enter on to Larpenteur is difficult with 2 lanes of traffic both ways, bicycles traveling and people walking the sidewalks. As persons tend these gardens I can anticipate their children running about and a accident waiting to occur(which for the records, please note for future reference.)

I deplore the church for the lack of being "neighborhood-friendly" and I also fault the city for not wishing to get involved in this 'neighborhood' proposal for the betterment of all residents involved. Yes, I am aware of your ordinances, etc, but given the scope and location of this garden this is not in the neighborhood interest which as a city you should be involved.

The neighborhoods I have spoke with feel strongly about this issue and will proceed as necessary to make our concerns known to the council, thru the media, etc.

And one last item, I feel it is the City's responsibility to provide public gardens---not the churches. Again, why do we pay taxes to the city as to the best of my knowledge the church pays none!!! I do recall years ago when a "garden" for the public was offered off Larpenteur between Dale and Rice. Maybe if the city would take on these "public" ventures, churches would not feel the need.

Wake up Roseville!!

With respect,
Marilyn

North Como Community Gardens

Mon 5/11/2010 4:05 PM

From: Marilyn Salay

To: Bill Malinen, Bryan Lloyd

I am writing to express my disappointment with the City relative to allowing these Community Gardens to be placed in a residential neighborhood area. I did speak with Mr. Bryan when I first learned of the project and he indicated it was mostly for charitable purposes (food shelf) and there is no charge for the plots. Either Mr. Bryan is not honest or upfront about this proposal or the church is not truthful to him. I attended both meetings and was very dismayed about the church's not involving the neighborhood regarding this project all along (as they said they followed this one guide and the first step on this guide was to involve the neighborhood. Also I emailed Mr. Bryan but no courtesy reply. Obviously Mr. Bryan as City Planner is biased and very supportive of the church--with no regard to neighbor's input.

I know the neighbor's well and many, many people are very frustrated and one gal even suggested having the TV stations investigative reporters come out and expose this to all. Most of the church committee members and I would even say lots of the gardeners signing up are not residents.

So my question is simple: Is the City here to serve a "special interest" group or are they to address and serve what is best for neighborhoods which ultimately translate into community?

I strongly urge Roseville to make an administrative decision to require the church to obtain a Conditional Use Permit which indicates neighbors would have the opportunity to be heard. That is all we are asking for our "freedom of speech" when and it does directly affect us as a neighborhood. Why are we being discriminated against. The church seems to have all the say.

And yes, they did have 2 weekend meetings for us which we had to notify persons. They only gave out fliers to a very few. Plus they meetings were simply to indicated they "asked" for our concerns. The meetings were held by the committee which I strongly feel need to be conducted by the city for fairness to both sides.

I urge the city as a governing body "for the people" meaning church and neighbors as well to have them obtain a Conditional Use Permit and do what is right!!

Respectfully submitted,
Marilyn Salay

Re: North Como Community Gardens

Fri 5/14/2010 3:54 PM

From: Bill Malinen

To: Marilyn Salay, Bryan Lloyd

cc: Pat Trudgeon

Ms. Salay:

Thank you for email. We certainly received your previous email and have included it in our file. As it seemed that you were sharing your concerns on the community garden issue and did not have any specific questions for us to respond to, Mr. Lloyd did not respond directly to you. As a courtesy, we should have acknowledged your email, for which I apologize. It is unfortunate that you take a lack of response from Mr. Lloyd as indicative of bias on the city's part. I can attest that is not the case.

I can unequivocally state that the City and city staff does not serve "special interests" over citizens and neighborhoods. Quite simply, our zoning staff is guided by the Roseville Zoning Code. The Zoning Code does not specifically regulate "community gardens". Instead, the City needs to determine whether the proposed use of the church land as a community garden is a "moderate impact quasi-public use" or a "low impact quasi-public use". Staff review, based on the information given to the City from the church, believes that it qualifies as a "low impact quasi-public use" as defined by the code.

Given the information you and Mr. Leiendecker have given the city, we will be discussing the matter again with North Como Presbyterian Church to verify the extent of the use.

As you know, due to the pending appeal, the decision will ultimately be decided by the City Council. It should be pointed out that if a decision is made to require a conditional use (because it is determined to be a moderate impact quasi-public use), that does not mean that the community garden will be prohibited. The conditional use process thru public comment

and criteria established by the city code will allow for the City to approve the use subject to certain conditions.

Thank-you again for your comments. We take them seriously and will continue to look at the matter. The appeal will be held at the City Council meeting on Monday, May 24th. The City has mailed out notices to all the petition signers for the appeal, which you have hopefully already received.

North Como Presbyterian Church

Sun 5/2/2010 4:30 PM

From: Dorothy Ashley

To: [submitted to City staff via website form]

I understand the City of Roseville has agreed to allow NCPC to have a community garden on our residential street. Who can I talk to about my concerns about the city's decision? My husband and I are very upset about the church's plan. Thanks.

Re: North Como Presbyterian Church

Mon 5/3/2010 9:00 AM

From: Bryan Lloyd

To: Dorothy Ashley

Hi, Mrs. Ashley.

