

PLANNING COMMISSION MINUTES

DATE: October 13, 2014

TIME: 4:30 p.m.

PRESENT: Commissioners Boettcher, Ballard, Hahn, Buelow, Fritz, M. Olson and L. Olson

ABSENT: Commissioner Davis and Porter

STAFF PRESENT: Mark Moeller, City Planner and Carlos Espinosa, Assistant City Planner

The meeting was called to order at 4:30 p.m. by Vice Chair Hahn.

Approval of Minutes – September 22, 2014

The minutes from the Commission's meeting of September 22, 2014 were reviewed and upon motion by Commissioner Boettcher and second by Commissioner Buelow were unanimously approved as submitted.

Public Hearing – CUP Ordinance Amendments

Vice Chair Hahn called on Carlos Espinosa to provide a summary of this item.

Mr. Espinosa stated that during Commission's last meeting, this item had been forwarded to a public hearing. As currently proposed, highlights of the ordinance would:

1. Present New Conditional Use Permit (CUP) Standards – These standards would apply to all CUP applications, and then would be in addition to specific standards for each conditional use, as outlined under applicable zoning districts. Outside of district standards, he explained that the revised ordinance presents 10 general standards that the Planning Commission would need to consider in approving or denying a Conditional Use Permit. During the Commission's discussion of the draft ordinance, a fair amount of Commission review had been made of the third condition applying to diminished value as originally drafted, this provision read as follow:

“(3) Considering existing circumstances and potential uses under existing zoning, the conditional use will not substantially impair the use and enjoyment of other property in the neighborhood and will not substantially diminish the value of such property.”

As modified during the Commission's last meeting, this provision now reads as follows:

“(3) Considering existing circumstances and potential uses under existing zoning, the conditional use will not substantially impair the use and enjoyment of other property in the neighborhood and may not adversely affect neighboring property values.”

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Given the previous, Mr. Espinosa stated that the term "will not substantially diminish the value of such property" would be removed while the term "may not adversely affect neighboring property values" would be added.

Mr. Espinosa stated that under the revised ordinance, Conditional Use Permits would be fully reviewed by the Planning Commission as opposed to the current process of review by the Board of Adjustment.

Under the proposal, minor staff amendments, to approved conditional use permits, would be permitted. Given this, staff would notify the Commission of minor amendment approvals. Those amendments which might affect neighborhood compatibility or public health, safety, and welfare must be approved by the Planning Commission through the full CUP process.

The ordinance would also require that approved CUPs be implemented within a one year time frame from approval. If this is not conceivable, an applicant could request an extension from City Council. At this point, Mr. Espinosa presented a brief power point presentation reflecting a simplified example as to how the revised process would work, and what would be considered during that process.

In concluding, he explained that following its consideration of this item, the Commission has three alternative actions this afternoon. These include:

1. Approving the ordinance as presented.
2. Making additional modifications prior to approval.
3. Tabling the ordinance for further consideration at a future meeting.

At this point, Vice Chair Hahn opened the public hearing and called for any person who wished to speak to present first their name and address.

Kay Shaw, 2281 Goodview Road, noted that she and her husband presently reside in a home that they acquired in 1990. The home is located approximately one quarter mile from the Hemker sand processing site on Goodview Road.

In her presentation, Mrs. Shaw alluded to a recent conversation she had had with Mr. Espinosa relative to the Hemker sand processing facility. In response to that, Mr. Espinosa had forwarded a study which had been considered by the Commission some time ago, defining the present use and generally explained why it is currently being considered a nonconformity.

Although Mrs. Shaw indicated that her presentation did focus on the Hemker facility, Mr. Hahn stated that the purpose of today's meeting is to hear proposed code amendments related to a modification of the conditional use permit process. Given that, the meeting is not designed to facilitate site specific problems related to current sand processing facilities. If desired, that discussion could occur at a later date.

Mrs. Shaw stated that her primary concern at this point were the number of trucks that are serving the facility. Although the earlier nonconformity study had indicated a maximum

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number of trucks to the facility, she has observed trucks entering and exiting the facility every 4-5 minutes.

Mr. Espinosa reaffirmed that the purpose of this afternoon's hearing was to consider proposed CUP Ordinance amendments.

Steve Schild, 1282 West Broadway, suggested that the ordinance include strong provisions related to enforcement. He noted concern with empowering staff to make minor modifications without "first" advising the Commission, and further suggested that the ordinance be as stringent as possible.

Marie Kovesci, 133 Whispering Lane, suggested that all nonconforming City sand processing facilities be brought back to the Commission for further review. She also had concern of the concept of allowing City staff to approve minor modifications and felt that the public should be fully involved in any changes which are allowed to a conditional use.

In response, Mr. Espinosa noted that the minor amendment provision of the ordinance would apply only after the approval of a conditional use permit. As defined, minor amendments could include changes in the site design of the applicable property that do not affect neighborhood compatibility or the public health, safety, or welfare and that do not violate any of the approved conditions of the CUP. Further, although minor amendments may be approved by the City Planner, the City Planner would need to notify the Planning Commission of the minor amendment approval.

Mr. Espinosa further noted that language about enforcement in the CUP process is included in the draft ordinance at pages 3 and 4.

Stewart Shaw, 1281 Goodview Road, asked what entitles a use to be grandfathered? His concern is that as long as a grandfathered use is maintained and is not modified, it can exist forever. He felt that such uses should be subject to a conditional use process at some point in their life.

There being no one further to speak for or against the proposal, the public hearing was closed.

Commissioner Buelow suggested that the word "county" be added to condition number 10 of the draft ordinance. In addressing the property value issue, he further suggested that language, as presented by Mr. Espinosa, be adopted.

Following brief discussion, it moved by Commissioner Fritz to recommend approval of the proposed CUP ordinance, as presented this afternoon with the following amendments:

1. Insert the word County at condition number 10.
2. Add language to condition part (d) 3 and the end of part d that clarifies the issue of "diminished property value".
3. Require minor amendments to be reviewed by the Commission.

The motion was seconded and when the question was called, the vote of the Commission was unanimous to approve the motion.

Election of Officers for 2015

Vice Chair Hahn called on Dale Boettcher to present a Nominating Committee's recommended slate of officers for the coming year.

Mr. Boettcher noted that in discussing nominations with both persons, Wendy Davis has agreed to serve as Chair, and Ed Hahn for Vice Chair, for the coming year.

Given a motion and second to approve the Nominating Committee's report, the vote of the Commission was unanimous to in accepting it.

Other Business

Commissioner Fritz stated that he would like the Commission to discuss the current site plan review process. As noted during a previous meeting, he is suggesting this review with the intent of better defining when site plans should be reviewed by the Planning Commission. It was noted that this item would be brought back for discussion.

Commissioner M. Olson noted that there may be issues in enforcement of the current Conditional Use Permit that was granted to a sand processing facility in the Commercial Harbor area.

Mr. Espinosa noted that although conditions of that permit require moisture testing of every barge that leaves the facility, it is not fiscally possible for staff to undertake that review. However, spot checks of barges that have left indicate that all have been in compliance with ordinance provisions relative to moisture.

In further addressing grandfathering provisions, Mr. Espinosa stated that most of these are directed by State law as well as City Code. In most cases, grandfather uses have certain protections unless they are somehow modified. In that case, a conditional use permit may be required.

Commissioner M. Olson suggested that the Commission's agenda be modified to include a category entitled something like advanced planning, that the purpose of providing updates of various long range planning activities. Mr. Espinosa responded that this could be done.

There being no further business to come before the Commission, the meeting was adjourned.



Mark Moeller
City Planner