

ROY CITY PLANNING COMMISSION

August 24, 2010

Minutes of the Roy City Planning Commission Meeting held in the City Council Room of the Roy City Municipal Building on August 24, 2010, at 6:00 p.m.

The meeting was a regularly scheduled meeting designated by resolution. Notice of the meeting was provided to the *Standard Examiner* at least 24 hours in advance. A copy of the agenda was posted.

The following members were in attendance:

Tom Stonehocker, Chairman
Blake Hamilton
Lee Holt
Gennie Kirch
Bill Merx
Roy Watts

Tony Reynolds, Community and
Economic Development Director
Jared Hall, Planner
Michelle Drago, Secretary

Others present were: Bert Visser; Randy Brown; Sherry Chadbourne; David Chadbourne; and Alex Chadbourne.

Pledge of Allegiance: Bill Merx

1. APPROVAL OF AUGUST 10, 2010, MINUTES

Commissioner Kirch moved to approve the minutes of August 10, 2010, as corrected. Commissioner Merx seconded the motion. Commission members Holt, Kirch, Merx, Stonehocker, and Watts voted "aye." The motion carried.

2. PUBLIC HEARING (CONTINUED FROM 8/10/10) TO CONSIDER A REQUEST FOR A CONDITIONAL USE ALLOWING THE CONSTRUCTION OF A MAJOR FACILITY OF A PUBLIC UTILITY ON PROPERTY LOCATED AT APPROXIMATELY 4060 SOUTH SANDRIDGE DRIVE

Commissioner Watts moved to open the public hearing continued from August 10, 2010, at 6:02 p.m. Commissioner Holt seconded the motion. Commission members Holt, Kirch, Merx, Stonehocker, and Watts voted "aye." The motion carried.

Jared Hall stated that during the hearing on August 10th the Planning Commission raised several issues. The Planning Commission tabled the hearing and asked the staff to gather more information. After meeting with the City Engineer, the staff was requesting that the Planning Commission close the public hearing without taking action. The staff would re-

notice a new public hearing at a future date. The City Engineer agreed with the Planning Commission that a greater level of detail should be required. The City (as a client) was not currently able to provide that technical detail due to construction of a similar project on Hill Air Force Base. When engineering was in place, the planning staff would schedule a new public hearing and notify all property owners within 300 feet.

Commissioner Holt asked if construction on the 4000 South reservoir would begin in 2010. Mr. Hall did not know.

Chairman Stonehocker opened the floor for public comments. There were none.

Commissioner Kirch moved to close the public hearing at 6:03 p.m. Commissioner Holt seconded the motion. Commission members Holt, Kirch, Merx, Stonehocker, and Watts voted "aye." The motion carried.

3. PUBLIC HEARING (CONTINUED FROM 7/27/10) TO CONSIDER A REQUEST FOR A CONDITIONAL USE ALLOWING THE DEVELOPMENT OF MULTI-FAMILY HOUSING ON PROPERTY LOCATED AT APPROXIMATELY 3775 SOUTH 2700 WEST

Commissioner Merx moved to open the hearing continued from July 27, 2010, at 6:05 p.m. Commissioner Kirch seconded the motion. Commission members Holt, Kirch, Merx, Stonehocker, and Watts voted "aye." The motion carried.

Jared Hall stated that the Planning Commission had tabled consideration of this item on July 27th in order to give the applicant time to address concerns raised by the planning staff about compliance with Section 1110 of the Zoning Ordinance. Those issues were architectural detail in the elevation of the units, mix of entry styles for the units, and detail regarding the open space amenity. Other deficiencies noted were the dumpster enclosure, impervious surface coverage, fencing, etc. The staff had reviewed the revised plans submitted by the applicant. The staff was encouraged by the direction the project was heading. However, the staff was proposing that specific changes be part of any recommendation from the Planning Commission to the City Council. Mr. Hall said that the original coverage ratio was 56.3%. The ordinance required 40% to 55%. The current plan had a coverage ratio of 54.8%, which was just within the limits set by Section 1110. The applicant had added roofline variations over each of the upper floor windows. The roofline was now more interesting, but the staff still felt architectural detail was lacking on the elevations. One unit had been staggered to add relief. The staff had given up additional staggering because the applicant had split the units into two building in response to earlier staff reviews. The staff felt breaking up the roofline would achieve more than further staggering. Mr. Hall said the applicants had replaced the pitched entry over two units with a shed-style roof and added a shed roof over the end unit of the 5-plex. The other variation proposed was a change in the cover material for the support pillars. The applicant proposed semi-private patios and rear yards for each unit, which would be achieved with fencing, and a community garden. The community garden had been moved to the south end of the property. If the semi-private patios were to serve as a bulk of the 20% usable open space, the staff felt shade and other trees should be added to the landscaping plans in those areas to provide interest and shade. If the applicant took the last few steps, the planning staff felt this was a project it could support before the City Council.

