

PLANNING COMMISSION

ADDITIONAL ITEM ADDED AFTER
DISTRIBUTION OF PACKET

Agenda # 1

- Draft PC Minutes - 8/23/12

Date 9/12/12
Time 9:55 AM

MINUTES
PLANNING COMMISSION MEETING
CITY COUNCIL CHAMBERS
1 CIVIC CENTER DRIVE
SAN MARCOS, CALIFORNIA
THURSDAY, AUGUST 23, 2012 - 6:30 PM

CALL TO ORDER

At 6:30 p.m. Chairman Nelson called the meeting to order.

PLEDGE OF ALLEGIANCE

Commissioner Jones led the Pledge of Allegiance to the Flag.

ROLL CALL

The Secretary called the roll:

PRESENT: COMMISSIONERS: JONES, MAAS, MINNERY, NELSON, NORRIS, SCHAIBLE, WEDGE

ALTERNATE COMMISSIONERS: FLODINE

ABSENT: KILDOO.

Also present were: Planning Division Director, Jerry Backoff; Principal Planner, Karen Brindley; Deputy City Attorney, Jim Lough; Office Specialist III, Lisa Kiss; City Consultant/AECOM, Nicholle Wright

ORAL AND WRITTEN COMMUNICATIONS

None.

Nelson: Welcomed and introduced new City Manager, Jack Griffin (in audience).

CONSENT CALENDAR

1. APPROVAL OF MINUTES, 7/23/12 (Workshop)

Action:

COMMISSIONER WEDGE MOVED TO APPROVE CONSENT CALENDAR AS PRESENTED; SECONDED BY COMMISSIONER SCHAIBLE AND CARRIED BY A UNANIMOUS VOTE.

AGENDA ITEM
#

PUBLIC HEARINGS

2. **Case No:** TA 12-63 / R 12-147

Application of: City of San Marcos

Request: A Comprehensive Update to the Zoning Ordinance and the rezoning of properties to be consistent with the adopted General Plan land use map.

Location of Property: City-wide

STAFF PRESENTATION:

Jerry Backoff: Introduced Nicholle Wright, AECOM and Karen Brindley, Principal Planner & Project Manager. Discussed Presentation Outline and Schedule. Planning Commission Public Workshop was held on 7/23/12, tentatively scheduled for City Council on 9/11/12. Released three draft chapters on 6/12/12: Industrial, Transitional and Definitions. Comment period of two weeks extended by one week due to public request. Staff worked with Industrial "stakeholder" group. Public Screencheck Draft released 7/18. Two week comment period for concurrent public and City staff review. Release of entire Zoning Ordinance in clean format. Redline version wasn't possible, so staff released a supplementary "Users Guide" to provide overview of significant changes from exiting code. Public Draft released on 8/9: A track-change version showing revisions from Screencheck Draft. Incorporates staff, City Attorney, public comments and revisions. This is the version being reviewed by Commission. Discussed Errata revisions: Attachment D. These are the revisions in addition to the mark ups shown in the Draft.

Nicholle Wright/AECOM: Explained that the document has been completely redesigned from the existing code. It's more user-friendly for staff and the public. It's re-organized, using common sense groupings, sections with intuitive titles, easy to understand, common language and limited legalese. There's simplified development standards, avoidance of repetition and the use of graphics & tables to convey regulations. All land uses identified in the land use tables are also identified in the Parking Ordinance. New chapters were created to easily find standards relating to existing regulations. Implementation of the General Plan required elimination and/or creation of Zones. Eliminated: Commercial C-1 (replaced with Senior Residential S-R), Commercial-Manufacturing C-M, Freeway Commercial F-C, Single Family Residential R-1-6 & R-1-15, Potential Classification Zone, Design Zone Overlay DZ, Solid Waste Management Zone SWM, Satellite Dish Antenna Ordinance & Hazardous Waste Management Plan. Some zones were renamed. New zones include Mixed Use, Transitional, Public Institutional and Airport Overlay. Added new sustainability standards, electric/alternative fueling station, recycling facilities, renewable energy/solar & wind systems. Document was updated to comply with State & Federal laws. Emergency shelters allowed by right in the Industrial "I" Zone, Transitional housing allowed by right in multi-family zones. Added Reasonable Accommodation Chapter, providing procedures for persons with disabilities seeking access to housing, required to comply with the Federal and State Employment & Housing Acts.

