

APPEALS COMMISSION MEETING
May 6, 2015

Vice-Chairperson Blaine Jones called the Appeals Commission Meeting to order at 6:58 p.m.

MEMBERS PRESENT: Jeffrey Phillips, Vangyee Yang, Michelle Drury, and Blaine Jones

MEMBERS ABSENT: Brad Sielaff

OTHERS PRESENT: Scott Hickok, Community Development Director
Darcy Erickson, City Attorney
Julie Beberg, Code Enforcement Officer
Clyde Meidinger, 6654 East River Road

Approval of Minutes: January 28, 2015

Darcy Erickson, City Attorney, stated she did not believe the Commission would be able to vote on the approval of the minutes as two of the members tonight were not at the January 28, 2015, Appeals Commission meeting.

Tabled to the next Appeals Commission meeting.

1. Request for Hearing by Owner of 6654 East River Road.

MOTION by Commissioner Drury to open the public hearing. Seconded by Commissioner Yang.

UPON A VOICE VOTE, ALL VOTING AYE, VICE-CHAIRPERSON JONES DECLARED THE MOTION CARRIED UNANIMOUSLY AND THE PUBLIC HEARING WAS OPENED AT 7:00 P.M.

All those present tonight who would be presenting testimony were sworn in by attorney Erickson at this time.

Scott Hickok, Community Development Director, stated this is an appeal by Clyde Meidinger. The property address is 6654 East River Road. They are here this evening because of a code enforcement issue. The property owner and property is being operated outside of the bounds of the following Code sections: 205.07, is R-1, single-family dwelling district. In that district the principal uses include single-family homes and attached single-family homes.

Mr. Hickok presented a photo of the property as it was when the property owner purchased the property back in 1998. He stated Mr. Meidinger owns this property on East River Road. The property was purchased by him in September 1998. The City's code enforcement records show

code enforcement issues back at least as far as 1996. The infractions have included brush piles, outdoor storage, cars parked off the approved hard surface, and illegal home occupation.

Mr. Hickok stated the property is listed in County records as a non-homestead property and as currently listed, it has a rental license for the property. In the photo of the home back in 1998 they saw a nice wooded area back behind the garage. By 2006 an aerial photo Mr. Hickok presented shows the trees had been cleared. The area behind the garage had been cleared, and now storage is beginning to take place behind the garage. In the front of the garage behind a large white-roofed building and East River Road they can see vehicles parked off from the hard-surface drive as well.

Mr. Hickok stated that trend continued. He showed an aerial photo from 2012 that shows now the outdoor storage has intensified behind the garage and north of the garage. It also shows vehicles parked in the landscaped area. By 2014 some things had cleared up a little bit. City staff had spoken with Mr. Meidinger, and he had indicated that some of the materials were going to be removed; however, the outdoor storage continues and their concerns that they will discuss this evening continues.

Mr. Hickok stated the issues identified in the City's recent abatement letter of March 24 included an illegal home occupation, and that is directly related to the City Code Sec. 205.07.1.B(4). Also exterior storage which is Sec. 205.07.6.C and improper parking on unapproved surface, Section 205.07.6.A(2) and then under that there are other improper parking segments of the Code including vehicle parking which is Sec. 205.07.6.B, vehicle parking pertaining to that illegal home occupation, 506.13.1 and also the driveway public nuisance code that would be 110.02.1.

Mr. Hickok stated starting with the home occupation, Sec. 205.07.1.B(4). The home occupation section of the Code says occupations would be allowed in the R-1, single-family district, subject to the following criteria: (a) home occupations must be carried out entirely within the dwelling unit and home occupations are not permitted within a detached or attached accessory building or garage. That is a truncated segment of that Code. He just gave him the two pieces of category that are not in compliance. Those are the two key paragraphs in that section of the Code. They can see the outdoor storage as it exists in a very recent photo, taken on March 18 of this year.

Mr. Hickok stated as to exterior storage, Sec. 205.07.6.C states that nothing shall be stored in the required front yard with the exception of boats, non-motorized camping trailers, and utility trailers, provided they are located on an approved hard surface and no portion of the trailer extends closer than 15 feet to the back of the curb and in no case shall a trailer encroach into the public right-of-way. The little number they see in parenthesis is the ordinance number by which this was adopted many years ago but became part of Chapter 205 which is the single-family zoning code for the City of Fridley.

Mr. Hickok stated all materials shall be kept in a building or shall be fully screened so as to not be visible from a public right-of-way except for stacked firewood in the side yards. Boats, non-

motorized camping trailers, and utility trailers stored in the side or rear yard. Those are not required to be on a hard surface drive. The City would require a special use permit for outdoor storage. Mr. Hickok presented another photo taken on March 18, 2015, showing outdoor materials that are stored directly west of the house on the inside of the fenced area. Through the gate is a fairly large heavy trailer with materials on it. When the Code says that a trailer is permitted in the rear yard, it does not mean it can be fully of materials. It is just trying to recognize that homeowners may have use for a utility trailer or a camping trailer. However, when there is material piled on it and around it, it takes it out of that category of compliant and brings them to where they are today. There is also a motor vehicle parked off the surface on gravel.

Mr. Hickok stated as to driveway surface. All driveways and parking stalls shall be surfaced with black top, concrete, or other hard surface material that is approved by the City. This ordinance goes way back. In 1969 is when the City first required all surfaces be hard surface, concrete or asphalt. In 1996 the Council made a very concerted effort, there were just under 400 properties which still had gravel driveways to get those brought into compliance, and the City allowed a period from 1996 through 2001 because it was going to be an expense for folks and require some planning on people's parts even though when they bought their home likely it was supposed to have a hard surface drive they were now going to be asked to bring those properties into compliance. Nearly all properties did. The City had an inventory of properties. Even this property at that time had a driveway that served it well from East River Road back to its garage. Part of the difficulty here becomes expanding out beyond the driveway that was intended. They will see the driveway that was installed now has really lacked maintenance over the years, has broken up, and really no longer serves as impervious surface. He presented a photo of what was probably the best segment of asphalt on the property.

Mr. Hickok stated part of the idea why Council really made that concerted effort to bring properties into compliance was, imagine the plume of dirt and mud that comes off a driveway like this that would pitch out onto a street and then eventually to a catch basin. An enormous amount of time and money is spent cleaning up the City's sewer system and, when you do not have a hard surface drive that is kept relatively clean, what comes off the driveway ends up in the street and this is really akin to a construction site here that would typically have a silt fence and you would have a gravel entrance gate so that by the time the water gets to the street it is filtered and cleaned. That would not be the case here. It does not have the protections in place, hard surface drive and/or turf coverage that would keep that dirt in place.

Mr. Hickok stated as to prohibited parking. No outside parking or storage of motor vehicles shall occur except on approved hard surface driveways and parking stalls. As to parking requirements. Section 506.1.3 relates to parking that is relative to a home occupation. One large vehicle having a licensed gross weight of over 12,000 pounds is permitted in Fridley. This might just astound them but back in the early 1990's the City Council decided that, look, the bread and butter for a lot of our drivers in Fridley is the truck they drive. Although they cannot bring their trailer home, if they brought their tractor home and if they kept it on their site, and it was no closer to an adjacent property line, that ten feet, it would be okay. There are things that are not

okay. If you have heavy trailers, proportions of trucks that are commercial and related to a business on your site, that would not be permitted. Council's idea at the time was to allow folks who come back into town, maybe drop their trailer, but bring the tractor home because in the morning they are probably going to be up and on the road again early and they can take their trailer from there. Trailers or boxes from trucks that are not attached would not fit this category, would be a violation to this section of the Code, and any large commercial trailer cannot sit on the site either.