Let me begin by explaining that the City didn't really "agree" to allow NCPC to have a community garden. The fact is that Roseville's zoning staff (myself included) made the determination that the kind of community garden that NCPC is proposing is not regulated by the zoning code. This means that community gardens are sort of like tree houses, koi ponds, or pergolas in the sense that they aren't specifically addressed or regulated by the zoning code, but they're the kind of things that are commonly found in neighborhood settings. NCPC was told that they could proceed with their community garden, but they didn't need to seek permission for it in the first place. (It's worth pointing out that the proposed garden shed and compost bin are regulated and will have to exist within those regulations when and if they're installed.)

If you'd like to talk with somebody about your concerns, you can talk to me or the City Planner, Thomas Paschke (thomas.paschke@ci.roseville.mn.us or 651-792-7074), or the Community Development Director, Pat Trudgeon (pat.trudgeon@ci.roseville.mn.us or 651-792-7071). Because one of your neighbors has appealed the determination that the zoning code doesn't regulate a community garden like the one that has been proposed, you'll also have the opportunity to share your concerns with the City Council when they take up the issue to make a ruling on the appeal. We don't yet know when this issue will be on a City Council agenda, but it'll be in the next 2-3 weeks; I think you can expect to receive notification of that meeting when the date has been ironed out.

Regards,
Bryan Lloyd

North Como Community Garden

Thu 5/13/2010 7:41 AM

From: Dorothy Ashley

To: [submitted to Councilmember Roe via website form]

We are very concerned about North Como Presbyterian Church's plan to have a community garden on their property. Jim and I have visited several community gardens in this area and they are not visually pleasing. We feel this will not be an enhancement to our older neighborhood.

Thanks for listening.

Re: North Como Community Garden

Thu 5/13/2010 8:11 AM

From: Dan Roe

To: Dorothy Ashley

Dear Mr. & Mrs. Ashley,

Thank you for your feedback on the proposed community garden at North Como church.

To help me understand your concerns, could you take a moment to elaborate a bit on the things you liked or did not like about the other gardens you visited, and whether including the things you liked or excluding the things you didn't like would help the case for the North Como project, in your opinion?

Thanks,

Dan Roe

Re: North Como Community Garden

Thu 5/13/2010 2:48 AM

From: Dan Roe

To: Dorothy Ashley

Mr Roe,

Thanks for your prompt reply.

We visited the two gardens that were mentioned at NCPC's neighborhood meeting that was held on Saturday, May 1. My husband and I visited the Falcon Heights Community Garden which is at the corner of Roselawn and Cleveland. One of the good things about this garden is that is located entirely in a park. The residential neighborhoods cannot see the garden. One of the bad things that we saw was refuse left on the ground outside of a compost container. Community gardens need to be tidy even though it's not the growing season. Falcon Heights put a wire fence around the garden to help keep out animals-- that's a good thing. (North Como said they do not have the money for a fence. How can they grow anything without a fence? My husband and I have given up growing a variety of vegetables because of the critters.)

The second garden that was visited was one that is operated by an Evangelical Free Church in Maplewood. It is located at the corner of County Road C and Hazelwood. A Twin Cities Bible Church serves as a visual barrier between the gardens and the neighborhood to the south. The City of Maplewood has some ballfields and a trail that serve as a barrier to the west and the southwest. To the northeast, the City of Maplewood has a fire department building. There are a few houses to the north and to the east that have no visual barrier to the gardens. I talked to a neighbor who said the land was

originally a cornfield six years ago and the land was converted to the community gardens around three years ago. He said one of the things he does not like about the growing season is that a satellite has to be provided. NCPC did not mention a plan for bathroom facilities. One of the key differences between this location and the North Como plan is that the NCPC gardens is surrounded by a residential neighborhood.

My husband and I feel NCPC's community garden will be an eyesore. We also agree with the points that were outlined in the appeal that was recently filed with the city.

Sincerely,
Dot & Jim Ashley

P.S. We also visited the Battle Creek Community Garden which is located on a Ramsey County compost site. In our opinion, it was really ugly!

Petition Signers

Thu 5/6/2010 3:26 PM

From: Larry Leiendecker, J.D.

To: Bryan Lloyd

Hi, Larry.

We're preparing the brief letter to send to you, the church, and the community members identified with your appeal letter. Would you mind sending me the digital version of that table of names and addresses? Perhaps we don't have to spend the time retyping them since you've already done it.

Thanks.

Bryan Lloyd

Re: Petition Signers Plus- more for the appeal

Thu 5/6/2010 4:23 PM

From: Larry Leiendecker, J.D.

To: Bryan Lloyd

cc: Bill Malinen

Dear Bryan:

Glad to help. Attached is the list. Please note that there are a few extra signatures to add. (see attached PDF) If you could, please add this signature page to the appeal document for the city council.

Also, on another matter, I was doing some thinking about what you and I discussed yesterday. You mentioned the scenario of 75 persons with tweezers grooming the church lawn etc. I remember responding that it would probably not be acceptable because it is substantially an outdoor activity etc. I think that I may have gotten too hung up on the potential nuisance aspect of the analogy.

