

PLANNING COMMISSION MINUTES - CITY OF INVER GROVE HEIGHTS

Tuesday, September 19, 2023 – 7:00 p.m.
City Council Chambers – 8150 Barbara Avenue

1. CALL TO OFFICE

Chair Niemioja called the Planning Commission Meeting to order at 7:00 p.m.
The Pledge of Allegiance was recited.

2. ROLL CALL

Commissioners Present: Elizabeth Niemioja (Chair)
Scott Clancy (Vice Chair)
Jonathan Weber (Secretary)
Dennis Wippermann
Jason Teiken
Lance Twedt
Trisha Presley
Robert Heidenreich

Commissioners Absent: Aida Schaefer (not excused)

Staff Present: Allan Hunting, City Planner
Heather Botten, Associate Planner
Stacy Bodsberg, Community Development Support Specialist

3. CONSENT AGENDA

A. Minutes from the September 6, 2023, Planning Commission Meeting

The consent agenda was approved as presented.

5. PUBLIC HEARINGS

A. Consider an Ordinance Amendment to Title 10 of the City Code (Zoning Regulations) to add Shipping Containers to Section 10-2-2 Definitions and to add Section 10-15-37: Shipping Containers as an Accessory Use. (Case No. 23- 38ZA).

Reading of Public Notice

Commissioner Weber read the Public Hearing Notice. No notices were mailed out.

Presentation of Request

City Planner Allan Hunting mentioned that a discussion about shipping containers came up when Jersey's Bar requested a variance when placing a shipping container on the property to be used as an outside bar. At that time, they needed a variance for exterior building materials. The Council asked staff to review and look into the possibility of allowing shipping containers in the city. There was not much information locally, but did find nationwide information. Shipping containers/cargo containers are a six-sided ribbed structure designed for shipping on semis or cargo ships. The benefit in allowing these is that they can be purchased new or used, customized, and brought to the site. No construction is needed. Information was brought before the Council in July; they continue to support the idea. Council requested staff to draft an ordinance to allow these in B-3 Districts in public and industrial districts. It is not specific to a geographic area. It would be an accessory to a principal use, they cannot be the only structure on the site.

Background:

- Noticed for commercial use as a bar/kitchen or other commercial kiosk in the B-3 District
- Could be used in parks

- In industrial zones the shipping container could be used as storage

The staff created definition of a shipping container consists of units that are 20 feet long, 8 feet high, and 8 feet wide. They are not looking to allow the larger 40-foot containers. Due to the B-3 use/commercial, conditions would be:

- Limiting to just one (1) accessory structure on the property
- Depending on use, may/may not need building permits
- Should be placed on some type of hard surface, asphalt, concrete, gravel (not grass)
- If by the river or floodplain area, should comply with those regulations
- Need to meet all necessary setbacks in the zoning district
- Not be used as a dwelling unit
- Should not be used solely for storage purposes
 - If in the B-3 District, would like to see these utilized as a type of commercial use
- Allow with ribbed siding. No other siding is needed to meet code requirements.
- Need to be in good shape, painted properly, not banged up or rusted. Previous company markings or identification should be painted over.

In industrial/public areas, likely used for storage:

- Allow more than one, limiting to 3
- Building permit may be necessary depending on how it would be used
- Placed on a hard surface
- Recommend no stacking of the units, on ground level
- Vertical ribbed, good shape, painted, more appealing

Staff recommends an ordinance be adopted by the Council but are presenting it to the Planning Commission to see if there are any comments or suggestions.

Chair Niemioja referenced "not solely for storage purposes" in the B-3, stating that is what she wanted to avoid most. She liked the idea of it being used like a food truck/café. She questioned for example, if CHS wanted this on their parking lot as a donut/coffee shop, but only rent it 6 months of the year, if it would work out to shut it down for the 6 months, they are not using it and then open it back up.

City Planner Hunting agreed.

Chair Niemioja referenced painting and if it has to match the other building(s) or if, for example, they could paint it with donuts pictured on it.

City Planner Hunting replied the recommendation is that it not be painted as signage. Signage cannot be painted on a building; it would not be allowed on these containers.

Chair Niemioja asked about having one at the dog park and if kids from the elementary school could paint dogs on it.

City Planner Hunting replied that could be possible, it is not business signage.