Mr. Hickok stated this site again has a trailer on it and actually the back of a boxed truck used as a used shipping container. It is certainly not a building that would meet building code requirements. A building now, according to modern code, under 200 square feet would not require a building permit; but it still needs to meet all of the building code requirements. That was recently upped from 120 square feet prior to this most recent amendment in the Minnesota State Building Code. The square foot dimension requiring a building permit was 120 square feet. Taking a container though and putting it in the backyard, does not meet the wind blowing requirements, the anchoring requirements, or anything else. This one does not appear to be anchored in any way other than to be set down and gravity holding it in place.

Mr. Hickok stated, again, another violation on this site is the driveway. He presented a photo of another segment of the driveway which would be considered in violation because of its condition and the fact it is no longer serving as an impervious surface. There are a couple of more typical accessory buildings. There is a concrete mixer on property which is related to the business and is not a permitted use here. Unlike the tractor that you drive home, if you unhook your trailer, this is an implement of your trade that is home, it is in your yard, it is a demonstration to surrounding properties that it is part of a business but it changes the character of the neighborhood. The idea of the R-1, single-family district, is that it provides folks an opportunity. He guarantees if they will there are certain things they will be protected against. One is a business that would be growing up in the neighbor's yard next door that they were never counting on. They thought they bought a house next to a house, only to find out they bought a house next to what looks to be an industrial storage yard or some sort of commercial entity.

Mr. Hickok stated Code Sec. 220.10.1.B talks about accessory structure maintenance. Although this was not cited in the letter to the property owner, it is something important to know. Being that this is a licensed rental property, one of the things identified in the rental code is that accessory structures supplied by the owner, the premise, must be in structurally sound condition. They must be maintained well, they must be good in appearance, and they must be maintained that way. They will notice in the photos some of those buildings lack some of that care that would be required.

Mr. Hickok stated as to yard cover it is part of the rental code. In order to rent out your property, you cannot keep it as a public nuisance. You cannot have outstanding code issues on that property. Yard cover would be one of those things. Again, trying to protect the City's storm sewers from plumes of dirt and silt that would wash out into the storm sewers and catch basins.

Having your yard covered is a very important element. With landscape you put grass and shrubs in to protect that, and this property is lacking that.

Mr. Hickok stated Mr. Meidinger has indicated that the pavers under this vehicle were placed there and would be suitable. In fact, in the Commission's packet is Mr. Meidinger's response that talks about, the City has allowed pavers to be considered an adequate and appropriate hard surface and that is true. Actually a paver that has the tinsel strength stamp on it that says it is designed to hold the weight of a vehicle and then is properly installed with the proper base and compaction, etc. can serve as hard surface, concrete driveway. This is not the case here. This was a stack of pavers at one time that was laid down without a base and they can see it is compressed into the soil, and that is what happens and, eventually if it is not designed to the tinsel strength of vehicles, not only does it become shapely and you can have bird baths in it, etc. but it also breaks apart, those bricks because granular and pretty soon it is, again, not hard surface.

Mr. Hickok stated as to the driving and parking area. The property owner of this dwelling shall be responsible for providing and maintaining in good condition, paved and delineated parking area for those people who live there. There is not good delineated parking here.

Mr. Hickok stated it goes on to talk about the owner-operator or occupant of any dwelling unit shall not allow accumulation and the formation of dirt, fill, refuse, road and harborage on the premise they occupy or control in the manner that would create a health hazard. Being a rental property is another consideration.

Mr. Hickok stated based on the staff's presentation, staff's recommendation would be this, that the Findings of Fact would show that the Order given by the City's inspector, directing the owner of the property to comply with the dates prescribed should be held. Accordingly the owner would be required to have a driveway paved by September 30, 2015, giving him some time to budget and plan and to do whatever is necessary to get a contractor to get that in by September 30, 2015. Also, to have the outdoor storage, including having the storage container cleaned up and removed by no later than 20 days after the date of the final appeal resolution and that they discontinue parking on any unpaved surface and all vehicles shall be licensed and operable. That should be done immediately. Also, that the owner discontinue the home occupation from this location by a date no later than 20 days after the date of the final appeal resolution.

Commissioner Phillips stated, looking at the section of vehicle parking, 205.07.6.B, where it talks about the nature of the driveway, the bottom of 110.02.1, he does not see a solid definition of what a driveway should be other than a manner prescribed by the City. Is there a better definition that the petitioner could expect to bring his driveway up to a specific standard other than asking a City official?

Mr. Hickok replied, yes, there is a definition in the ordinance that states that hard surface driveway is concrete or asphalt. That definition section was not included in their 110.

Commissioner Drury referred Commissioner Phillips to a little bit further up on their page, No. 2, it does say all driveway and parking stalls shall be surfaced with blacktop, concrete or other hard surface material approved by the City.

Commissioner Phillips replied but as he understands it at least some of these pictures show he has some amount of concrete. Is there a definition of exactly how much he is supposed to have? They did see the cracking edges on he believed the third picture in the packet. You can see some of that is in fact either concrete or asphalt, but there is definitely a hard surface there. Staff's argument is that it is deteriorating to the point it is no longer considered a hard surface. Is there a square footage that he can expect or an edging minimum? He cannot see the full driveway here so he does not know if this is suitable to park a car on it.

Mr. Hickok replied, the Code does require that any surface that is either driven or parked on be fully hard surfaced so that the drive path to a garage, for example, and the floor of that garage would be hard surfaced. The photo is what you would see if you were on site, and it is very difficult to see all of the surface because of the mud and the deterioration of the driveway in certain locations; but it is the staff's opinion, based on the driveway work they have done over the last several years (20 or more years), this driveway would not meet the minimum requirements. It is asphalt. It is questionable about which material it is because it has lost its color, its lost its pigmentation. Asphalt as you know has a petroleum product in it. It is a binder and it makes it dark and, when you lose that product, that is when it really starts to break apart and soon you have the gravel that is left in asphalt and you do not have a lot of that binder left. They are reaching that point here.

Commissioner Phillips asked, as to the pavers the petitioner put down for an existing driveway, he assumes staff has had an opportunity to assure the Commission that those are not in fact certified bricks?

Mr. Hickok replied, he has not seen that certification. At one point Ms. Beberg and himself were out on site and said that is an alternative to concrete drive. If that is what the petitioner had chose to do, there would need to be there is a symbol on the bottom that talks about the PSI, the strength. Typical driveway PSI is about 6,500 PSI; and this is very different from a patio block or a Chicago brick. It is staff's opinion that this, one, does not have the stamp and, two, is a standard patio block as opposed to when you look at the pavers that have the tinsel strength they are talking about there are really no horizontals that you can see. It is a really bonded, heavy duty, very dense appearing concrete that can be colored also but lack of any pocking or air bubbles or anything else. You can tell it is a very strong brick. Without even seeing the bottom side, he can tell them this has the imperfections that would tell him it is not a paver.

Vice-Chairperson Jones stated and the other thing is, if there is a driveway, is there not a base? If you are going to use pavers as a driveway, you would have to put a base under that like a Class V, excavated compacted Class V sand.

Mr. Hickok replied, that is correct and, depending on the soil underneath, it would tell you how thick that base needs to be and it is very, very important that you establish that based because if you do not, you would see what they saw in the photos and that is where the car drives, it tends to rut quickly and compress and it really, in this particular case, if you see it on site, they are compressed. They are in more organic soil than a Class V or something else that would be stiff and hold it where it needs to be.