On further thought, I think that such an instance happening regularly would be fine (albeit it would likely last all of 5 minutes). My thinking is that grooming and landscaping type activities is something that is anticipated in a residential area or on residential land. So, yes - even if I had friends over for a lawn mowing "experience" (I don't have 75 though) it should be fine so long as it doesn't create a nuisance to my neighbors etc. But, this activity or land use is much different than cultivating produce for public consumption.

I suppose the scenario is analogous to when I have friends over to help catch my koi from my garden pond for the annual spring cleanout. Its obviously a fine activity on residential land (maintenance- landscape - beautification et cetera) but if I were cultivating and then catching my koi to sell them to the public it would be a different situation altogether. And, if I were to do so on a larger scale (to provide the fish for the food shelf for instance) it most certainly would have a larger public impact and be an obvious public and commercial purpose.

I guess I somewhat get lost in the church aspect of it all too. I just think that the fact that I choose to live in my building and the church doesn't have anyone living in its building shouldn't obscure the reality that both buildings sit on land zoned R1. The R1 rules must be applied in a uniform manner. In this instance, the moment the word "community" is attached to the word "garden" changes the substance of the activity to one that is very public in its scope. The size is also significant 26 plots (with plans to grow to the East in year 2011) Further, the fact that the land is being leased for a price (albeit small) certainly makes the endeavor a commercial activity.

So, I guess I'm back to focusing on the land use activity on R1 land - which I believe is more true to the zoning regulations and the public policy supporting them. If you want to add this email to the appeal I would appreciate that as well.

With Respect,
Larry

NCPC Appeal

Mon 5/10/2010 9:19 PM

From: Larry Leiendecker, J.D.

To: Bill Malinen, Bryan Lloyd

Dear Mr. Malinen and Mr. Lloyd:

It has been brought to my attention that the City Parks and Rec. Department is advertising the NCPC Community Garden (see attached). As I speak only for myself, I personally have to say that this is rather disconcerting to me. Considering that the City is now doing the advertising for the NCPC "community garden" it creates the impression that the appeal (now containing 64 signatures) might be meaningless. I'm absolutely certain that this is not the impression that you or the city wishes to convey. However, others may not see it that way.

But, interestingly enough it also illustrates the very point that the endeavor planned by NCPC is not your run of the mill neighborhood "garden." Here, NCPC has put the word "community" in front of the word "garden" and plans to put a sign up on Larpenteur Avenue advertising it to the public. Now, the City is clearly doing the advertising for it as well.

This planned land use activity is not a "garden" as used by the planning division's administrative determination. The moment the word "community" was placed in front of the word "garden" the nature of the activity is obviously altered. Now it is being advertised to the "community" by the City Parks & Rec. Department. Say what you will about the other reasons put forth in the Appeal petition, it now unmistakably appears to me that this is indeed a "moderate impact quasi public use" requiring a conditional use permit. Ord. §§ 1002.02; 1004.015. One also has to seriously wonder if it is not only "quasi public" but "public" due to City involvement in promoting it - a governmental promotion regarding land owned and operated by a religious institution no less.

Here, the activity clearly involves at least 26 people; to begin with; (and remembering that "gardeners" can bring spouses and children to the community garden too - 26 can easily be 50-100 persons). The advertisement also says the planned garden will be "large." Indeed, looking at

the NCPC community garden plans, the current location of the plots allows growth to the East - toward the sunny area of the property and toward the parking area. This fact is not lost on those living in the neighborhood. It also coincides with NCPC's admitted plans to start smaller and grow in size to meet demand. (see Appeal Letter, p. 2 n. 6)(citing Kim Spear April 18, 2010 email to Larry Leiendecker)

Plus, let's not lose sight of the fact that the neighborhood (public) impact of the activity is amplified by the fact that NCPC is not only engaging in the activity of being a Church (an activity that today would require a CUP), it is also engaged in the activity of being a school (requiring a CUP), and a state fair parking facility (requiring a CUP). Now it wants to lease its land to the public for the purposes of urban agriculture in an area densely populated by single family homes as well. This causes me (and I'm sure others) to say: "Enough is Enough."

Please include this email in the appeal for the City Council to review. Plus, I encourage the City Planning Division to reverse its administrative determination on its own initiative and require that NCPC apply for a CUP for its planned land use activities.

With Respect,
Larry Leiendecker

RE: NCPC Appeal

Fri 5/14 2010 11:57 AM

From: Bill Malinen

To: Larry Leiendecker, J.D., Bryan Lloyd

Mr. Leiendecker:

Thank-you for bringing this to our attention. The Parks & Rec. webpage reference to the NCPC garden plots has been removed. I hope you and your neighbors have received my letter notifying you of the hearing of the appeal before the City Council on May 24th.

Have a great day!

RE: NCPC Appeal

Fri 5/14/2010 3:28 PM

From: Larry Leiendecker, J.D.