Chair Niemioja said she was trying to think of what would make it appealing. She referenced the photo of the bar/food truck container and said it would be neat if it had some type of design.

Commissioner Weber said if it couldn't be a billboard for a business, but wanted to wrap it with something cool, he questioned how to determine.

Chair Niemioja replied it could probably not have words on it such as "Bills Donut Shop".

City Planner Hunting replied that would be a sign.

Commissioner Heidenreich questioned for example, if having graffiti on it such as the one at Jersey's Bar, which would be similar to a railroad train. He does not believe they should be overly restrictive. He could see signs stating "Must be 18", "Bar", "Cash Only". He does not believe they need to overregulate and should skip that part. His thought was that they should strip every rule.

Commissioner Weber asked if this precludes a residential property from using a shipping container for a pool.

City Planner Hunting replied a shipping container would not be allowed in a residential district. If someone wanted to put one in as an accessory structure, they would have to comply with accessory structure materials.

Commissioner Weber mentioned there is a company that turns shipping containers into a hot tub or pool.

Associate Planner Heather Botten replied that would be a different code amendment.

Commissioner Weber shared that there was a company in Eagan called Nomadic Shack that takes shipping containers and turns them into dwelling units. He asked about putting an ADU or a granny pod on their personal property.

City Planner Hunting replied it would not meet minimum size requirements. It may have to be a bigger one. It would still need to be sided correctly, comply with all building codes, and have approval from the building official.

Commissioner Teiken asked for more information on circumstances referenced that would require a building permit.

City Planner Hunting replied the building official mentioned it would have to be looked at based on the use. He thought a permit may be needed if running electricity and/or water.

Commissioner Teiken asked if the permit would mean that a future plan would come before the Planning Commission.

City Planner Hunting replied no.

Commissioner Heidenreich said this does not allow a temporary use in a residential or interculture area. He provided an example of a family losing their home to a fire, a container would be a very secure way to store belongings on site. Other examples could include someone having a major remodel or storm damage on a property. He suggested allowing a temporary use on all properties. He said the temporary use of a container up to 40 feet could be used as long as it is maintained on the property for 6 months, 8 months, or 1 year.

Associate Planner Botten mentioned the code may have flexibility regarding a roll off or storage container that is parked temporarily.

Commissioner Heidenreich said this code says no shipping containers. He could see a neighbor complaining that the code says no shipping containers. He recommends it last as long as the building permit is enforced.

City Planner Hunting stated that Council directed staff to deal with business use. He suggested staff take the comments mentioned and if Council wants to go further, they could, or it could be looked at through the code. He said there has not been questions regarding pods, which is temporary storage on a site. It could be looked at that way.

Chair Niemioja mentioned no stacking was important.

Commissioner Weber said they could be stacked more securely than a structure could be built. They can be locked together. They are stocked in shipping yards and boats 10 high.

Chair Niemioja asked if Commissioner Weber would recommend stacking no higher than 3.

Commissioner Weber recommends no stacking higher than the limit. If not wanting to use up a parking lot, stacking these would be more secure than a structure.

Chair Niemioja said she was looking at it from an eyesore standpoint or road view blockage.

Opening of the Public Hearing

With no people in the audience, Chair Niemioja closed the public hearing.

Planning Commission Discussion

Commissioner Weber asked if no stacking could be adjusted to say "no stacking any higher than the structure on the property".

Commissioner Presley mentioned it does not specify whether shipping containers can be stacked or not in the B-3. She questioned if it should specify.

City Planner Hunting replied they are only allowing one.

Commissioner Presley referenced P, I-1, and I-2, and if they could solely be used for storage. It does not specify that it can't be.

City Planner Hunting replied that is what its assumed they would be used for, solely for storage.

Commissioner Twedt said he would not be in favor of stacking. It could become a question of if the directions were followed or if they were sure they are secured. He was more comfortable with having just the one.

Planning Commission Recommendation

Motion by Weber to Approve the Zoning Code Amendment with the recommended Zoning Ordinance to allow for shipping containers to be allowed as an accessory use in the B-3, I-1, I-2, and P, Zoning Districts with the performance standards listed under A. and B.

Commissioner Clancy questioned whether they wanted to add an opinion or recommendation to strike any requirements under the B-3 usage, specifically, A.8.