Clyde Meidinger, Petitioner, as to the photo with the blue tarp. He had a renter who was struggling. She lost everything and he lost about \$7,000 trying to help her out. He had to borrow money and he is struggling financially himself. After losing his salon of 20 years. She almost bankrupted him. This is all her stuff in the corner and, not only is this her stuff, that container was full of her stuff. Also, the green shed on there that was all her stuff that was there; and that is why his things were not inside.

Mr. Meidinger stated as to another photo, this is 15 by 23 feet deep of pavers he took out of his driveway in Edina. It has base on it. That is what he did for a living, landscaping, so he knows how to put pavers in. There is he does not know how many tons of Class V under that. That is a hard surface, and those are approved pavers. He will bring one in because he was planning on moving that to the front of his yard. That was a question he asked. He asked both inspectors and asked if he can use pavers, and it was always a definite, no. Everybody in Edina has pavers, what is with that. She was like, no, unless it is an approved surface. Then finally they would admit to that.

Mr. Meidinger stated he is planning on moving that out to the front or, that mixer is on that property because he was planning on pouring a driveway this year. That is why he brought it there because he does his own concrete work. He has also done blacktop work. He is going to be doing his own blacktop work. He knows how to do base, he knows how to put down blacktop, and that is something he can do himself. That is why he has the equipment. He has a bobcat, a trailer to take it into the shop, and he has a truck. He stopped doing landscaping until he can afford to find a place that he can rent. However, right now, economically, he cannot. He is out of business; he has lost two businesses.

Mr. Meidinger stated the trailer has patio furniture that he was storing for a friend. He took that off and gave it back in the spring. There was a bunch of pallets there. He brought them there, and the reason he had them there is because he is an artist, he takes things, he reuses them, and remakes them. He showed photos of what he turned them into in the last two weeks.

Mr. Meidinger presented photos of the yard as of today. He knows he said in the letter that all of her things were gone. She promised him she was going to come and get the rest of her stuff. She did not make it, her brother passed away, today was the funeral, and Saturday she is coming to get them. Her things are still in that white container, and a few of his things are in there, too, but basically what is in there now is hers.

Mr. Meidinger stated before he moved that truck container to that property he called the City and he asked, can he move that truck box here and they said, yes. The last time Mr. Hickok was there it was okay in the sense he wanted him to anchor it to the ground but this thing weighs he does not know how many tons and it is sitting under behind the trees and when that thing flies away, his garage will be flying away. He can anchor that down if he needs to because, again, he takes things and he remakes them. He finds wood, he stores it, he is going to add onto this property and that is what he wants to use to store his wood and store his personal landscape products.

Mr. Meidinger stated that is why he appealed it because he wants to keep the container. He can keep the yard cleaned up. It just got out of hand mostly because of all of her things. He has a hard time with not helping people who are in need, and that is what happened. He helped her too far, and he got into trouble.

Mr. Meidinger stated today he hauled out the last load of things. Everything is put away. That is what the yard looks like right now.

Commissioner Phillips asked whether these are in fact approved pavers for a solid hard surface driveway?

Mr. Meidinger replied, they came out of a driveway like he said out of Edina. These here are and the other ones are out of the City of Minneapolis. Those are clay pavers the City of Minneapolis has been using for 100 years. He just threw them down. There is no base under there because he did not have time last fall. He is going to pick them up, put base under if he decides to keep them there. To him it is not a problem to move his stuff around because he can do it, and he does not mind working.

Mr. Meidinger stated he had that car on his property at his other house, and he wanted to put it there so he put those pavers down. Like he said he can just bring a couple of truckloads of Class V and he can set it. However, he is not sure what he is going to do with them. He might move them to the front once he gets them approved.

Mr. Meidinger asked to go to the picture of where all this dirt is going to be running into the City streets. He told them that his blacktop goes to the middle of his garage which that is where they were parking, but it has such a sinkhole to it. He brought in Class V and hard material that was covered with it. He just hauled it out a few weeks ago. He scraped it all back so they would have a hard surface. That surface is solid. It is not breaking up. On the front of his house and that, that surface is still surface. It is not crumbling. That is the worst spot that they showed them right there where you come in and all the time the water has sank it in. That needs to be repaired. He put some Class V in there last night just temporary until he cuts it out. He will just cut out a section, put in Class V, and bring in a roller with some asphalt and he will roll it back in again.

Mr. Meidinger stated this here, too, like he said he has not decided. He is considering pouring concrete part way over to the side and then he will put that blacktop, level it out, and then roll that in there. That is not going to be that difficult. However, he does need his equipment to do that. He uses his equipment. He never stored any landscape product on his property that he was not going to use himself.

Mr. Meidinger stated he has to haul out some more dirt and clean it up, but he has started the process. That is what they are taking a picture of right now. That is not what it looked like before. It was all kind of Class V, hard top, rock in there. It was on top of the blacktop because there was such a sinkhole; there was water there all the time.

Vice-Chairperson Jones asked Mr. Meidinger, he is saying this picture is a work in progress?

Mr. Meidinger replied, yes, he did it a week ago.

Vice-Chairperson Jones asked Mr. Meidinger, he does landscaping?

Mr. Meidinger replied, he used to do landscaping. Until he can find money to afford or find a place that is economical that he can start up again. He would be breaking the law if he does run a business. He has made this statement before that Bill Gates, Steve Jobs, Earl Bach, the guy who started Medtronics, all started their businesses out of a garage. They all started out as criminals. So did he. They will have to see where he goes from here.

Commissioner Phillips asked Mr. Meidinger, he does not do concrete work by trade? He brought the mixer in just for his personal work?

Mr. Meidinger replied, he has poured sidewalks. Yes, he has a mixer for that but he has a guy who owns a concrete place; and he was storing it for him so he brought it there because this spring he was going to get started on it. The green shed he was going to get rid of, and he was going to pour another pad, take down the steel shed, and that is why he has all the pallets because he recycles the pallets. He is going to build a shed there that will look better and will cover more square feet. So he was going to pour a pad for that. He does concrete work.

Vice-Chairperson Jones stated he knows the City has a lot coverage requirement that you cannot cover more ...

Mr. Meidinger replied, yes, it is 1,400. He is under that. He is paying attention to that. Is that what he is saying?

Vice-Chairperson Jones replied, it is a percentage of the lot that can be covered by hard surface. The second thing is, is the trailer or container still on the property?

Mr. Meidinger replied the container is still there because he would like to keep it for his storage so his stuff is inside. If it needs to be anchored down, he can drill some holes and pour concrete, and cable it down to the ground.

Vice-Chairperson Jones replied that is part of the problem because that is something that is not allowed.

Mr. Meidinger replied, before he put it there, he called the City. He asked who does he talk to, he asked if that is okay, they said, yes, so he brought it in. Otherwise, he would not have brought it in.

Vice-Chairperson Jones asked, as far as Mr. Meidinger's other equipment there, they are really from his former business so it is business equipment but he does not have any place to store it right now?

Mr. Meidinger stated he uses the bobcat there in the winter. It is a big yard. He needs it to move the snow in the wintertime. He usually does everything by hand basically. He very seldom uses the bobcat.

Vice-Chairperson Jones stated he is trying to figure out, how do you separate what are his business items?

Mr. Meidinger replied, there is a crossover, or there was one. However, because he is a homeowner that has equipment that is able to do his own work. You cannot have that kind of equipment when you are a homeowner?