To: Bill Malinen, Bryan Lloyd

Dear Mr. Malinen:

I appreciate your response and I trust that my emails to you (specifically those of 5-6-10, 5-10-10 and today's email) have been; or will be; provided to the City Council as part of the appeal as I have requested. I believe that, because of the subsequent conversations with Mr. Lloyd and the City promoting the NCPC "community garden," there is important information to be gleaned from these subsequent events, and my response to them, that may help clarify the NCPC matter for the City Council.

In particular, the City promoting the NCPC "community garden" (that NCPC intends for the purposes of enhancing its own membership) to the general public on the city website reflects the City's clear understanding that this so-called "garden" is a public use of the land and not a private one. I don't think we need to even discuss the Establishment Clause issue associated with the City promoting such an activity for a religious institution. I trust that this promotion was an innocent oversight that will not likely happen again.

As far as communications with Mr. Lloyd, I believe that his belief that there are different rules for churches or schools that operate on land zoned residential (R1) from that of individuals who reside on land zoned residential (R1) is mistaken. As I explained to him, I don't recall ever seeing any special rules for churches (or schools for that matter) that are situated on R1 land. I also believe that state law prohibits special rules for land similarly zoned. See Minn. Stat. § 462.357, subd. 1 (2008) ("The regulations shall be uniform for each class or kind of buildings, structures, or land and for each class or kind of use throughout [a zoning] district.") As I said in my previous 5-6-10 email to Mr. Lloyd that was copied to you: "The R1 rules must be applied in a uniform manner." (see also Appeal Letter, p.4-5, n.13)

So, I'm left puzzled by the differing approaches to land use determinations by the planning division as it has always been my understanding that if I can't do something on my R1 land, then my neighbor who is similarly situated can't do it either. Here, I think we can all agree that if I started inviting the public to share-crop (aka farm) my yard that it would not be allowed without a CUP. However, if I am sorely mistaken about this and it is the case that I can farm my land (or allow the public to do it for me for a nominal price) without a CUP, then maybe I'll just have to start farming my land to supply the organic produce section at the nearby Rainbow grocery store. As you know, times are tough - we could all use the extra income.
;-)

As I have previously explained, I am of the strong belief (and I'm not alone in this belief) that the administrative determination is clearly erroneous. If nothing else, the NCPC planned "community garden" is obviously a moderate impact quasi-public use of the land that requires a CUP under the ordinances. Therefore, I again encourage the city planning division to reverse its administrative determination on its own initiative.

As for the letters, although I cannot speak for my neighbors, I can confirm that I have personally received your letter to my address. I suspect that my neighbors have received theirs as well.

Have a great weekend, and thanks again for your following up.

With Respect,
Larry Leiendecker

NCPC Appeal

Fri 5/14 2010 4:23 AM

From: Pat Trudgeon

To: Larry Leiendecker, J.D.

cc: Bill Malinen, Bryan Lloyd

Mr. Leiendecker,

Hello, we haven't met, but I am Patrick Trudgeon, Roseville's Community Development Director. Mr. Malinen asked that I respond to you regarding the inclusion of your more recent emails about the community garden along with the appeal City Council case.

We checked with the City Attorney to determine what additional information can be included and considered as part of the appeal. The City Attorney cited City Code 1015.04 (C)(3) that limits the information that will be reviewed by the City Council to only that which was considered as part of the original decision and subject to the

appeal. We specifically asked the attorney whether we could include your May 10th email as part of the packet of information they will receive for the meeting on the 24th. The City Attorney stated that only your original appeal documents can be included in the information the Council will receive.

Based on the City Attorney's direction, we cannot include your additional emails as part of the case. However, as per the code, the Council can, at its own discretion, consider other information. The City Council unfortunately will not be able to make that decision until they meet on the 24th.

I would note that City Council members may be contacted individually through phone calls or emails. Their contact information can be found at the city website www.cityofroseville.com

Patrick Trudgeon

RE: NCPC Appeal

Fri 5/14/2010 10:38 PM

From: Larry Leiendecker, J.D.

To: Pat Trudgeon, Bill Malinen, Bryan Lloyd

cc: Craig Klausing

Dear Mr. Trudgeon: (Roseville City Council Members and City Attorney):

The decision by the City Attorney to restrict what the City Council views is erroneous. It is also quite disturbing. As will be seen infra, under the City Attorney's interpretation of the city code, even the Appeal itself would be rejected as not being part of the "evidence that had previously been considered...." Because of this, I request that the City Attorney revisit and reverse this clearly erroneous determination. I also repeat my request that my correspondence regarding the Appeal be forwarded on to the City Council for its review. My correspondence at all times as been considered, frank, and polite while striving to illuminate the reasons for the opposition to the planning division's administrative determination. It seems quite odd that this type of candor would be so easily rejected by those that serve the residents of the City of Roseville.