Karen Brindley: Discussed tattoo/body art facilities. It was staff's recommendation to prohibit them city-wide, but due to public commentary at the last meeting, staff discussed with City Attorney and has revised the recommendation based on current case law. City will now allow by right in the Commercial Zone with operational standards: Separation between facilities of 2,000 feet, limited hours 10 am to 10 pm, no live animals with exception of service animals, any expansion would need to comply with separation standard and no temporary mobile operations. They must also comply with Health & Safety codes. Ear piercing is not the same as a tattoo establishment. Discussed Hookah. Staff recommends prohibiting this use. Literature shows health risks. It's a flavored and sweetened tobacco enticing to young individuals, with potential sharing of mouthpiece that could lead to communicable diseases.

Wright: Discussed Document Organization, Articles 1-6. Discussed Commercial zone changes. Several CUP level land uses were reduced to a Director's Permit. Discussed Office Professional and new Mixed-Use zones. They did not exist in old code. There are four: MU1 & MU2 are mixed residential & commercial, MU3 & MU4 are for office and business park only, no residential. Specific Plan is required to develop within them. They're primarily along Rancho Santa Fe Road., near Palomar College and San Marcos Blvd. Discussed Industrial zones. They've been overall streamlined and expanded. Eliminated child care centers, creameries, outdoor manufacturing, public utilities and union hiring halls. Some restrictions have been removed. Restaurants were limited to deli's, but is now expanded to include take-out and employee cafeteria's. Outdoor storage is consistent with the existing standards and has not been modified.

Brindley: At the stakeholder and screen check release, the outdoor storage provisions were relocated and may have led to confusion. They've been moved back into the Industrial chapter and City has retained existing standards. Modified land use matrix will be made clearer. City understands it's a critical component to Industrial use. Discussed Transitional zones. There was a lot of input from industrial business community as it relates to potential loss. Any industrial zoned properties that would be changed as a result of General Plan (GP) land use change, would allow them to remain as Industrial in perpetuity if the property owner chooses. They can continue, expand, sell and new owner can continue. All owners were notified during GP Update process. It's a voluntary trigger as far as transitioning from Industrial to the new land use. (Table shown). Majority of properties are developed with Industrial use.

Wright: Pointed out that the table shown is different than one in packet. It incorporates the Errata changes and is the final list. Discussed Article #3. General Development Standards. Consolidation of Existing Standards. Site Planning & General Development, Walls and Fences and Nonconforming Ordinance.

Brindley: Staff looked at modifying the Non-conforming Ordinance to provide for more flexibility and allow for ability to expand, continue on and extend abandonment period. Met with GPAC subcommittee several times and came up with a few drafts

that were posted on line. Same version posted is still on line. It was reformatted and City Attorney did minor edits. Totality of ordinance remains intact.

Wright: Discussed Specific Use Standards #4. Consolidation of compliance standards organized into chapters for ease of reference. Second Units & Accessory Structures, Animals reduced in SFR. Number of hens limited to five and no roosters. Automotive services, Bars, Alcohol-Service & Entertainment, Condo Conversions, Planned Residential Development, Refuse & Recycling Facilitates and Temporary Events. Discussed Zoning Administration #5. Administration and regulatory process consolidated into usable chapters. Permits & Applications includes streamlined tables, chapters for noticing, public hearings and appeals. The Minor CUP has been eliminated. Still two-level, first is Director's Permit, an administrative review and no public hearing. Revised Major CUP to a CUP and requires a planning commission hearing.

Brindley: Pointed out that the Director's Permit still has a public review process. Staff sends public notification to a 500' radius, allowing public to participate, ask questions, etc. Prior to decision being made, a "Notice of Intended Decision" will be sent out informing radius area property owners of actual decision date and appeal information. It's a more streamlined process. Discussed updated zoning map and reclassification properties. Rezoned to be consistent with the 2012 GP land use changes, clean up of properties that had inconsistent zoning with GP, properties rezoned to comply with new GP land use classifications. Showed overall Citywide Zoning Map. There are maps available on line: Flood Damage Prevention, Airport Overlay Zone and Ridgeline Overlay Zone. Discussed errata summary. Received five letters at conclusion of Draft and made some modifications as a result. City Attorney has reviewed. Modified all tattoo/body art sections. Modified signs on private property and restored allowable square foot and size for Institutional use monument signs. Revised mixed-use parking ratio to be consistent with San Marcos Creek District: 1 BR- 1.25 spaces, 2 BR- 1.75 space/unit and 3+ BR- 2 spaces/unit. Received two additional e-mails and have discussed comments with those individuals. As a result, recommend Industrial land use table be updated to allow parking lot sales, allow websales/internet by right in all Industrial zones. Delete maximum number of contractor vehicles that can be stored overnight in the LI zone. No longer limiting to five vehicles.

