

My name is Ken Potts and I have been a resident at 4236 Crocker Ave. for 21 years.

I would like to request 5 minutes to speak. If you choose to stop me after 3 minutes, I will ask my wife to complete our comments. We will take questions after that.

I'm appearing tonight to discuss Edina's approach to enforcing City Code. In my opinion, it is sporadic, inconsistent and mostly passive.

City Manager, Scott Neal has defined "passive enforcement" in his blog writing that:

"Passive enforcement means that we don't send City employees out to look for violations, but we'll enforce City Code violations on a complaint basis"

4/18/12

Key terms that I will have to repeat here are "passive" and "complaint."

Manager Neal went on:

"It really depends on the character of the community and the will of the elected officials to know what their residents will tolerate when it comes to quality of life issues."

By State Statute:

- The City Building Official is responsible for enforcing the State Building Code;
- The City Manager is responsible for enforcing the City Code.

We have filed a formal complaint detailing many items that my allotted time tonight will only allow me to touch on. I will leave a copy of that complaint with the City Clerk and request that it be included in the meeting minutes that are part of the public record.

Following are some examples of the detrimental effects of "passive enforcement" as defined by City Manager Neal and ^{as} practiced in residential neighborhoods.

These are ~~many~~ documented by publicly available information.

- **State Building Code** provisions are not being followed when staff ignores the explicit requirement to create stamped and signed review documents.
- Important aspects of the **City's Comprehensive Plan** are not being upheld when staff makes a practice of ignoring entire sections of the Code. Section 830 of the City Code regarding land disturbing activities has been ignored for years across the City.

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- Site plans have been reviewed in a passive manner; relying for accuracy, without verification, on the individual who produced them.

Such plans have been incorrect, incomplete; and yet approved by staff. The builder can then tell anyone who asks: “I am working from plans the City has approved.”

Any challenge to this must come from a resident who “complains.” Typically, this happens after construction is so far along that practical solutions are extremely limited.

- Lot coverage rules cannot be regulated when the math of the submitter is not checked and staff passively accepts the information presented. (**4408 Morningside Ave.**)
- Adjacent basements suffer from water damage when poorly designed and executed plans are passively accepted and approved. (**4310 Branson St.**)
- City infrastructure and adjacent property is damaged when staff does not enforce silt fence and erosion protection that is required as part of the building permit process. (**4511 Golf Terrace**).

In conclusion, under current practices, residents simply seeking to protect their private property are labeled “complainers.”

Unscrupulous builders who regularly interact with City Staff know this, and can use passive enforcement to their benefit. Not getting permission first, but begging forgiveness later ... only after someone “complains.”

From what I’ve observed and experienced, the City has appeased builders to the detriment of existing residents.

I initially had faith in the process, but to date have been let down by its execution. My family and I have experienced the direct impact of the failure to enforce these examples and more.

At the June 26, 2013 Planning Commission meeting, the City Engineer addressed a question about City Policy saying that if City review criteria are not met:

“a Certificate of Occupancy wouldn’t be issued. The homeowner wouldn’t be able to move in.”

I am not aware of any instances where this policy has been enforced.

In our opinion, a Residential Redevelopment Coordinator whose focus is on construction phase issues, not long term impacts, has not sufficiently solved this problem. We also believe that staff is overworked and unable to effectively regulate an especially high volume of site plan reviews, building plan reviews, and construction activity.

In our opinion management by passive enforcement practices fails to protect quality of life issues in the City of Edina. Thank you.