Mr. Trudgeon, I trust that you will forward this email on to the City Attorney as your email did not provide me with any contact information. I trust that the City Manager will do the same and will also forward my emails, as previously requested, on to the City Council members. It's a simple request to be sure. I also trust that Mayor Klausing will also forward this email on to the other City Council members. I'm positive that the City Council will want to know that matters are being kept from its due consideration. Even the city code (as cited by the City Attorney) says that the City Council in its "sole discretion" can review additional information if the information clarifies "information previously considered...." So how can the City Council decide for itself (in its sole discretion) if this information is being kept from it? Hmmm? Sounds like the City Attorney is doing the decision-making for the City Council in this regard by filtering what it sees.

Nevertheless, as is clearly reflected by my emails to the City Manager regarding the Appeal, nothing in the emails (see below) conveys any new evidence. The references to conversations with Mr. Lloyd merely reveal insight into the reasons

390 behind his administrative determination. The emails also convey my continued
391 thoughts on why the administrative determination is erroneous. This is hardly
392 new evidence.

393 Further, the City obviously already knew that it was promoting NCPC's so-called
394 "community garden" on its website - pointing this fact out is not new evidence or
395 "additional information" for the City - as the City is deemed to have already been
396 aware of its own actions. This fact may have been new to me, but it certainly
397 wasn't "new information" to the City. At the same time, conversations with Mr.
398 Lloyd that revealed the reasoning behind the erroneous determination is not new
399 evidence either. The City is also deemed to have been aware of the reasons
400 behind its own decision-making. So these matters obviously bring nothing new to
401 the table.

402 Mischaracterizing the subject of my emails to the City Manager - to be included
403 with the appeal - as new or additional information beyond the scope of the
404 administrative determination ignores that the City was already very much aware
405 of its promotion of the NCPC "community garden" at the time of the
406 administrative determination and was very much aware of its reasoning behind
407 the administrative determination. So, how a citizen providing further thoughts on
408 these very points - after the citizen becomes aware of the information that the City
409 already knew; especially as that information pertains to the "moderate impact
410 quasi-public use" issue that was already clearly noted in the Appeal Letter (see
411 p.4-5) - is considered to be outside the scope of the appeal is way beyond me.

412 Indeed, the City Attorney should revisit the language of the city code section
413 1015.04(C)(3):

414 The Board of Adjustments and Appeals will reconsider only the evidence
415 that had previously been considered as part of the formal action that is the subject
416 of the appeal. New or additional information from the appeals applicant may be
417 considered by the Board of Adjustments and Appeals at its sole discretion, if that
418 information serves to clarify information previously considered by the Variance
419 Board and/or staff. (Ord. 1347, 4-23-2007) (Ord. 1359, 1-28-2008) (Ord.1372, 7-
420 28-2008) (emphasis added)

421 As noted, the code language "will reconsider only the evidence that had
422 previously been considered..." does not restrict my emails concerning what the
423 City of Roseville already knew. What the City already knew is deemed to have
424 already "been considered as part of the formal action." Thus, my finding out what
425 the City already knew and addressing it is not new evidence to the City in the
426 least. The same can be said for the Appeal letter itself.

427 ***Here, under the City Attorney's view of City Code 1015.04 (C)(3) even the
428 Appeal letter (that 64 residents signed) would be excluded because it would not
429 be "evidence that had previously been considered as part of the formal action...."
430 The City Attorney's interpretation erroneously presumes that all subsequent
431 correspondence concerning the appealed "formal action" is evidence that wasn't
432 previously considered. Clearly, under the City Attorney's view, the Appeal letter
433 because it followed the "formal action" in time, could not have been "considered
434 as part of the formal action." Thus, following City Attorney's line of reasoning,
435 everything following the administrative determination, including the Appeal

itself, has to be excluded as "additional information." The City Attorney's interpretation of the code is simply erroneous. Public commentary and relevant analysis of matters already known to the City is simply not new evidence.

Now if my emails were to have included new landscaping plans - instead of referencing the existing NCPC plans that the City reviewed - then that would be an entirely different matter as it would clearly be new evidence not previously considered. But, as explained, nothing in the emails present anything new that the City wasn't already aware of at the time of its decision-making. Therefore, the emails (and the commentary and analysis contained therein) simply cannot be legitimately considered as being new evidence.

This knee-jerk desire to limit what the City Council sees (under the guise of "additional information" that the City is already itself deemed to be aware) is particularly disturbing to me. Redacting sincere public commentary is never - ever - the correct path for city government to take vis-à-vis its constituency. Certainly, the City Council needs to understand that the City in promoting the NCPC "community garden" on the city website all the while the planning division was making its decision is very problematic and directly relates to the decision-making of the planning division and to the appeal of that decision. It is also quite disturbing that the determination to redact my comments by the City Attorney have only come following my discovery and reporting of the promotion of a purportedly religious activity by the City on the city website. Concealing this problem does not serve to dispel the obvious crossing of a line that has taken place. It only serves to amplify the problem and make it significantly worse.

Therefore, I respectfully request that the City Attorney reverse the decision to keep my sincere comments (regarding information that the City is already deemed to have been aware) from the City Council. Again, I request that my correspondence be forwarded on the members of the Roseville City Council for their review and timely consideration.