Backoff: Reminded Commission to review page one of the Staff Report, items A-I, as a guideline. This is a total re-draft and comprehensive update. Staff strongly recommends that after one year there be a review and re-evaluation. If there are things that don't work as well as anticipated, land use issues, a process that might be better, etc., would then have an opportunity to review and make recommendations. Staff asked Alternate Commissioner Eric Flodine to sit on dais, although not voting tonight, he was on GPAC, as was Alternate Rod Jones. They can provide comments.

Wedge: Asked if they need to vote on separate items?

Backoff: It's all incorporated into the resolutions.

OPEN PUBLIC HEARING

Michael Hunsaker: Concerned about the reality of changes coming with the economy. More and more people are losing homes and being forced into rental units. Need two wage earners now to survive. One bedroom and 1.25 parking spaces is insufficient. They'll have to drive distances and park in suburban areas. The urban infill will have massive impacts to neighborhoods. Los Angeles requires two parking spaces for one bedroom. They're largely apartments with crowded streets even with two spaces. Developers don't want to pay for them and if they can pay an in lieu fee instead they'll do it. Renters will have to pay to rent public parking plus Congestion Management fees. It's not a plan that is conducive to realities and is not friendly to City residents in the apartments and suburbs.

Denis Chamberlain, Lake San Marcos Security Patrol: Concerned with cut through traffic and loss of territoriality. Allowing competition of the use between residents and non-residents for the semi-private neighborhood streets leads to increased crime. There's a lack of required parking spaces. On-street parking won't satisfy it. Need to review parking requirements.

Nelson: Asked which area he refers to?

Chamberlain: Chapter 20.340, Multi-family. On-street parking should not be allowed to satisfy requirements.

Nelson: Pointed out that it doesn't affect Lake San Marcos.

Chamberlain: It may if there's development near that area, apartments built and parking is insufficient. People will look for neighborhood streets. They're experiencing it now with the high school construction. They aren't your neighbors and it opens it up for crime.

Nelson: Commented that they (parents) receive automated calls often from school district warning not to park in Lake San Marcos.

Wedge: Asked if they've had increased crime?

Chamberlain: There were some robberies that occurred during a paving project. The security patrol helps. Their company gets 75-100 calls a day from residents.

Sam Eckard: Inquired about 20.215.040, Permits. For single family attached, there are virtually no allowable permits. Only R2 is permitted. Would like to be able to improve his property, but won't be allowed to according to this. Developers have option of paying in lieu fees but it doesn't go to parking structures, it goes to affordable housing. Need to add more parking.

Backoff: Inquired whether speaker was referring to SF attached or duplex, which is allowed in the R-2 Zone.

Eckard: Commented that it's very vague.

Backoff: R2 are 8-12 units per acre.

Eckard: This has nothing to do with low density residential. Asked if you can get permits?

Backoff: Homeowners can get permits for what is allowed, expansions, patio covers, etc.

Jim Simmons: Commented that this has been a monumental effort by staff and huge amount of work in a short time. Appreciate the changes made. Thinks the one-year review approach is good. It's a voluminous document. Recommend looking at prohibitions and what land uses can be located near what. A bar must be more than 500 feet from a school or church, but the reverse isn't true. Need to be careful with this kind of thing. Hopefully there can be a language change to make sure a church doesn't locate near a bar and then cause problems later. All of the encroachments into setbacks were eliminated. There should be some discretion there. As City becomes built out, there will be infill development. Odd shaped lots may need flexibility. Need to find a way to deal with it. Feels staff has done a really good job.

Steve Bieri: General Plan calls out for HDR (High Density Residential), but in Zoning Ordinance there's no provision for HDR. Talked to staff, they said it's provided for but its zero in the matrix. For clarity, should say it exists but there is none. Mixed use consistency: Table 20.200-1 Zoning Ordinance Mixed Use number is different than in GP.