City Planner Hunting said the Commission may want to modify it. There is an important first clause included that states they are allowed to retain the vertical metal siding. It could be left at that or modified.

Chair Niemioja agreed with maintaining the first part of the clause and suggested it state that they paint it a color that is compatible with the primary structure on the lot, or aesthetically appropriate for the use of the storage container.

Commissioner Weber asked if they could say it is not allowed to be used as signage or advertising. It opens it up to get wrapped or something else.

Commissioner Heidenreich said they should be allowed to put signage on, but not advertising.

Chair Niemioja suggested it be pursuant to the code guidelines related to business signage.

Motion Amended by Weber to adjust #8 to state that shipping containers are allowed to retain their vertical ribbed metal siding but must be painted a color that is compatible with the primary structure on the lot or aesthetically appropriate to the intended use of the container and is in compliance with business signage regulations under city code. Second by Heidenreich.

Ayes: 8

Nays: 0 Motion carried.

This item tentatively goes before the City Council on October 9, 2023.

B. Consider an Ordinance Amendment to Title 10 of the City Code (Zoning Regulations) to increase the maximum allowed size of accessory buildings on lots greater than five (5) acres in the A, Agricultural District and E-1, Estate Residential District and to amend other accessory structures language in Section 10-15-18. (Case No. 23-39ZA).

Reading of Public Notice

Commissioner Weber read the Public Hearing Notice. No notices were mailed out.

Presentation of Request

Associate Planner Heather Botten stated staff are proposing a couple of ordinance amendments to the accessory structure ordinance based on Planning Commission recommendations, and discussions and direction from the City Council.

Minor Amendments/Changes:

- Remove the structure separation
 - Current code requires a 6-foot separation between a principal structure and an accessory structure.
 - Regulated by the building department in the inspections code.
 - The recommendation is to strike this completely from the zoning code and let the inspections department handle.
 - Can go closer than 6 feet based on fire walls and other building code requirements.
- Currently there is no limit on the number of structures that are 120 square feet or less.
 - Discussions have suggested the possibility of having a limit.
 - Staff agrees and came up with a recommendation of limiting it to 2 in all residential zoning districts.
 - This would be separate from the accessory structure requirements.

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- Adding a definition of gross square floor area.
 - Current code talks about gross square footage. Code has a floor area definition that speaks of the inside measurement.
 - Staff found, after speaking with the inspections department, that they look at exterior dimensions which is easier when doing aerial measurements and calculating to have the gross floor area definition.

Larger Proposed Changes:

- Increase the size for accessory buildings on lots greater than 5 acres.

What is being added:

- Lots greater than 5 to 7.49 acres are allowed up to 3,000 gross square feet
- 7.5 to 9.99 acres, 3,500 square feet
- Lots greater than 10 acres would be allowed a detached accessory building up to 3,750 square feet
 - For properties zoned Ag. or E-1
 - Parcels zoned R-1C or other zoning criteria would not fall under this

Current code has a maximum of 2,400 square feet for anything greater than 5 acres.

- Lots that do not have an attached garage have to follow the same requirements as a lot that has an attached garage.
 - Language would be: Allows a residential property that does not have the allowed attached garage, to have one additional detached accessory building up to 500 square feet.

Planning Commission Discussion

Commissioner Weber referenced the gross floor area versus gross square footage. Gross square footage includes outside/exterior walls. Gross floor area is denoted in insurance regulations as "only interior usable space". He said his issue with this definition is when referencing gross floor area, it contradicts every insurance code he has ever known and contradicts what he considers as usable gross floor area. Gross square footage includes exterior walls. For example, when referencing what someone can utilize, if only allowed to build a 2,400 square foot space, they should have 2,400 square feet of usable interior space. Choosing a 2x6 wall instead of a 2x4 wall should not hinder the inside use.

Associate Planner Botten replied code speaks of total gross floor area and gross square feet. She asked if it would help to change the definition to gross square feet.

Commissioner Weber suggested being consistent in the language or if talking gross floor area, they would have to change all amounts to be the interior dimensions.

Associate Planner Botten replied that staff were looking to get the exterior dimensions.

Commissioner Weber replied it has to be gross square footage. Gross floor area is the usable space interior.