Vice-Chairperson Jones replied, that is a question at least he is kind of struggling with is, which is work equipment and which is his personal equipment. Where do you have a separation like that? Does he have equipment right now he would consider work equipment?

Mr. Meidinger replied, not if he is not using it as work anymore. Now it is personal equipment.

Vice-Chairperson Jones stated but it was originally registered to Mr. Meidinger's business probably.

Mr. Meidinger replied, yes, it was. Of course. Every person who has a business and has all this kind of equipment, when they need to use it their home, they take it home and use it in their home to do their own work.

Commissioner Drury stated some of the situation is dealing with the fact that this is being stored outside. It is part of the outside storage situation. In the case it is now personal property, could he store it possibly in his garage?

Mr. Meidinger replied, he will store everything inside and that is why he is making adequate room.

Commissioner Drury replied, that could be a possible solution to the outdoor storage, whether it was business or for himself, as long as it is not stored outside.

Vice-Chairperson Jones stated, yes, as long as it is stored inside.

Vice-Chairperson Jones stated there was a mention in the City's presentation about vehicles that are outside. He asked Mr. Meidinger if he had any unlicensed vehicles?

Mr. Meidinger replied, the one he is going to get it licensed and bring it back. He took that one car that was there. The other one was a friend of his he was just storing for a bit. It was on the approved hard surface. Like he said he helped out a friend and made a mistake. He should not have brought his car there. That other one he can put the tabs on. It needs some work but it still runs. He has two cars like that that need work. He will just put tabs on them. The one still has insurance on and, once the surfaces are approved, he would like to keep them there or he will keep them at his other residence.

Mr. Meidinger stated he does have his one-ton truck which is slated for 10,000 pounds that he would like to keep there, too. Otherwise he has to sell everything he has, and then he cannot even use it for his own personal use.

Vice-Chairperson Jones asked would he keep that either in the garage or on a hard surface?

Mr. Meidinger replied, on a hard surface because it is too big. He is going to move that gate to the side of the garage so you cannot see it. It will be on a hard surface. He is going to redo the fence.

Mr. Meidinger stated they had a problem because he put a fence in the front of his yard and he guessed that was his front door; however, that door had never been used since 1928 as a front door. It is only 32-inches wide. He had put a fence up and they made him take it down. However, his neighbor has a fence up and has the same door that he has that goes into their living room. It is fine. He likes the way it is laid out now. He is just going to redo it a little bit different. But he would like to keep his truck there.

Vice-Chairperson Jones stated it sounds like as long as it is under 12,000 pounds you can keep one work-related vehicle as long as it is on a hard surface and meets the other...

Mr. Meidinger replied that is what he did not understand. Just around the corner there are two tow truck drivers, the guys across the street have their work vehicles, and there is another guy with a bus that is there, and even on Good Friday one of the inspectors tried to have one of his renter's cars towed because it was parked on this side where that dirt is straight back. Probably the front end was over into the gravel, and she was going to have it ticketed and towed. Thank

God the mother was there and caught her and said, okay, we will move it. However, there is a picture of a car. When you go out his driveway, it is parked on the lawn. Why was that not taken care of if they are so concerned?

Commissioner Phillips replied, it is the second from the back of the packet.

Commissioner Phillips asked Mr. Hickok, staff is not having an issue with the specific truck. The issue is with the container, is that correct?

Vice-Chairperson Jones stated he would like to finish here and then if the City has a rebuttal and then Mr. Meidinger will have an opportunity. He stated if Mr. Meidinger has more to say, go ahead.

Mr. Meidinger replied, no, basically he showed them the pictures. He has it cleaned up. He has everything inside, and he has adequate room. Once her stuff is out of there, he has plenty of room to store his things inside, and he has room in his garage. His friend still has a car in there. Once he gets that out of there, he can put the mixer in there; but he can also store it at his other friend's place who owns a brick yard.

Vice-Chairperson Jones asked Mr. Meidinger is his plan to have her remove her stuff?

Mr. Meidinger replied, she has about half a truckload left. She is coming on Saturday to get it out of there finally.

Vice-Chairperson Jones asked Mr. Meidinger then his friend can move his car?

Mr. Meidinger stated he has already loaned out the mixer. It probably will not be around this summer for now until he brings it back to do his work, but he will put it in the garage. It is sitting on there. He just did not have time to get the Class V down. He has not decided how he is going to redo everything because he has to move the fence around, etc. He does not really want to have that many cars back there so he is going to have to figure out how he is going to fix them, get rid of them, and go from there. But the yard is cleaned up, and he will have the driveway in by the 30th one way or another he will get it done.

Vice-Chairperson Jones stated now he would like to offer an opportunity for rebuttal from the City.

Mr. Hickok replied, he was remiss when he started his presentation. He should have introduced Julie Beberg, his assistant. They have both worked on this case for some time now. They met Mr. Meidinger down out on his site several years ago, and the conditions were very, very much the same. There is no recollection under oath about any sort of discussion about keeping my container there with no promise it could stay. Probably one of the things they hear most at City Hall is, I called somebody; and they said I could keep my container. I called somebody, and they said I could not do my driveway. He would urge the Commission to look at this drawing and

then look at the drawing in their packet. The drawing that was given as a representation of a paver driveway. If this paver driveway was that paver driveway in their packet, there would be no issue. It is not. And there is an issue.

Mr. Hickok stated as for the house. It is being rented. Please understand this is not Mr. Meidinger's house. He owns it. He is renting it out. Completely eliminates his ability to store stuff at his property. The idea of bringing a 12,000 ton truck or whatever to this property. No. The idea that the City Council adopted an ordinance to allow the trucker to bring his truck home is because the over-the-road trucker might want to unhook his trailer, somewhere where it is legal, bring the tractor home and then in the morning go hook up to his trailer and take off. That is not for a guy who is renting his house. He wished he was a friend here. He has a motor home he could store in the backyard. Apparently this is a good place to store stuff. It is frustrating because Fridley is not a place where we just fill up our yard with stuff. One of his friend's cars in the garage or in the yard or the container that is used for rent stuff. Very nice. Very giving. However, it puts the property in violation.

Mr. Hickok stated just understand why he mentioned, even though it was not in the abatement letter about this being a rental, is that puts it in a completely different category. You are basically providing a house and a garage for somebody. You are renting it to somebody, and you do not get to fill the yard with stuff. You do not get to use it as your construction yard. He would take exception to the fact that people get to have bobcats. People who have bobcats usually know the investment, and they put it away in a safe spot when they are not using it. Same with a concrete mixer. However, the average household person does not have a concrete mixer nor do they have a bobcat in their garage or driveway. They certainly do not leave it out all year around.

Mr. Hickok stated when he and Ms. Beberg were on site no less than three years ago, the concrete mixer was there. Roughly in the same position that was in the photo they see here. From the presentation they might think, things are moving, what is the deal? The deal is that it has looked like this for a lot of years, and that it is to a point where it needs to get cleaned up. He is really pleased to see the photos that were passed. That is a very artistic fence and picnic table. Nothing to be taken from that. That is great. Keep the property looking that good, and there is not going to be an issue.

Mr. Hickok stated the container is an issue though. There was no agreement, no contract, no implied contract that was a good thing. The City has had just down the street, they might remember, those who live that area, they had a house near Mississippi and East River Road that had two of those containers in the backyard. Their backyard was fenced in and backed up to just south of the car wash. Now there is a nice little side-by-side duplex there, but there were two where it looked like the back of a milk truck they were using for storage containers. He would not have told those folks they could not do those and go up the street and say, yes, you can.

