

MINUTES  
PLANNING COMMISSION STUDY SESSION  
MAY 16, 1985  
7:00 p.m.

PROPOSED DEVELOPMENT CODE - FIRST DRAFT - ARTICLE II - PROCEDURES:

COMMISSION MEMBERS PRESENT: Chairman Leo Appel II, Commissioners Jim Izett, Elgin Gunderson, Mary Jane Brimm, Earl Breuer, Lonny Draheim, Jean Hagen

STAFF PRESENT: City Manager Lynn Stuart, Planning Director Chuck Rhodaback

Chairman Appel began the study session at 7:00 p.m. by asking the staff to review the rewrite provisions of the nonconforming use standards (Sections 1.060(9) and 1.090(1) & (2), as requested by the Commission at the study session of May 2, 1985.

Mr. Rhodaback explained to the Commission that the staff had included a provision in Section 1.060(9) that would also require the City Engineer to sign building permits, indicating compliance with applicable standards of the Development Code. The staff also addressed the issue of on-site and off-site development requirements. Following some discussion, Commissioner Gunderson suggested that reference to on-site and off-site requirements be eliminated and that the provisions only deal with review and signing by the Planning Director and City Engineer. The staff reviewed Section 1.090(1) which involved provisions for a ten (1) year non-conforming use phase-out program, with a two (2) year extension; and Section 1.090(2) was expanded to include provisions for non-conforming use modifications and extensions. After discussing the issue, Commissioner Gunderson indicated that the Commission's intent was to allow a non-conforming use percentage damage factor and not a phasing out time frame. The Commission agreed that Section 1.090(1) should include a provision that allowed "by not more than 50% damage by calamity or act of God". The Commission also felt that Section 1.090(2) rewrite should not be changed. Upon completion of reviewing the revised sections in Article I, Chairman Appel asked staff to give a short explanation of Article II, Procedures, Section 2.010 (1) & (2).

Mr. Rhodaback indicated that the proposed Development Code recommended the use of a new Procedure Type Development Permit process (Type I, II, III, and IV). Mr. Rhodaback explained that Type I and II could be handled on an administrative level (City Manager and/or Planning Director), and types III and IV would involve the Planning Commission and City Council. Commissioners Breuer and Gunderson expressed some concern and need for administrative control of staff by the City Manager. Commissioner Breuer felt that Section 2.010 should include a statement that identifies the City Manager as the administrator. After further discussion by the City Manager and Commission, it was felt that a new Section 2.000 should be included that would address the City Manager's "Administrative Policy".

The Planning Commission directed the staff to rewrite a Section 2.000 to be reviewed by the Commission on June 6, 1985, during the study session. The Commission felt that Sections 2.010(1) & (2), 2.020 & 2.030(1), (2), (3) & (4) should not be changed. Chairman Appel asked if Commission members had any questions pertaining to Section 2.040(1-6) and Commissioner Gunderson said that he had a question about (5) and (6). Commissioner Gunderson asked staff how the application fees are set and the City Manager stated that the fees are set from time to time by the City Council. Commissioner Gunderson also indicated that item (5) was too open ended and placed too much burden on the applicant. Following a discussion by the Commission, it was suggested that item (5) be amended to read, "original application and two (2) copies"; and, item (6) was amended to read "as adopted by the City Council from time to time".

Chairman Appel asked staff to explain the 35 days referred to in Section 2.050. Mr. Rhodaback indicated that a specified time period needed to be established and the 35 days represents a true picture of the amount of time required for the staff to process an application that involves a public hearing. After some discussion, the Commission felt that Section 2.050 should not be changed.

Chairman Appel asked if any of the Commission members had questions about Section 2.060. Commissioner Gunderson felt that a problem could be created if the 14 day referral period allowed the Planning Department to presume that there were no comments or objections or no response was received within the 14 day time period. The City Manager suggested that reference to "City Department" under item (1) be eliminated because it would be the automatic responsibility of the City departments to respond without the provision being part of the Code. The Commission felt that Section 2.060(1) should be changed as suggested by the City Manager and that (2) and (3) not be changed.

Chairman Appel asked if any of the Commission members had questions pertaining to Section 2.070. The City Manager suggested that the reference to "governmental bodies" under item (1) be replaced with "any other agencies". The Commission agreed and also suggested that (2), (3) & (4) not be changed.

The Commission members felt that Section 2.080 should not be amended. Commissioner Gunderson voiced concern about allowing staff to make a "mobile home park" development decision under a Type I procedure, Section 2.090. After some discussion, the Commission recommended that (1) Type I Procedure, not include "mobile home parks"; (2) Type II Procedure include a Type II lot line adjustment; (3) Type III Procedure include "mobile home parks"; and that (4) Type IV Procedures remain the same.

The Commission agreed that Section 2.100 should not be amended. Chairman Appel asked if Commission members had any questions pertaining to Section 2.110. Commissioner Breuer asked staff why item (1) included railroad right-of-way and staff indicated that Railroad Avenue still contained right-of-way and the City Manager said that that was no longer the case. The Commission suggested that the reference to "railroad

right-of-way" be eliminated. The City Manager questioned the term "discretion" under item (2) and indicated that if a statutory requirement did not cover the term, then it should not be used as part of Type II procedure. Following a lengthy discussion between staff and Commission, it was determined that Type II procedures were too difficult to understand and implement. It was suggested by the Commission that the portion of (2) that made reference to the term "discretion" be reviewed on a legal basis.

The Planning Commission also recommended that portions of the Type II procedures may need to be rewritten or eliminated.

The study session ended on the discussion of Section 2.110(2) and the meeting was adjourned by Chairman Appel at 9:00 p.m.

  
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Leo Appel  
Chairman

ATTEST:

  
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Judy Pectol  
Recorder