Associate Planner Botten said if the Commission was not comfortable with gross floor area, they could make the recommendation to have it changed to gross square feet.

Commissioner Weber suggested it be consistent with the maximum size in everything that is discussed.

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Commissioner Heidenreich asked how acreage is calculated for the city. For example, he looked up the properties along Akron Avenue, there was an anomaly in how the properties were titled or deeded. It goes to the center line of Akron Avenue all the way from the Inver Grove line to about 250 feet short of Cliff Road. Those are 5-acre deeded properties. The County website states 5 acres, but 0.23 is the right of way, Inver Grove says it is a 4.78-acre property. He asked for the purpose of this rule and if that would be considered a 5-acre property.

Associate Planner Botten replied for the purpose of calculating lot size for anything, staff looks at the County website which has total square footage. The right of way listed is subtracted, giving the lot size for buildable area.

Commissioner Heidenreich said as the area develops more, they may want to widen the road at some point, those properties would all be affected. He asked if the rule applies to riparian properties, they cannot count the acreage under the lake.

Associate Planner Botten replied that was correct.

City Planner Hunting replied in definition, the land is anything that is above the ordinary high-water mark. There is a definition for lot area that excludes right of way or road easements, private road easements. They are defined in the city code.

Commissioner Heidenreich stated the city and county charged property tax based on 5 acres, not 4.7. He asked if there was a way to get a refund.

Associate Planner Botten replied they should check with the county; the tax value may be on the lesser size.

Chair Niemioja suggested addressing the 2-120 square foot structures. She asked if they could have two (2) and if any more over that would count as total square footage, or if they were counted toward accessory numbers.

Associate Planner Botten replied it would be counted toward the one accessory building allowed.

Commissioner Teiken mentioned there was an applicant previously before the Planning Commission and the Commission was struggling with the size of an accessory structure and the size of the applicant's lot. The Commission was aware an ordinance change was coming. He asked if this was the ordinance they were discussing at that time.

Associate Planner Botten replied in the affirmative.

Commissioner Teiken asked if the numbers being discussed would be a potential solution to that problem.

Associate Planner Botten replied the individual tabled his request, it has not been brought before the Council, but is waiting for this ordinance amendment to go through. She could not recall if this addresses the issue.

Commissioner Weber asked if there was a reason why the ratio does not continue up. For example, a 10-acre lot multiplied by 480 is only 4,800 square feet.

Chair Niemioja asked about a 50-acre lot.

Commissioner Weber replied they would never see an accessory building on a 50-acre lot because they have 50 acres. A 50-acre lot multiplied by 480 is only 24,000 square feet. His thoughts were if owning more land, they should be allowed to utilize it.

Associate Planner Botten responded that could be proposed. The direction from Council and staff is that there should still be a limit on the maximum allowed. Regarding the ratio, staff discussed the fact that it is difficult to determine each persons property. It was easier to have a couple of different categories verses each lot having its own requirement and trying to track it.

Commissioner Clancy referenced the detached garage section of the ordinance change and asked if this language grandfathers in all lots that previously had a detached garage structure greater than 500 square feet. He questioned if they would be granted leniency if coming forward with a building department request to move forward, or if they would need a variance request.

Associate Planner Botten responded if a property does not have an attached garage and they would still be allowed the one detached structure up to 1,000 gross square feet. If wanting to come in for a second structure, they would be limited to 500.

Commissioner Heidenreich referenced the last sentence in paragraph B where it states "the total number of detached accessory structures on lots 5 acres or more is limited to 2". He asked if that was 2,400 each.

Associate Planner Botten replied no, it is gross square feet.

Commissioner Clancy said it would just be allowed in the total of allowed detached accessory structure. For example, if someone had a 750 square foot detached garage before. He was assuming that would be subtracted from the total amount of square footage.

Associate Planner Botten replied if the lot is less than five acres, and the existing structure is over 500 square feet, the secondary one would have to be limited to 500 square feet. If they already have two structures and both are over 500 square feet, they would be grandfathered in.

Commissioner Weber asked if they would treat the existing detached garage as an accessory structure.

Commissioner Clancy said it looks like they are attempting to correct the penalty of a detached garage immediately hitting the total accessory structure square footage.