Mr. Hickok stated it is not a shed. There is a bit of a contract or an understanding with zoning that when you by a single-family house next to a single-family house, single-family activities are

what are going to be allowed next door and not something else. A container in the backyard off from the frame from the truck is not a shed and does not have the characteristics of the house. The City Code does say that your sheds should match the character, colors of the house itself. We go that far so as to tell you what your accessory building should be like. Staff has not asked Mr. Meidinger to paint the snap-in-place one or the metal one (although the metal one is in really bad condition and probably should be taken down or painted). However, the City Code would not go that far and then say, you can put a container in the yard. That matches the house because it does not.

Mr. Hickok stated as for a fence next year. That was raised three years ago when Ms. Beberg and he were out on the site. They did follow up and did tell this gentleman there was a variance granted for that years ago. He does not know the premise; it predates him and his time on staff here. Nonetheless there was a variance on file that said those people had asked to have a fence in their front yard. Ms. Beberg pointed out in that research there were a number of other places along East River Road he supposed at one time it was deemed essential maybe by some folks that they have their own screening wall from the traffic along East River Road so they got high fences. However, current Code requirements would not allow it if you asked for a variance today. Part of the problem is you drive along East River Road, you have a patchwork of fences all in different maintenance and repair.

Mr. Hickok stated generally it is just a bad idea to have a privacy fence in the front of your house. Mr. Meidinger did put a fence up which was not up to Code requirements. And as to the front of his yard, he does not care how the house is positioned, and he does not mean to sound trite; but there is only one answer as to what is the front yard of this house. It is not a corner lot. The front of the house is what is facing East River Road, and nothing can be closer to the front property line in terms of a fence at a height that it was being built. It has to stop back by the corner of the house.

Mr. Hickok stated Mr. Meidinger has now moved that. He has built it back to the dimension where it should be, and it is okay. Staff is being painted as a bit unreasonable, unrealistic. The reality is there is a Code there and, if you check those requirements ahead of time, you could save yourself a lot of work; and you would not have those problems.

Mr. Hickok stated as to the picture of the driveway that was taken on March 18. If you look back in the photos back in 2012 and even in 2006, they will see there was a practice of (looking at where the pavement is and where the mud is) avoiding this area right in front of the garage. Maybe there is a hole there or something. There are cars not legally parked there. They are off from the surface.

Mr. Hickok stated it is important to know that this is not just something they drive by and happen to see and decided to stop. It has been a long going case. What about a car in the yard down the street? We would love to say the City is at 100 percent. That car could have been in compliance yesterday and not today. However, when they see it, they stop and let folks know it is not appropriate and they will get it taken care of.

Mr. Hickok stated Fridley is fairly generous in allowing home occupations. You just need to follow the laws. It does not make you a criminal for starting a business in your garage. He is guessing every one of those folks Mr. Meidinger mentioned probably checked local ordinances for that and every other move they made along the line.

Vice-Chairperson Jones asked, for clarification is the City Code available on-line?

Mr. Hickok replied, yes, it is.

Vice-Chairperson Jones stated and you could also go to the library or come to City Hall.

Mr. Hickok replied, yes. There are electronic and paper versions at the library. There is a paper version at the City Hall front desk along with a computer at the front desk which staff would be glad to assist people with using and also answer any questions.

Commissioner Phillips stated he was still a little confused about the container. Is the container violating 506.13.1? The 12,000 pounds? Because Mr. Meidinger seems to think that has more to do with his vehicle rather than the container.

Mr. Hickok replied, the vehicle really straddles a couple different sections of the Code. That is a portion of a truck and commercial vehicle on a residential site. That is why that section of the Code was discussed. That is not to say staff thinks it is a truck; it is a portion of a truck. It is a commercial vehicle or a portion thereof on a residential property. More important than that though is the R-1 single-family Code. If you look in the Accessory Building of the Code it is very easy to find. It is right up front after what is permitted, single-family or attached single-family. It goes on to Accessory Buildings. Not only does it tell you what kind of accessory buildings, but is very specific about it needs to match the character of the house. The idea was that you do not have something strikingly different. You have something that really fits the character of the house and probably the neighborhood. It even talks about color. It is as much about or more about that than being a commercial vehicle that would make you say, no, it is not the character of the neighborhood. And it is truly something that was not designed. It does not meet Building Codes. You can say that it is so doggone heavy it is not going to blow away but, if that is how we managed all of our building stuff out there, they would not need inspectors. They would just need the assurance of the person who is telling them that is fine. The Code does require that if it is going to be it has to be properly anchored. When you have a truck without its axles now, what is the best way to properly anchor that? If there were 90 mph gusts, you need to make sure you know that. It is not allowed in Fridley.

Mr. Meidinger stated, no, he is not living there; but he does use that equipment to maintain that property. It is rental property, but he needs something to maintain it with. As he mentioned he uses the bobcat in the wintertime to move the snow, and he is going to be needing that equipment to redo the driveway. To maintain it. He would like to keep his equipment there if possible.

Mr. Meidinger stated as far as the container goes, he can anchor it to the ground or get rid of it. However, he prefers to keep it. If the City wants him to keep stuff out of site, that would be the best way until he gets his shed done anyhow. No one can see the container. There is the one neighbor. It is under the trees and behind the garage. He does not know how many people are going to lose sleep at night besides Mr. Hickok, that there is a container in his back yard.

Mr. Meidinger stated and the picture he showed from 2006, that is why he brought in that Class V or harder rock and filled that in. He scraped that and is why it looks that way.

Mr. Hickok stated one further clarification, Class V is not an approved hard surface. That is what the City was converting driveways from back in 2006 to 2000, to either concrete or asphalt.

Mr. Meidinger stated it is still approved in he did not know how many cities. Okay, it is not approved here; but he used it temporarily until he put a driveway in. It was only a small percentage of it to fill in that hole. That is why he scraped it back because that hard surface. It goes down but that surface is hard all the way to the center of his garage. It goes into the dirt so that is why he filled it in with Class 5 so he did not have that mud hole or whatever so people could park there. Basically he takes care of it himself. He does not know what else to say. Thank you.

Vice-Chairperson Jones asked attorney Erickson if there was anything she wanted to add or that they should cover now or should they close this public hearing?

Attorney Erickson stated they should receive into the record the pictures that Mr. Meidinger submitted.

MOTION by Commissioner Drury to receive the photographs submitted by Mr. Meidinger. Seconded by Commissioner Yang.

UPON A VOICE VOTE, ALL VOTING AYE, CO-CHAIRPERSON JONES DECLARED THE MOTION CARRIED UNANIMOUSLY.

Attorney Erickson stated she believed staff passed out a proposed resolution to the members of the Commission. They are free to accept, modify, reject it, draft additional findings. They can use it as a starting point. Also, there were exhibits attached and labeled as Exhibits A, B, C, and D. Those were submitted. Staff would probably want those admitted into the record as well as part of its presentation and submittal to the Commission.

Attorney Erickson stated the Commission can go on and deliberate and discuss among themselves, based on the testimony and evidence that was presented today.

MOTION by Commissioner Phillips accepting the proposed Appeals Resolution No. 2015-2 with the attachments and exhibits. Seconded by Commissioner Yang.

UPON A VOICE VOTE, ALL VOTING AYE, VICE-CHAIRPERSON JONES DECLARED THE MOTION CARRIED UNANIMOUSLY

MOTION by Commissioner Drury to close the public hearing. Seconded by Commissioner Phillips.