With Respect,
Larry Leiendecker

RE: NCPC Appeal

Tue 5/18/2010 2:29 PM

From: Craig Klausing

To: Larry Leiendecker, J.D.

Mr. Leiendecker,

As I read your appeal letter I understand your argument to be that for a number of reasons, the city code implicitly requires a landowner to obtain a conditional use authorization for the type of use proposed by North Como. In other words, the code does not specifically say that gardens of a certain size or used in a certain manner require a conditional use permit. Rather, that obligation is inferred from a number of other sections and from the factors you have outlined. Correct?

If I have that wrong, and you believe that there is a portion of the code that explicitly requires a conditional use permit, could you identify the relevant section of the code for me?

Thank you.

Sincerely,
Craig Klausing

RE: NCPC Appeal

Tue 5/18/2010 7:28 PM

From: Larry Leiendecker, J.D.

To: city.council@ci.roseville.mn.us, Bill Malinen, Pat Trudgeon

Dear Mr. Mayor (and City Council members):

(Mr. Malinen & Mr. Trudgeon please include this email with the Appeal packet).

I do believe that the city code; in addition to expressly requiring a CUP; implicitly requires a CUP for the type of land use NCPC proposes - as I will further explain below. I also think that we need to look beyond the label that is placed on the activity and examine the substance of the activity. While "garden," "community garden," or "urban agriculture" is not specifically defined or addressed by the ordinances, I should point out, as referenced in the Appeal letter, that the ordinances expressly require a CUP for any activity that is a "moderate impact public or quasi-public use." See Ord. § 1004.15. In pertinent part, the city ordinance defines moderate impact quasi-public use as:

Moderate impact public or quasi-public uses include activities with more than ten (10) employees on site for any one activity, requiring more than fifteen (15) parking spaces for any one activity.... A quasi-public use is any use which is essentially public as in its services rendered, although it is under private control or ownership."

Ord. § 1002.02. Thus, I believe that a "community garden" involving 26 plots (initially) that contemplates community leaseholders and their family members (26-100 persons) farming the plots clearly qualifies as a "moderate impact quasi-public use" of the land. I also believe that the City has all but admitted the public nature of the activity by its promotion of the Church's planned "community garden" to the community at large on the city website. In fact, the city advertisement (see attached) noted that the "community garden" was going to be "large." So, this dispels any notion that the size would qualify for "low impact quasi-public use."

Perhaps not as clear as the "public use" provisions, the ordinance provisions relating to a "home occupation," I believe, can also be applied to the proposed land use. The NCPC building sits on land zoned R1. The single family homes in the surrounding neighborhood are similarly situated being zoned R1 as well. If I were to farm my land, or allow others to do it for me, I would have to apply for a CUP because I would be engaging in an occupation that is not confined to my home. Ord. § 1004.01(G)(2)(a)-(b). To illustrate, even if I were to farm my grass I would need a CUP. Growing grass is fine in a residential district (for the most part we all do it), but the moment I convert my lawn to a "sod farm," then I have just converted my residential land to use as an occupation that is substantially outside of my home. One would think that the NCPC planned land use would also qualify for such an occupation

that is not confined to the dwelling (i.e., building). State law mandates that land use regulations be applied uniformly. See Minn. Stat. § 462.357, subd. 1 (2008)("The regulations shall be uniform for each class or kind of buildings, structures, or land and for each class or kind of use throughout [a zoning] district.")(emphasis added).

Here, there are no special rules for churches so far as I can tell (how could there be - see Establishment Clause). So it seems that, because the Church is situated on land presently zoned R1, that any activity in addition to being a church (which was allowed on R1 land at NCPC's inception) would qualify as an additional occupation. This would be fine if it followed the same rules for home occupations on R1 land. However, because the activity is not confined to the building and contemplates more than one non-resident (26+) being involved in the occupation, the proposed activity should require a CUP. As I wrote before, the fact that I choose to live in my building and the Church technically doesn't have anyone living in its building (other than being a house of God) shouldn't obscure the reality that both buildings sit on land zoned R1. The R1 rules apply to the Church equally as they apply to me.

The City required the Church to obtain a CUP in 2008 when it decided to lease its land (parking areas) to the State Fair to be used as a "park and ride" for the last two weeks in August each year. It seems odd that when the Church wants to lease its land to the public for a "community garden" that a different approach is now being taken by the planning division. As I wrote previously to Mr. Malinen, we shouldn't forget that the NCPC land (zoned R1) is already being used as a church (an activity that today would require a CUP) and that NCPC is also engaged in the activity of being a school (requiring a CUP), and a state fair parking facility (requiring a CUP). Now it wants to lease its land to the public for the purposes of "urban agriculture" in an area densely populated by single family homes as well. This causes me (and I'm sure others) to say: "Enough is Enough."