Commissioner Weber said if having a house with a detached garage per the new code, they could have two accessory structures. He asked if a current detached garage is over the square footage of what the new code says, if it would be treated as an accessory structure or left alone as a detached garage.

Associate Planner Botten replied she would count that as the up to 1,000 square feet allowed, the big structure. They would be allowed a second structure up to 500 square feet, if there is not an attached garage. They would only be able to build one more building, two total.

Commissioner Clancy asked if they were not looking at the detached garage as an accessory building.

Associate Planner Botten replied if under 5 acres, they are only allowed the one detached structure. If there is no attached garage, they would be allowed a secondary one. If having more than 5 acres they would be allowed two. If having two structures with a gross square footage of 3,750, over 10 acres, and do not have an attached garage, could have a third structure of 500 square feet because that is in lieu of an attached garage.

Commissioner Clancy asked if someone already had an existing detached garage greater than 500 square feet and wanted to build two accessory structures total, 3,750 gross square feet, if they would get flagged because the detached existing garage is over 500 square feet, they are counting toward the total allowed on the site. He asked if they would be grandfathered in and given leniency.

Associate Planner Botten replied the one that is already over is counted toward the gross square footage allowed on the property. It could be added onto to be up to 1,000 square feet, whatever the maximum is, or a second structure could be built at 500.

Commissioner Heidenreich mentioned the last sentence could be better written to state the total number of buildings/all detached structures on lots of 5 acres or more, in a zoning district, shall be limited to 2. He suggested the square footage issue be addressed.

Commissioner Weber said the line contradicts lots without an attached garage like they are trying to add. He said it sounded like they could have a detached garage plus two more buildings.

Associate Planner Botten replied there were not many lots in the city that don't have an attached garage. It is fewer for lots greater than 5 acres. She said it an additional section calls out special lots that do not have an attached garage. She does not want it to be confused with the bulk standards of the remainder of size requirements.

Commissioner Weber referenced an applicant who came in wanting a detached garage but already had an accessory building on the property. It was denied because of that. He questioned if the new rule would allow that applicant to be able to get the garage.

Associate Planner Botten replied yes, up to 500 square feet.

Commissioner Heidenreich asked if the distance of the setback was measured from the foundation of the home to the property line or the roofline.

Associate Planner Botten replied the foundation, as long as the roof line does not exceed two (2) feet.

Commissioner Heidenreich mentioned it does not say that where he was referencing.

Associate Planner Botten replied it is referenced in a different part of the code for setbacks.

Commissioner Heidenreich said if deeded 5 acres, it does not matter that somebody drives their car on it. The property is the size the property was when purchased.

Associate Planner Botten replied that is a separate part of the ordinance.

Commissioner Weber suggested leaving right-of-way alone because it can be used as a practical difficulty. He mentioned that the gross floor of the main level was discussed by the City Council, they do not care if there is a basement underneath. He asked per this code, if it would be square footage per each level.

City Planner Hunting replied it has always been interpreted that way. It could be below ground but was still floor area.

Opening of the Public Hearing

There were no comments; Chair Niemioja closed the public hearing.

Planning Commission Discussion

Chair Niemioja suggested the decision begin with 10-15-18 on 5 acre lots or more, but less than 7.5 acres.

Commissioner Weber said he would like to see the ratio continue up to 10 acres. After 10 acres, there would be a cap of 4,800. If someone wants one larger than that they would have to make application for a variance.

Commissioner Wippermann was concerned about when the guidelines were originally put in place. One of the considerations was not wanting to encourage these buildings be used for business or commercial uses. The larger they are, the more likelihood someone would. He did not believe they wanted to encourage that in a residential area. He would not suggest beyond 3,750. It is a 50% increase over 2,400.

Commissioner Weber asked if there was strong language regarding home occupations.

Associate Planner Botten replied there is language in code but, it is harder to regulate and easier to hide on larger lots.

Commissioner Heidenreich agreed that was also his concern. They already have regulations. He said they shouldn't say someone might want to use it as a business therefore nobody could have a larger structure. He felt that was overregulating.

Chair Niemioja said this was a huge jump, she was thinking of the mission and goals of the city. Niemioja referenced 7.5 acres or more but less than 10 acres, stating some from the Commission were in favor of the ratio and some for the proposal. She asked about opinions on lots over 10 acres. She mentioned it could be capped at the ratio where others may cap it at 3,750 square feet.