UPON A VOICE VOTE, ALL VOTING AYE, VICE-CHAIRPERSON JONES DECLARED THE MOTION CARRIED UNANIMOUSLY.

Commissioner Drury stated it really comes down to it being that it is a rental property, you cannot have the personal property. If he complies with the driveway by the type they say which is outlined in here, then that would bring that up to Code. That would probably cover most of the things they are dealing with today.

Commissioner Yang stated he would agree to that, too.

Co-Chairperson Jones stated the other thing is the trailer is not allowed by Code and also there have been several precedences that were not allowed that goes with other instances. That is something that has to be dealt with.

Co-Chairperson Jones suggested they take some time to go through the Resolution.

[Resolution being reviewed]

Vice-Chairperson Jones asked whether any of them had questions or comments?

Commissioner Phillips stated he was looking at Exhibit A which is the letter they were responding to here that was mailed to Mr. Meidinger and kind of outlines the violations in five nice and easy steps. He would like to go through them and talk about what they would affirm at least for himself but also a great way to go through them so Mr. Meidinger also has a pretty clear idea of what he needs to do.

Commissioner Phillips stated the first one seems fairly clear. They have all seen and Mr. Meidinger has admitted there is outside storage that is clearly in violation. Mr. Meidinger knows that, he said they are things his older renters have had in storage. He said most of that has been cleaned up but, nonetheless they should give him a very firm date on when the remainder of those loose items and materials are all over the yard would be cleaned up.

Vice-Chairperson Jones as part of that he is hoping is that if those dates are not firmly outlined in this resolution they are in the order. If it is not spelled out here, then it should be spelled out in that.

Attorney Erickson stated City staff's intent was, when you take a look at the, now, therefore, be it resolved, the final paragraph, theoretically, this Resolution and this hearing could end the

process. There may be subsequent process. The intent of the City's resolution is to say 20 days from the final resolution in this matter. They can peg it off the date of any resolution that comes out.

Vice-Chairperson Jones asked because this will go to City Council, correct?

Attorney Erickson replied, it may. It is up to Mr. Meidinger to subsequently appeal or the City could if they were unhappy with the Commission's decision. That is the section of the resolution that is trying to get at that date.

Commissioner Phillips stated that would be at least for violation (1), 20 days from whenever he chooses to end the appeal process should he appeal. If it were today, it would be the 26th of May and if he were not to, then it would be 20 days after his subsequent final appeal. That seems pretty correct. They would affirm that violation.

Commissioner Phillips stated same thing with the second one, Mr. Meidinger stated he plans to have the inoperable, unlicensed vehicles. He stated they are in fact operable but at least one of them unlicensed. He would either need to have all of the vehicles on the property licensed and operable or removed. That again is the same 20 days.

Commissioner Drury stated, no, that is immediately.

Commissioner Phillips stated that is correct. The third to last line does say, licensed and operable immediately on the Further Resolved.

Commissioner Phillips stated, on the third one, that is the hard surface. That is not the driveway as he understands it, it is the pavers or just ones that are parked on dirt and grass. That would be immediately as well. Commissioner Phillips also wanted to allow the petitioner to at least verify his claim that at least one set of pavers is the correct substance and has the correct base. They should give him an opportunity to prove that. The petitioner testified he is willing to bring in a paver to provide further evidence that is in fact a hard surface.

Vice-Chairperson Jones stated in order to see the base, someone would have to actually go out there and look at that. He asked Mr. Hickok if it were possible for someone to go out and look at that area because it is not just the pavers. It is the appropriate base.

Mr. Hickok replied, certainly the staff could take a look. It is something that is probably fairly easy to detect once they lift a paver or two off the surface.

Vice-Chairperson Jones asked Mr. Meidinger if that was acceptable to him?

Mr. Meidinger replied, No. 1 is cleaned out. He showed them the pictures. He has taken care of the first one. The second one, he moved that car. If he did bring it back, he would get tabs on it and he would put it on the one after he brought a paver in.

Vice-Chairperson Jones asked Mr. Meidinger the question is whether he is okay with the City coming out and looking at the paved area that he is saying has been done appropriately like with the Class V base.

Mr. Meidinger replied, yes, if they want to lift up a paver. They can see the Class V on the side. The one that is up to the fence. The other one he knows is not as he has not finished it. He has not decided. He would not park anything on there until he put base down. However, he might move them to the front once he gets them approved. Instead of spending money on concrete. The blacktop goes to the middle of his garage. All he has to do is pave that other section and then bring blacktop up to it because there is enough depth in there that he can put enough black top in there, roll it in, and it will be fine. But, yes, he does not have anything there.

Commissioner Phillips stated moving onto Violation 4, that is the paved driveway. Mr. Meidinger stated an intent to correct that. A deadline in both the violation and he believed in the proposed resolution of September 30 that seems reasonable and a sufficient timeframe to have that corrected.

Commissioner Phillips stated the fifth one talks about a landscape business, and he assumes that includes the concrete work, hence the mixer? He was a little confused on that part. He personally would not vote to affirm on that particular violation. It also specifies the container which they talked about and heard quite a bit of testimony about. That definitely does need to be removed but, in regards to the occupation, he does not see much specificity on arguing about the concrete mixer.

Vice-Chairperson Jones stated the only thing is this is not Mr. Meidinger's residence. This is a rental property. Really most of these things that are there do not belong to the renter.

Commissioner Phillips stated, no, but as he understands it they are there for the maintenance of the house which is allowed. You are allowed to keep a lawn mower there to mow the lawn or a snow blower. A bobcat might be excessive he will admit. However, this is also talking about an illegal home occupation not a violation of rental property.

Commissioner Drury stated it is referring to the concrete mixer which would be fine when he is actually pouring the concrete driveway when it happens this summer but, up to the point when it happens and at the point after it happens, that would be in violation. If he is not actively doing it today? Then it should not be there because it is storage. Same thing goes with a vehicle he used for landscaping sitting on the property, that should not be stored there.

Commissioner Phillips stated he respectfully disagreed. If it is personal property now which he is no longer using for that. If he used to have a construction concrete and he is retired. He is not pouring concrete for money, it is his personal concrete mixer. Just because he is not pouring concrete today does not mean he is not allowed to own one.

Commissioner Drury stated you cannot keep that on your own property you are renting out.

Vice-Chairperson Jones stated and you cannot keep it outside.

Commissioner Phillips stated that he will concur with. Again, this talks about an illegal home occupation, not storage on rental property. While he agrees the commissioners are right, according to Code he is not, that is not what they have alleged here. The Commission needs to provide the specific allegations as to what he is doing wrong so that he can correct it, and nobody provided that specific allegation to him in this letter. If there are other letters or past code those are other things. All Commissioner Phillips can look at is the letter staff sent to Mr. Meidinger which has to tell him what he is doing in violation of the Code so he can properly correct it.

Vice-Chairperson Jones asked Commissioner Phillips if he would then have an issue with one of the "Whereas" paragraphs? Mr. Meidinger has indicated to staff he is both an artist and a contractor.

Mr. Meidinger stated he did but he cannot do it now otherwise he is a criminal. He needs to come up with enough money or find a location that he can afford to before he can start my business or do it again. But basically he is out of business because of this.

Commissioner Phillips stated that occupation is no longer functioning or is a revenue stream for him, so it reverts to personal property at that point.

Vice-Chairperson Jones stated not necessarily he would have to formally revert it to personal property if he did that and they do not have any way of looking at that without looking at tax documents.

Commissioner Phillips stated he assumes it is a sole proprietorship?