At the risk of going a bit off topic, this neighborhood has had to endure a lot of activities by the Church over the years. For the most part, they have not greatly impacted the neighborhood. But, in 2008 the Church began adding to its customary activities with the addition of the state fair parking facility. This is a miserable two weeks in late summer for us in the affected neighborhood; having to endure the traffic, noise, and the daily clean up of state fair trash in our yards. Now, the Church wants to add to its enterprise by converting its land to a large "community garden." Indeed, the visitors of the Church (its members) who make these land use decisions don't live in the affected neighborhood and seemingly don't contemplate (because they aren't personally affected) that their land use decisions have impact on the surrounding neighborhood. Their current plans even contemplate that we, the affected neighbors, will be the "eyes on the garden... who can welcome and redirect gardeners, or alert coordinators as needed." (See Appeal letter, n. 5). In essence, the Church members making the land use decisions for the Church want the affected neighborhood to police the "community garden" for them in their usual absence. Not only is this presumptuous, it is quite absurd. Really - Enough is Enough.

I don't wish to come across as draconian in my views - I'm sure my neighbors don't want to either - but it seems to me that the city ordinances clearly regulate "urban agriculture" or "community garden" activities under its "public use" provisions. To be sure, the moment the word "community" is placed in front of the word "garden" the public nature of the activity becomes absolutely certain. I just don't know how the planning division missed this.

Beyond this, the Appeal letter also argues that the City can regulate a land use activity that is presumptively a non-conforming use for R1 zoned land. This is where I believe the letter speaks about the city code implicitly allowing the city to regulate land use activities. I can appreciate that implicitly regulating land use (as opposed to expressly regulating land use) can have its due process implications. But, like the letter mentioned, a fertilizer/manure factory (for instance) is not mentioned as an envisioned use in a residential district - it appears nowhere on the list/chart. See Ord. § 1004.15. Clearly, that would not be a permitted activity on R1 zoned land because of the inevitable nuisances that it would cause. "Urban agriculture" is also not envisioned. While not as alien as a fertilizer/manure factory in a residential district, the urban agriculture activity brings with it its own inevitable nuisances to a neighborhood densely populated by single family homes. Any possible notice issues must be balanced with the police powers that municipalities enjoy to protect the health, safety, morals, and general welfare of the community. The manner of use (as opposed its label), size, and location are all part of the analysis that should go into any land use decision by the city in fulfilling its broad mandate to protect the general welfare of the community. See *Wedemeyer v. City of Minneapolis*, 540 N.W.2d 539, 542 (Minn. App. 1995) (recognizing Minnesota's long history of acknowledging the right of municipalities to exercise police powers by regulating land use and development).

I hope this clarifies matters for you. It may have taken the long way, but people who know me well (namely my wife) would think that this is brief for me. :-). I have copied Mr. Malinen and Mr. Trudgeon so that they will include this correspondence in the official Appeal packet. I have also copied the other City Council members anticipating that it may answer, in advance, any questions they may have. If I can be of further assistance please feel welcome to contact me. Thank you.

With Respect,
Larry Leiendecker
983 Larpenteur Ave W.

Appeal of Community Garden

Thu 5/6/2010 12:27 PM

From: Bryan Lloyd

To: Spear, Kimberley M.

Ms. Spear,

Mr. Leiendecker, presumably with the support of the folks who signed the petition, submitted an appeal of our (i.e., Roseville's) determination that the community garden is not a regulated use. I've attached the appeal letter and supporting attachments for your reference. According to

procedures established in the City code, the appeal means that the matter will be brought to the City Council at its meetings of May 24th, at which time they'll have to make the decision as to whether the community garden is allowed by the zoning code or not. Staff and the City Attorney will be preparing analyses of the zoning code and the legal assertions made in the appeal letter but, officially, no new information on the issues is to be considered.

We'll keep you informed about when the Council will discuss the matter, and you (or another representative of the church) should plan to be in attendance to help answer questions that the Councilmembers may have. In the meantime, the church may continue to plan, but the appeal process requires you to wait on any further physical progress in preparing the garden area until after the City Council makes its decision about the appeal.

Feel free to call or email me if you have any questions.

Bryan Lloyd

NCPC Plans

Tue 5/11/2010 10:41 AM

From: Bryan Lloyd

To: Spear, Kimberley M.

Hi again, Kimberley.

As we endeavor to provide context to the City Council with respect to the community garden plans and the appeal, it seems that I would do well to seek a little more clarification pertaining to the intended size of the community garden.

My impression from you (from our conversations as well as from your/the church's response to Mr. Leiendecker's original email to you on the subject) is that NCPC's plans are to start small, with approximately 8 plots and, as need dictates and success allows, expanding over time into the full plan that you've sent me including 26 plots plus 4 smaller, raised beds. In contrast, my conversations with Mr. Leiendecker leave me with the impression that the plan for 26 plots is just the beginning, and that NCPC intends to enlarge the community garden across most of the church's front yard if the project is successful.

If you could please clarify the church's intent, I would certainly appreciate that. Thanks in advance.

Bryan Lloyd

Re: NCPC Plans

Tue 5/11/2010 9:25 PM

From: Spear, Kimberley M.