Brindley: Pointed out that it's covered in errata and will be updated. Densities will be consistent with what's in General Plan.

Bieri: R-3-10 is the same as R-3-6, closer to HDR. Seems inconsistent. Discussed height issues: R-3-6 limited to 35'. If site is irregular, you may need 3-story to get density. Need some flexibility there. There are some other issues that should be looked at but can't do it in three minutes. Indicated he'd provide an errata sheet.

Wedge: Commented that you aren't always guaranteed your full density when you purchase an irregular parcel shape or hill.

Bieri: Responded that he's not setting up a future discussion for himself, just something he noticed and thought there should be flexibility. Hate to have documents be too absolute. In the real world you may need to make an adjustment. The way it is written now does not allow for flexibility.

Nelson: Reminded him of the one-year review to fine tune issues.

Bieri: Applaud staff for the way they've approached this regarding the one-year review.

Jason Simmons: Commended staff, great job all around. Two comments: 1). DP's - The DP's for instructional uses should be evaluated. Great benefit for him personally, but doesn't feel it should apply to all, like a yoga studio or two-person fitness studio. If there's no impact to zone or parking, why require it? 2). Entertainment. Don't see how it benefits the community to restrict fees or advance ticketing. They do a lot of fundraising for schools and community. Most have entertainment. They have casino nights, DJ's, bands. Recommend a second look at these.

Nelson: Asked how much a yoga studio might pay?

Simmons: \$1,200-\$1,500 plus notices, etc, could end up \$5,000+.

Nelson: Asked if looking for more definition by right?

Simmons: Perhaps when completing a business license, if not over a certain amount of people, no DP needed?

Don Jack, representing RFS Associates: Discussed 200 block of Rancho Santa Fe (RSF) Road, west side, very irregular parcel, 7/10 of acre, 318 ft. wide by 97 ft. deep. It's never developed. There are three streets to improve: Cherokee, Creek and 318' on RSF Rd. Project is required to improve all three streets, underground utilities and relocate a traffic signal. They've been unable to develop based upon its density. Glad City has modified zoning from Commercial to MU-1 and hope that will make the property developable financially. Issues: 1). Floor area ratio. It's difficult for a shallow project to generate 1.25% density factor now being required under Section 20.225.040, Table 1. 2). Dilemma with Section 20.340.060, D1., identifies tuck under parking. New zoning specifies 40% of the rear portion of lot. It's impossible in this case. Request consideration on that. 3). Section 20.340.090, B2., Commercial retail zone must have loading stall of 12 ft. x 30. Have 4,000 s.f. of retail in the initial design. Feel it's an excessive parking requirement.

Minnery: Asked how long they've owned it?

Jack: Five years.

Minnery: They bought it knowing there were issues to develop?

Jack: City gave approval for an 8,000 s.f. shopping center. With the new zoning modification to MU1, they purposely waited two years. Hoping now it can be processed. 8,000 s.f. retail didn't generate enough profit given all the improvements required.

Wedge: Asked if any staff comments?

Backoff: General comment that it's the same situation in areas where you have mixed use. Creek and University Districts have small, irregular lots. If you take any one of those lots, you may not be able to develop those properties. Intent of these types of districts is to assemble properties. Understand they've tried to purchase adjacent property. It's a difficult situation when your neighbor doesn't want to sell or be part of a joint venture. It's not unlike other areas with small lots where if you applied development standards you couldn't build on it. It's a small property and to try to develop a higher intensity is difficult without assembling other property. You can't gear Development Standards to guarantee development, that's why there are standards to try to assemble properties.

Ron Ashman, Crew Engineering & Surveying, San Diego: Client is Dale Schreiber. He has two properties affected by update. Spoke at workshop regarding a specific issue for them regarding 943 Barham Drive, a 10 acre vacant parcel. Client wrote letter agreeing to go along with the MU3 designation. It was suggested through a CUP they could pursue an assisted living/skilled nursing project. Skilled nursing is on the list, but why not assisted living? Sometimes when simplifying ordinances you get too vague. Concern there isn't any unintended prohibition that might arise.

Nelson: Asked if they're concerned it's not allowed now?

Ashman: Through discussions with staff, MU3 allows uses through a SP process. It's a flexible tool, but language can be read in a lot of different manners. Don't want it to be interpreted down the line as a restriction. Owner intends to pursue it.

