

PLANNING COMMISSION
Minutes of May 4, 2010, Meeting

Members Present: Melvin McDonald, Daryl Tapio, Tom Dantzler, Roxie Chapin, Barry Ladenburg

Staff Present: Steve Butler, Planning Director; Jack Dodge, Principal Planner; Anita Woodmass, Associate Planner

1. Call to Order:

The meeting was called to order at 5:30 p.m.

2. Approve Minutes of April 20, 2010 Meeting:

A motion was made, seconded, and unanimously passed to approve the minutes of the April 20, 2010 meeting as presented.

3. Public Hearing:

A. Staff Presentation and Public Hearing on Proposed Zoning Code Amendments regarding “Construction Storage/Laydown” as a Temporary Use in the Industrial, Business Park, and/or Commercial Zones.

The Chair re-opened the continued public hearing at 5:31 p.m.

Staff is recommending this public hearing be closed and the item tabled until after the 2010 construction season after which staff will evaluate and address potential impacts. A new public hearing will be scheduled as appropriate.

The Chair closed the public hearing at 5:33 p.m.

4. Old Business:

A. Monthly Update on Zoning Code Update Ad Hoc Committee’s Progress

Anita Woodmass reported that, at their April 12 meeting, the Ad Hoc Committee (AHC) reviewed Division II Use Charts and reached consensus on the first three categories e.g., Residential, Residential Accessory, and Retail & Commercial. Staff’s proposal to prohibit single family homes in multi-family zones to maximize density and achieve Growth Management Act (GMA) targets was discussed at length. The AHC is leaning toward allowing single family homes in the Residential Medium and Residential High zones. Concern was also raised about whether or not uses in the Industrial Low and Industrial High zones should be expanded to include a small retail component. Staff research regarding these issues will be presented at the next meeting, scheduled for May 10.

Discussion was held about the elements to be considered as the update progresses. The Ad Hoc Committee and staff will make their endorsement, including rationale. The Planning Commission will also make their recommendation to the Council, including rationale. The City Council will then review all input, and ultimately take action.

Earl Gipson discounted staff's rationale regarding GMA targets, he believes the priority should be the interest of the people who live here.

B. Discussion about Options for Changing the Discretionary Decision-Making Currently Allowed within the Zoning Code

Commissioner Tapio started the discussion by stating that there are two areas of staff discretion: (1) Zoning Code interpretations, to deal with grey areas, because codes can't anticipate everything; and (2) Cases where an applicant doesn't want to meet an exact standard. Steve Butler pointed out there is a third category of discretionary decision-making regarding alternative/flexible use of development standards, when explicitly allowed by the Code.

In answer to a question, Steve Butler explained that Zoning Code interpretations are requested approximately once or twice a month. Some years ago, the City Council determined that management staff should be given discretionary authority, subject to certain criteria, to interpret the Zoning Code to provide additional flexibility to expedite economic development. The Director of Planning and Community Development, the City Manager or designee, and the Public Works Director have such authority as outlined in the Zoning Code; however, Mr. Butler's concern is less about who is making the decision, and more about whether or not the decision is being made fairly, consistently, and in a timely fashion.

Discussion was held about the appeal process currently in place, whether or not alternative appeal processes should be considered, and how best to expedite the process; the distinction between regulations the Code addresses specifically, regulations on which the Code is unclear or silent, and disagreement with current City policies; review of City Council intent when developing Zoning Code regulations; tracking of Code interpretations to ensure consistency; requesting a Code interpretation versus proposing a Code amendment, and staff assisting applicants through the most effective process for their specific project; fees; and that Code interpretations ultimately becoming Code amendment proposals adopted by the City Council.

Doris Cassan stated she hoped the AHC would develop a program to eliminate problems such as one applicant being accepted and one being denied, one gets a good deal and one doesn't. She cited an example where the Cassans had a project planned, the City found out and didn't like it, so "they went right back before we could do anything and changed the zoning". Ms. Cassan was asked specifically if she was saying the Planning Department shows favoritism; she replied in the affirmative. She also stated that the Cassans had a development agreement that the City did not honor.

Ms. Cassan was asked to provide examples of the Planning Department's favoritism to the Commission for their review. Mr. Butler also advised that there was a difference of opinion regarding interpretation of the above-referenced development agreement.

Earl Gipson stated that, a few years ago, his neighbor was subdividing and there was an issue with titles and/or deeds. Mr. Gipson asked Planning to withdraw its Notice of Decision, and was denied. He appealed; the Hearing Examiner decided in favor of the City, but attached the same stipulations Mr. Gipson had originally requested. He now has to contact everyone who ever owned his property, and retain an attorney. The experience cost \$200,000 when it could have cost \$0. He tried to bring the issue before the City Council and the Planning Commission, but no one would speak with him.

Steve Butler advised that City staff, including legal, often have discussions with applicants. Several City departments reviewed Mr. Gipson's issue, but it was determined the City's position had merit, and that there was a legitimate difference of opinion. Further, most appeals go before the Hearing Examiner so there are no restrictions regarding speaking with Council or the Commission. In the past, acting as an informal hearing body has not been the prevue of the Commission, although they do welcome and invite concerns and comments. Mr. Butler spoke to Ms. Cassan's issue regarding changing the Code, and explained that Code language was inadvertently written in a manner that would allow substantially more parking stalls than the City Council intended within the City Center. When inquiries were made, staff realized the inconsistency and brought the matter before the City Council who agreed the current language was not what they wanted, and directed staff to move quickly to resolve the situation; the end result was that the City Council adopted newer, stricter parking standards.

A lengthy discussion was held about the City possibly engaging an ombudsman.

5. Detailed Commission Liaison's Report:

Commissioners Chapin and Ladenburg attended the last City Council meeting, the accessory dwelling unit "habitable space" issue was tabled and referred to the AHC.

Discussion was held about the excessive amount of time it may take for the Zoning Code Update Ad Hoc Committee's work, and possible methods to move forward more quickly.

Cathy Boysen-Heiberg expressed concern about updating the Zoning Code as it's difficult to look into the future and determine the City's needs. She expressed support for a City ombudsman.

6. Planning Director's Report:

Steve Butler reported that the Ad Hoc Committee would meet on Monday, May 10. The May 5 City Council meeting agenda includes growth targets. On May 18, the

Planning Commission has two public hearings scheduled, as well as review of the Preliminary Docket of Proposed 2010 Comprehensive Plan Amendments.

7. Planning Commission Comments (including suggestions for next meeting's agenda)

Commissioner Ladenburg stated that he believes it is important to have a Zoning Code to regulate and organize the City.

8. Adjournment:

The meeting was adjourned at 7:00 p.m.