Commissioner Clancy said both felt arbitrary to him, it was difficult to draw the line without studies and publications. He said he could see respecting the wishes of what the people who built the city were trying to do. They are meeting a good halfway point of increasing the size of buildings as if to say that they acknowledge the growing need for more square footage for accessory structures. He said in respect to the wishes of previous and fellow citizens of the city, they are trying to control that level of growth; this is a good half way point. He said he would be inline to support the language as it currently stands.

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Commissioner Weber shared that he liked the ratio because they were actually granting 600 more square feet for a 5-acre lot than he would. With his ratio it would be left at 2,400 square feet for a 5-acre lot. He said the largest concern is giving larger buildings on smaller lots when they are giving additional square footage on a 5-acre lot than they have ever thought about giving. He suggested a 5-acre lot at 2,400 square feet and a 10-acre lot having a maximum square footage of 4,800 square feet. He said he felt the ratio fits well with lot sizes and is an easy number to go with.

Chair Niemioja appreciated the comparison to other cities. She said she was thinking more along the lines of areas such as Rosemount, Farmington, and Cannon Falls. She said they were already being generous. She understands the ratio as it's more tailored to each lot, but seemed like more labor to her.

Commissioner Heidenreich said he is in favor of the ratio. He suggested it go down to 4.5 acre lots and up to 10; stopping at 10. They do not have to use the ratio number listed; they could recalculate the ratio number. He said the entire code seems messy.

Chair Niemioja asked how Commissioner Heidenreich would recalculate the ratio.

Commissioner Heidenreich replied he has not put that much thought into it.

Commissioner Weber mentioned 480 was an easy number to work with. It takes the jump from 2,400 to 3,000 on a 5-acre lot. If an individual does not like the ratio applied number in comparison to their acres they would have to file for a variance.

Commissioner Wippermann said he does not have a problem with what is being proposed by staff.

Planning Commission Recommendation

Motion by Wippermann, Second by Twedt, to Adopt the Proposed Ordinance Language in Section 10-15-18, Letter B.

Ayes: 6

Nays: 2 (Weber, Heidenreich) Motion carried.

Motion by Weber, Second by Presley, to Strike Letter E. from the Building Separation in the Building Code.

Ayes: 8

Nays: 0 Motion carried.

Motion by Weber, Second by Clancy, to Approve Letter H. of 10-15-18, Accessory Structures, as written.

Ayes: 8

Nays: 0 Motion carried.

Commissioner Clancy said if an applicant came forward with a lot large enough to warrant the review of two additional accessory structures, in addition to a 500 square foot garage, that would be fine for this language. If the individuals detached existing garage was already over 500 square feet, it sounded like that structure would be applied toward that total.

Commissioner Heidenreich said they should be given an exemption for the first 500 feet off the total number.

Commissioner Weber said that was where he was confused. He asked if they receive the 500 plus the 2 additional.

Associate Planner Botten replied if the lot is over 5 acres, they would be allowed two additional. At 5 acres, they would be allowed 3,000 square feet. They would be allowed a third structure with an additional 500 square feet.

Commissioner Heidenreich said if the third structure was 800 already, where the 300 would come off.

Commissioner Weber replied it would come off of the 3,000 total. If having an 800 square foot structure, would get 2,700 additional.

Chair Niemioja asked what would happen if someone takes their attached garage and converts it into a living space and then builds a detached garage. She asked if they would be covered under this language because they no longer have the attached garage.

Commissioner Weber replied some may have converted their single stall tuck under garage into a bedroom space; they would be allowed to have a 500 square foot detached accessory garage.

Motion by Clancy, Second by Weber, to Approve the New Language for Lots without an Attached Garage as Personally stated in the Commission packets.

Ayes: 8

Nays: 0 Motion carried.

Motion by Weber, Second by Clancy, to Approve the Measurement size of an Accessory Structure Language and changing the gross floor area to gross square footage, including all written language.

Ayes: 8

Nays: 0 Motion carried.

This item tentatively goes before the City Council on October 9, 2023.

5. REGULAR BUSINESS

6. ADJOURN

Motion to adjourn the Planning Commission Meeting at 8:17 p.m.

Respectfully submitted, Sheri Yourczek, Recording Secretary