Mr. Meidinger replied, it was a corporation.

Commissioner Phillips stated but he was the sole owner?

Mr. Meidinger replied, yes.

Commissioner Phillips replied, so it reverts.

Vice-Chairperson Jones stated he is not a tax expert but he did not think it just reverts.

Commissioner Phillips stated but it is not a tax issue, it is a property law issue, and as a sole proprietor he is the only owner. The corporation exists only for tax purposes. The property is his. Sometimes it is under a liability shield but when that corporation stops existing, he is the only real owner left.

Commissioner Phillips stated the City can correct it by just giving him a letter that actually tells him what he is in violation on the rental code rather than putting it under sole occupation by saying this is a rental property. These are things you cannot keep on rental property - a bobcat, etc. That very well may be within the Code but that is not what he has alleged to have done. His issue is you cannot give someone a violation and say, this is what you have done and then it turns out he did something different. You have to give him specificity on what he has done wrong.

Commissioner Yang stated basically the question is what is the rental code in terms of as the owner of the property, what can he keep on the property he is renting.

Attorney Erickson replied this body is not charged with taking a look at the rental code and licensing and so forth. They need to keep their deliberations to zoning and what is before them tonight. Whether they find it sufficient and whether they vote to affirm, modify, suspend, or deny the Findings.

Vice-Chairperson Jones stated first of all if this is a residential area, outside storage is not allowed. It is not allowed to have a trailer as storage on your premises. Also, if you are not an owner-occupant, you are not allowed to have a commercial vehicle on the property. The other equipment there, owned or not owned, as to the storage issues, it is an issue of whether they can be stored outside or not outside. As to the vehicles, the issue is whether they are in working condition and licensed and parked legally on a hard surface.

Vice-Chairperson Jones stated to him it seems like some of the items have been cleared up and some have not. Mr. Meidinger has been making progress. What the Commission has to do is say, okay, at the end of the day the trailer is gone, the commercial vehicle is gone, there is no outside storage that is not allowed on a residential property and he has to get the driveways up to the condition for vehicles to be parked on.

Vice-Chairperson Jones stated they need to modify the No. 5. They could say they do not like any of it or modify it. They can modify the resolution but not any of the exhibits. Looking at the exhibits, does anyone have any problems with No. 1?

Commissioner Yang replied, no.

Vice Chairperson Jones asked, No. 2?

Commissioners Drury, Yang, and Phillips replied, no.

Vice-Chairperson Jones asked, No. 3?

Commissioner Phillips replied, this is the one where they would want to schedule a time when he could have those pavers correctly inspected.

Commissioner Drury stated they are saying it is not their responsibility to worry about that time.

Commissioner Phillips stated then he would not agree with it because it is possible the vehicles are on an approved hard surface. They should reserve judgment until that can be verified. Mr. Meidinger has put forth testimony they are in fact on an approved hard surface in compliance with City Code.

Vice-Chairperson Jones stated they saw pictures of some things that were not. Some of his driveway is not to Code.

Commissioner Phillips stated that is No. 4. The driveway is No. 4. He would not necessarily agree entirely with No. 3 in that it alleges something.

Commissioner Yang stated Mr. Meidinger admitted one part of the driveway was not done correctly. The bottom line is making sure that no vehicles are parked on the questionable areas and driveway.

Commissioner Drury stated they go hand in hand as long as long as he does not park in the areas that are questionable and as he improves his driveway as is in No. 4, then he has taken care of both.

Vice-Chairperson Jones stated then as they look at Nos. 3 and 4 combined, can they agree with those two?

Commissioner Phillips replied, yes.

Commissioner Drury replied, yes.

Vice-Chairperson Jones stated as to No. 5, the illegal home occupation, the landscape business, again, they are not going to change any of the exhibits. Therefore, what change do they make.

Commissioner Yang stated, on page 2. Bottom of the page, Fridley Code section, under No. 3.

Commissioner Phillips stated if they specifically "X" out page 3, the bullet point, the property has failed by virtue of continuing to have outside storage material for his illegal home occupation. He would not agree with that particular statement in the exhibits.

Vice-Chairperson Jones asked, what if they struck the words, "for his illegal home occupation"?

Commissioner Phillips replied, then he is not in violation of the Code.

Vice-Chairperson Jones stated, yes, he is because you cannot keep the trailer there.

Commissioner Phillips stated he is not in violation of the Code they have alleged. He is not in violation of the occupation code. He might be in violation of other things. The trailer may very well be covered back under Exhibit No. 1, the outside storage. However, then they have to look at the outside storage code, not the occupation code.

Commissioner Drury stated, if it is giving the City the perception there is illegal home occupation going on, based on the vehicles and storage going on? Would it not have been just up to him to provide the proof this is not going on, and then it would have been rental personal property instead? However, based on what they are seeing, they are believing this is going on, and so, therefore, they want it to stop. It is up to Mr. Meidinger to prove it is not going on at this point, and that is what the City is asking for. There might be a step further, they have to go and are saying it is a rental property and this stuff cannot be stored there. However, based on what they are seeing they believe it is going on.

Commissioner Phillips stated they said the concrete mixer had not moved in almost three years. That certainly is not being actively used in an occupation if that were the case.

Commissioner Drury stated she did not know whether that is a reason to say that he is not in the business because he would spot to store a piece of machinery that is typically in the same location.

Vice-Chairperson Jones stated can they agree that regardless whether he is in business, this type of equipment cannot be stored outside. The answer is, yes, it cannot be stored outside. The only things that can be stored outside are boats, non-motorized motor homes, and a utility trailer. As long as it is on approved surface or it is in the backyard if it is a boat or a non-motorized trailer.

Commissioner Phillips stated, yes, and that is all covered under violation No. 1, the outside storage statute. He is fully okay with that. It is fairly broad and equally encompassing statute that allows them to say, these are the things you cannot have on your property. Everything that has been discussed here is fully covered under the first four. He does not understand why they have the fifth one.

Vice-Chairperson Jones stated they are looking at the resolution.

Commissioner Phillips stated going to page 2, under "Now, Therefore, Be It Resolved," he does not think that third one is necessary at all.

Commissioner Drury stated, the part 1.

Commissioner Phillips stated starting on page 2, there is 1, 2, 3, and there is subpoint 1. Starting from 205.07.1.B, subparagraph (4), all the way to the middle of page 3 where the bullet

point is. He does not see a point there for that because everything is actually covered under the exterior storage statute, and he does not see any actual occupation going on.

Commissioner Yang stated, basically strike that piece.

Commissioner Phillips stated to be fair there are a number of occupations that can go on at your house. What they are having an issue with is storing everything outside when it is not allowed to be stored outside.

Commissioner Drury stated also the bullet point on the bottom of page 3 they should note that "for his illegal home occupation" should be crossed off. It should just be because of his outside storage. Then the next one also has that line again.

Vice-Chairperson Jones stated they strike the part 1 and take out "for his illegal home occupation" out of Part 2 and also at about two-thirds of the way down the page he struck it out of there, too.

Commissioner Phillips stated and part 3 will start with that Fridley code section: No. 2. No. 2 will become No. 1. Then part 3 actually talks all about "illegal home occupation", too, and he thinks that is entirely covered under the parking and driveway statutes that are Nos. 4 and 5. He does not see anything in part 3 that is specific to home occupations that would not already be covered. Mr. Meidinger claims to have a 10,000 pound gross weight vehicle which would not even be in violation of this because it is under the 12,000 pound limit anyways.

Vice-Chairperson Jones stated it would because it is not his residence.