Mr. Hall said the staff had found that the proposed development was an acceptable use in the R-3 Zone. The proposed development, with modifications as prescribed, could address the requirements of the Zoning Ordinance relating to multi-family development. If certain components were modified, the application could be considered an appropriate conditional use. The staff recommended that the Planning Commission recommend that the City Council approve the conditional use subject to:

1. Additional architectural detail being added to *front and side elevations* of the 5-plex and 4-plex units;
2. Engineering comments being addressed in full (redlines would be provided to the applicant);
3. Landscaping plans being modified to identify trees in the park strip and to add trees and shade trees as noted in the staff report;
4. Subject to all items of the staff report and attachments and to further review and approval by the members of the Development Review Committee as might be deemed necessary prior to review by the City Council.

Commissioner Merx was concerned about additional architectural detail. What one person considered sufficient might be different than another. Who approved the architectural detail? Mr. Hall said there weren't any details over the windows or doors. He didn't know if the applicant was amenable to further architectural detail.

Commissioner Kirch asked if the City Council would see further architectural detail. Mr. Hall said the planning staff recommended that the project not be forwarded to the City Council if additional architectural detail was not provided. If the project was presented to the City Council in its current form, the staff would recommend that it be denied.

Commissioner Kirch asked if deepening the parking field to allow backing room for the end spaces would cause a problem. Mr. Hall said it might mean that a parking space would be lost, but the site plan had three or four more stalls than the ordinance required.

Commissioner Kirch was concerned about fencing. Jared Hall said the fence was still not indicated on the site plan, which was one of the deficiencies that had to be corrected before going to the City Council. A 6-foot opaque fence was required along the side and rear property lines. Commissioner Kirch said the fence was not listed in the staff's recommendations. Tony Reynolds said it was mentioned in the body of the staff report. The Development Review Committee made recommendations regarding a project. The Planning Commission could add to or take away from those recommendations. The City Council could include or preclude any of the elements.

Chairman Stonehocker opened the floor for public comments.

Randy Brown, the applicant, presented fencing samples to the Planning Commission. He was proposing to use chain link with opaque, vinyl slats.

Commissioner Hamilton arrived at 6:15 p.m.

Commissioner Merx asked if the new fence would replace the existing fence. Mr. Brown said it would. He wanted to use the slatted chain link due to livestock on the adjacent property. He didn't feel vinyl would be practical.

Commissioner Merx moved to close the public hearing at 6:16 p.m. Commissioner Holt seconded the motion. Commission members Hamilton, Holt, Kirch, Merx, Stonehocker, and Watts voted "aye." The motion carried.

Commissioner Kirch felt the project should be forwarded to the City Council. She liked the new location of the community garden. She was concerned about its proximity to the parking, but the former location was also near parking. She was concerned about children being close to vehicles while their parents were gardening. However, the number of units in the project minimized that danger.

Commissioner Kirch moved to recommend that the City Council approve a conditional use for multi-family housing on property located at approximately 3775 South 2700 West based on the staff's findings and that the applicant address the deficient items mentioned in the staff's report and the Commission's discussions. Commissioner Merx seconded the motion. Commission members Hamilton, Holt, Kirch, Merx, Stonehocker, and Watts voted "aye." The motion carried.

4. PUBLIC HEARING TO CONSIDER CHANGES TO THE ZONING ORDINANCE REGARDING TOBACCO ORIENTED RETAIL USES

Commissioner Watts moved to open the public hearing at 6:19 p.m. Commissioner Hamilton seconded the motion. Commission members Hamilton, Holt, Kirch, Merx, Stonehocker, and Watts voted “aye.” The motion carried.

Jared Hall stated that in the spring of 2010, the City Council passed a Temporary Zoning Regulation Ordinance (TZRO) regarding the sale of tobacco. The TZRO was the result of a request for a Class A Beer license at a smoke shop. The TZRO allowed the City time to consider and research different approaches to the problem. The staff had been involved in a work session and regular public meeting with the City Council. The staff was proposing that the Planning Commission consider draft language for an amendment to the Zoning Ordinance.

Tobacco Oriented Retail. A commercial establishment with less than 10,000 square feet of total sales area, where the sale and/or display of tobacco and/or tobacco related products accounts for greater than 10% of the sales floor and display areas, or where the sale of tobacco and/or tobacco related products accounts for more than 30% of gross sales receipts, or any commercial establishment of any size declaring itself through name or advertising to be oriented specifically to the selling of tobacco or tobacco related products. Tobacco Oriented Retail uses may not be located within 600 feet of one another as measured at the closest property line.

Mr. Hall said the proposed amendment to the Zoning Ordinance would create a category for “Tobacco Oriented Retail” in Table 17-2 (Table of Uses) in Chapter 17 of the Zoning Ordinance. The proposed language would define Tobacco Oriented Retail in several ways:

Commercial retail establishments of less than 10,000 square feet. This would eliminate almost all true grocers or markets from the possibility of being included in this category.