To: Bryan Lloyd

[The email begins with a response to the above question pertaining to the full scope of the community garden plans. This part of the response is not included here because Ms. Spear understood that City Code provisions prevented the information from being included with the materials provided to the City Council; Ms. Spear may well re-present the information on her own terms now that it is being accepted by the City Council.]

Bryan, here are the series of questions that we have for you about the City Council meeting.

What time is the City Council meeting, can we be early on the meeting agenda, and where is the exact location of the meeting?

Is it a requirement for the City to respond at the Council meeting? Or did the Council decide to respond? Is the purpose to endorse the opinion previously provided, or could they change the opinion provided to us earlier?

Will the City Council be addressing zoning questions only? Or will they question the merits of community gardens too?

What is the format of the conversation? Do you present? Do we present? Do neighbors present? Are all presenters timed? If so, how long is the presentation time? Can we show the plans and speak to them?

Can the neighborhood members interested in the garden - pro or con - attend?

What does the City Council receive in their packets? The appeal letter and attachments? The letters that you sent us? We plan to send in a letter to address the 14 page appeal letter, but wanted to know if it would be read/considered at this time.

Tim Pratt in Parks and Rec was noted as a person familiar with our planned community garden. Are you aware if Tim/others in Parks and Rec have seen the appeal letter and have comments on same? Is there a value in requesting their assistance?

Lastly, what does 'no new information will be presented' mean?

Thanks for your comments as soon as possible.

My Best,
Kim

Re: NCPC Plans

Thu 5/13/2010 11:30 AM

From: Bryan Lloyd

To: Spear, Kimberley M.

Thanks for the reply, Kim; that helped to complete the picture of NCPC's goals and thoughts about the project.

As for your questions, the first point I'd like to clarify is that we/Roseville didn't "approve" the community garden. The frank-but-oversimplified reality is that we looked at the plans and the zoning code, shrugged our shoulders, and said that the zoning code doesn't regulate it. I gave the same reply to a homeowner who came in to ask about the required setbacks for a backyard swing set. I literally shrugged my shoulders and told him that the code doesn't have any rules about it. This might be a subtle point, but when the City approves something, that "something" required our approval: the community garden doesn't require our approval, so we didn't "approve" it.

Moving on, then, the City Council meeting will begin at 6:00 p.m. on May 24th. I don't have any knowledge of (or input into) the Council's agenda, but you can contact the Administration Department (651-792-7001) to see what the schedule might be and to let them know your preferences.

When the issue does come up, it'll begin with a presentation (prob'ly by me) about staff's review of the garden plan and how we concluded that it isn't regulated by the zoning code. Then there'll some discussion between the Councilmembers and staff about the issues involved. That's all that the appeal process requires, but the meeting is open to the public and I'm very confident that the City Council will allow any interested attendees to share their thoughts. In fact, the Council will likely have additional questions for you and

Mr. Leiendecker. While the process doesn't guarantee any additional public input, I would be completely surprised if you weren't given the opportunity to say everything you feel needs to be said.

The appeal is being heard by the City Council because the City Code requires it. There's no process for determining whether an appeal has a certain level of merit to qualify for Council review. And, while the only real issue that the Council needs to address is whether Planning Division staff properly/appropriately interpreted the zoning code, it'll be impossible to divorce community gardens from that discussion. Since the Parks and Recreation department already operates a community garden elsewhere in Roseville, my guess is that the conversation will be more about where/how community gardens can be appropriately allowed rather than whether community gardens should be prohibited outright.

According to the appeal review process established in the City Code, the only materials that the Council will receive in advance of the meeting are: the plans and communications pertaining to staff's review and determination (most of which was contained in the attachments submitted with the appeal), the appeal itself, and analyses by City staff of the zoning and legal issues raised in the appeal. We can't include a response from the church, or any additional communication from Mr. Liendecker or the other neighbors but, as I indicated above, I'm sure that the City Council will be interested in hearing all of that during the meeting.

I hope that helps to shed the needed light on the appeal process for you. Please let me know if you have additional questions.

Bryan

City Attorney Interpretation

Wed 5/19/2010 10:31 AM

From: Bob Koppy

To: Craig Klausing, city.council@ci.roseville.mn.us, Pat Trudgeon, Bryan Lloyd

dear mayor & city council members;

I would like to have this email be included with the appeal packet that was recently sent to you by Larry Leiendecker. the most important issue is the CUP requirement be made on the NCPC community garden. I FOR ONE CANNOT SEE HOW THIS IS CONSIDERED AS A LOW IMPACT GARDEN PROJECT. ORIGINALLY I UNDERSTOOD THAT IT COULD BE AS LARGE AS 50 PLOTS OF LAND THIS IS NOT SMALL HOWEVER AT ONE OF THE MEETINGS WITH THE NCPC GARDEN CORDINATORS IT WAS REDUCED TO 12 PLOTS THEN IT WAS CHANGED TO 15-18 PLOTS AND NOW AT LAST COUNT IT WAS UP TO 20 PLOTS. I BELEIVE NOW IS THE TIME TO HAVE SOME RESTRICTIONS BY HAVING A CUP REQUIREMENT.