Commissioner Phillips stated, however, they are outside the scope of their authority when looking at rental codes.

Attorney Erickson stated her intent was not to dissuade them from talking about the fact that it is rental and he does not occupy it but to be considering and discussing what kind of notices need to go with respect to rental code violation. As to the vehicle parking pertaining to an illegal home occupation, outside storage and rental, there was testimony from Mr. Hickok that the commercial vehicle parking requirement or allowance is for those who occupy the house or the property at which that vehicle is stored. Perhaps based on their conversation the illegal home occupation portion at the top of page 4 is something they should discuss because they have concluded that they are not pursuing or going to affirm illegal home occupation. She does not know if that 506 section actually refers to an illegal home occupation or if that was text added by staff in the preparation of this.

Commissioner Phillips stated he would move that they strike current No. 3 and the bullet point because those are currently covered Nos. 2, 4, 5, 6.

Attorney Erickson asked, with respect to the final "Therefore, Be It Resolved" section, she heard some discussion earlier at the outset of their deliberations about the compliance dates. For clarity there should be some consideration of them fixing this if they will, this section of the resolution as well and numbering it.

Vice-Chairperson Jones replied, right.

Commissioner Phillips stated he liked that. Following him in the third line, it states "Accordingly the homeowners hereby ordered" he thinks if they put a colon there and then start numbering from that portion, that would be pretty easy to follow.

Attorney Erickson stated and perhaps the sentence before should be somewhat modified because the first sentence says, "Based on these findings the Appeals Commission of the City of Fridley hereby affirms the Order of the Inspector directing the owner to comply by the date prescribed.

Commissioner Drury asked, revise the order, would that be a good term or modify?

Attorney Erickson replied, yes, modify the order as follows or something like that to reflect the fact that there is a modification occurring here. She suggested for the Commission's consideration, Be It Further Resolved that based upon these Findings the Appeals Commission of the City of Fridley hereby modifies the Order of the Inspector directing the Order to comply with the following violations set forth herein. The Commission somehow has to account for the fact there has been a modification because there are five items in the notification/violation letter. Maybe hereby modifies the Order of the Inspector directing the owner to comply with various dates prescribed and accordingly the homeowner is hereby ordered to, and then that is where perhaps the Commission can set forth its specific items and then deletions perhaps.

Vice-Chairperson Jones asked, what happens if the petitioner restarts his business? Do they need to put language in there that would highlight the fact that a landscaping business, for example, is not an approved home occupation? After he would get rid of all his stuff and then say, great, and a year from now have him saying, they struck all that out so that means he can do that.

Attorney Erickson replied, it can tend to muddy the waters because they are here to just affirm or deny or modify. If in the future such activity resumes and staff is aware of it, it is sort of a new violation if you will. It would be a little bit more difficult to go beyond the scope of what staff has set forth in the letter. It would be a violation if it were restarted under those circumstances since it is not the residence of the person who is engaged in that business.

Vice-Chairperson Jones asked, for his clarification, since the petitioner is not the resident here, he cannot have a business there anyways, right?

Attorney Erickson replied, a home occupation under the City Code is for those who are occupying the property. If you are not occupying it, it cannot be your home occupation. Does that clarify it?

Vice-Chairperson Jones replied, yes.

Attorney Erickson asked if they would want to take a short recess, she would draft something and then bring it back.

Vice-Chairperson Jones stated they will take a recess for about ten minutes.

[RECESS]

Vice-Chairperson Jones asked for a motion to call the meeting back into order.

MOTION by Commissioner Phillips to resume the meeting. Seconded by Commissioner Drury.

UPON A VOICE VOTE, ALL VOTING AYE, VICE-CHAIRPERSON JONES DECLARED THE MOTION CARRIED UNANIMOUSLY

Vice-Chairperson Jones asked if there were any comments regarding the revised resolution?

Commissioner Phillips stated he only had one. Under No. 3 there appears to be a superfluous vacation of that Fridley city code section. That does not actually affect the substance of the Order. It is just grammatical. Other than that everything appears to be proper to their deliberations and in accordance with the will of the Commission.

Vice-Chairperson Jones stated the only thing he saw but thought was fine is on the bottom of the first page, they are still talking about related to a home occupation. It states, "Whereas, on March 24, 2015. . . ."

Commissioner Phillips stated there were a couple of those in there. The fifth "Whereas" also has it in there. He assumed that was acceptable because that is what the staff said to him. They did agree on that.

Vice-Chairperson Jones stated and it does not really hit on any of the Resolutions. He asked if anybody had anything else?

Attorney Erickson stated to the extent that this Resolution or as it may be further advised, Exhibits A, B, C, and D would be attached.

Commissioner Phillips stated, Exhibit D would be the pictures that Mr. Meidinger brought in. They would be attached as well?

Attorney Erickson stated they can move to incorporate those. This was drafted without the knowledge that he would be doing so. If they want to put something additional.

Commissioner Phillips stated he did not think they need to be part of the Resolution since they are part of the record.

Vice-Chairperson Jones stated if they accept this Resolution they should include that all exhibits be attached to it.

Attorney Erickson stated the Resolution is something different from the record. The Commission here has sat tonight and deliberated and received testimony and evidence. Specifically as attachments to this Resolution they are called out four items. To the extent there is something additionally besides those four items the Commission wants attached then there should be reference to them in attachment. However, they have incorporated as part of a record but there is no specific mention to the ones Mr. Meidinger has brought tonight. There were other pictures he submitted as part of his appeal request. Those are part of Exhibit D.

Vice-Chairperson Jones stated because they have already accepted all of the exhibits into the record, they have accepted the pictures that Mr. Meidinger brought to the exhibit. To approve this Resolution, do they need to make any more mention of any exhibits, etc. or do they just approve this Resolution as revised?

Attorney Erickson replied, as drafted, only the exhibits they see marked as A, B, C, and D are referenced in the body. If they wanted to include it they could but there is no requirement. They are part of the record and part of their deliberations.

MOTION by Commissioner Drury Adopting Resolution No. 2015-2 Modifying the Decision of City Code Enforcement Officer Related to Property at 6654 East River Road NE. Seconded by Commissioner Yang.

UPON A VOICE VOTE, ALL VOTING AYE, VICE-CHAIRPERSON JONES DECLARED THE MOTION CARRIED UNANIMOUSLY.

Vice-Chairperson Jones stated this will change the word affirming to modify, he will sign it, it will be signed by the City Clerk, and then this will go to the City Council?

Attorney Erickson replied, this is a decision modifying the Code Enforcement Officer's directive. It could end but there is an option for appeal. If any aggrieved party by this decision wanted to appeal it to the City Council it would be appealed, but a copy of this Order will be mailed out to Mr. Meidinger.

Vice-Chairperson Jones stated basically unless someone either the City staff or Mr. Meidinger takes action this is the last step. When they mail it out, everyone will have instructions?

Attorney Erickson replied, she is not sure what is put in the letter. Mr. Hickok would know.

Mr. Hickok replied, yes, they do in the letter tell them what it is they have before them and what options they have if they want to consider it.

2. OTHER BUSINESS:

ADJOURN

MOTION by Commissioner Phillips adjourning the meeting. Seconded by Commissioner Drury.

UPON A VOICE VOTE, ALL VOTING AYE, VICE-CHAIRPERSON JONES DECLARED THE MOTION CARRIED UNANIMOUSLY AND THE MEETING ADJOURNED AT 9:15 P.M.

Respectfully submitted,

Denise M. Johnson
Recording Secretary