Sales and display areas. More than 10% of the sales and/or display area was used for tobacco and related products.

Gross Sales Receipts. More than 30% of the gross sales receipts came from the sale of tobacco and tobacco related products.

Self Declaration. The business identified itself to be ‘tobacco oriented’ through name or advertising. This particular identifier was applied regardless of the size (square footage) of the establishment.

Mr. Hall said the new category would be allowed only as a conditional use and only in the Regional Commercial Zone. One existing smoke shop in the City would become legal non-

conforming because it was located in a Community Commercial Zone. The staff also proposed that Tobacco Oriented Retail uses not be located closer than 600 feet to another such use. Two of the current shops in the City were closer than 600 feet to one another. The staff had found that the proposed amendment identified and regulated a specific retail use which had become more prominent and recognizable and was not currently regulated. The proposed amendment was in keeping with the goals and policies of the Zoning Ordinance and General Plan. The planning staff recommended that the Planning Commission recommend that the City Council approve the adoption of the proposed category and language as presented.

Jared Hall stated that the non-conforming status did limit businesses in certain ways. Tony Reynolds said non-conforming uses were governed by Chapter 23 of the Zoning Ordinance.

Commissioner Kirch stated that business was business. Why was this amendment needed? Mr. Hall said Tobacco Oriented Retail was a specialty retail that was not covered in the Zoning Ordinance in any way. In California and Michigan there were cities with harsher regulations than the staff was proposing based on health concerns. Roy City was treating this as a business category.

Commissioner Holt asked if a new applicant would have to file for a conditional use permit and would have to be 600 feet from an existing Tobacco Oriented Retail. Mr. Hall said that was correct.

Commissioner Merx asked about the distance requirement. Mr. Hall said spacing was a common planning tool used to limit numbers. Six hundred feet (600) was essentially a city block.

Commissioner Hamilton asked if the proposed category would hold up in a lawsuit. Mr. Hall said this category had stood on its own in five or six cities in California and a couple in Michigan.

Commissioner Hamilton asked about the enforcement of the 30% of gross sales. Mr. Hall said it would be done as part of the business licensing. Commissioner Holt felt that it could also be verified through cigarette taxes.

Jared Hall stated that in California, the trend was moving away from grocers selling tobacco to smoke shops. Governing bodies had responded by creating a category to regulate them.

Commissioner Merx stated that limiting Tobacco Oriented Retail to a small area of the City limited the number. Commissioner Merx suggested just limiting the number allowed like

the City did with 'pay day lenders.' Mr. Hall said the City could limit numbers or use spacing.

Commissioner Hamilton felt spacing was a good way to restrict the numbers. It was a viable method.

Chairman Stonehocker opened the floor for public comments.

Bert Visser stated that he was not a smoker. However, he was concerned about the City going back to the way it was 50 years ago when the commercial area was restricted because mayors didn't want their properties affected. He didn't want to see ordinances that would stop businesses. Regulating smoke shops would not stop kids from smoking. Kids had to be taught values in the homes. Business owners were trying to make a living. If five or six tobacco shops were located next to each other, it should not make a difference. If tobacco stores weren't wanted in Roy there should be a restriction.

Commissioner Merx asked what a 'tobacco related product' was. Jared Hall said such products included pipes and different paraphernalia that weren't typically sold in grocery and convenience stores.

Commissioner Holt moved to close the public hearing at 6:40 p.m. Commissioner Merx seconded the motion. Commission members Hamilton, Holt, Kirch, Merx, Stonehocker, and Watts voted "aye." The motion carried.

Commissioner Kirch didn't feel the City was limiting businesses. Free market and capitalism would take care of inundating the market.

Commissioner Merx felt the rationale to limit this type of business to designated areas (RC Zoning), in Roy City was a reasonable goal.

Commissioner Holt moved to recommend that the City Council adopt the language for the creation of a category for Tobacco Oriented Retail in the Zoning Ordinance as presented. Commissioner Watts seconded the motion. Commission members Hamilton, Holt, Kirch, Merx, Stonehocker, and Watts voted "aye." The motion carried.

5. STAFF UPDATE

Jared Hall said there probably would not be a meeting on September 14th as there weren't items ready for consideration. The staff was looking at small text amendments.

Commissioner Holt reported on the success of the Roy Days parade which was run completely by the Elks Lodge, except for crowd control provided by the Police Department.

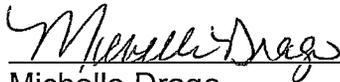
6. ADJOURN

Commissioner Kirch moved to adjourn at 6:45 p.m. Commissioner Hamilton seconded the motion. Commission members Hamilton, Holt, Kirch, Merx, Stonehocker, and Watts voted "aye." The motion carried.



Tom Stonehocker
Chairman

Attest:



Michelle Drago
Secretary

dc:paug2410