Backoff: Section 20.225.10 listing of uses includes skilled nursing, healthcare, institutional. Assisted living is very similar. Not able to list everything. Tried to get a range of what characterizes the zone. It allows the same types of uses and SP will allow them to activate it.

Ashman: Okay.

Marianne Hoover, Hoover & Taylor Industrial Properties: Thanked staff. Still have concern with the DP and CUP changes. There needs to be an option for a straightforward business, a simpler, quicker process, costing less money.

Nelson: Asked if she had ideas?

Hoover: Maybe another definition or bring the Minor CUP back? Perhaps Director can look at it?

Nelson: Believe it was streamlined by removing Minor CUP and changes with DP.

Backoff: Staff tried to streamline process by eliminating the Minor CUP as it involves an Administrative Hearing and costs more than DP. Staff has already discussed with Marianne and the stakeholders group and understands their concerns. Staff will further explore ways to be more efficient and streamline the process. This is non-traditional uses in Industrial. Not able to just sign it off like a business license. Other

divisions in the City must review as well as outside agencies. Industrial uses have already been expanded immensely. It is more simplified than what City currently has.

Hoover: If it's a use that isn't allowed in a particular area, \$1,200-\$1,500 is a lot for a small business to pay, plus the time it takes. Perhaps less review would help?

Nelson: Can't consider cost at Commission level, but agree it's a little onerous for small business.

Wedge: Indicated she couldn't understand why it's an issue if someone wants to bring in a use not permitted in that area.

Hoover: Replied that sometimes the uses are not that incompatible and it would help the vacate properties.

Wedge: Pointed out that the process is already made simpler. If City keeps getting applications for these type permits, perhaps process could be changed at the one-year review?

Flodine: Fees and time are both at odds with a small business moving forward. Staff will still need to mail public notices and that takes a certain amount of time.

Backoff: Yes, any discretionary permit process requires noticing to surrounding property owners. If you have yoga and Industrial, that's not a similar use. City has already downgraded land uses and will continue to look at other ideas.

Nelson: Inquired if radius is smaller for DP?

Backoff: Same, 500 feet.

Ann Gunter, Land Use Planner with The Lightfoot Planning Group, Carlsbad:
Represent several Industrial land owners in City, some for over 40 years. There were some contentious moments during the General Plan Update process. Appreciate efforts of staff and GPAC and the flexibility shown, for what worried the Industrial owners. The structure of the new Zoning Ordinance is excellent and definitions section is really helpful. Support the one-year review. It's easy to keep putting off changes, so that certainty is great. Asked if one item is in Errata? Neighborhood Commercial, merchandize sales for new retail, permitted for over 100,000 s.f., but not for under. Asked if backwards? Complimented staff for their willingness to work with them and subcommittee during an aggressive time schedule.

Brindley: Confirmed that should be an Errata change and it's not included. Thanked her for calling it out.

Damien Chiodo, resident: Managing partner for Loan Resolution Corp., a company who helps families stay in their homes and avoid foreclosure and a resident of City

his entire life. He had been trying to find a location for a tattoo studio for several months and was surprised when all addresses were denied based on existing locational criteria. After 15-20 addresses, he got frustrated. Read last month that the City was trying to ban tattoo studios. He was prepared to discuss City's policy and give a long, factual statement, however, during the update process, the City changed their position. Complimented the City for being so transparent and Karen for communicating with him the on-going changes. Recommend that the City move forward with the new revised Tattoo Ordinance. His reason for wanting to open studio is it's a \$4 billion business. He wants to own San Marcos' tattoo studio and has a vision for the grandest one in the County. Hopes new ordinance is as liberal as possible so it can be located in a desirable area.

Nelson: Asked if naming it San Marcos Tattoo?

Chiodo: Yes.

CLOSE PUBLIC HEARING

Wedge: Asked about bars near a church and how Jumping Turtle located near a church?

Backoff: Not sure of that timeline, but probably the bar was first.

Wedge: Inquired if a church chooses to move in, the City won't make the bar leave?

Backoff: Correct.

Maas: Asked how it would apply if a church is there and another bar moves in?

Backoff: Churches are allowed through CUP. Staff looks at compatibility. If another bar wants to locate nearby, the church has opportunity to review and object. There's no certain distance that churches must be from other uses. There's usually ways to work things out.

Wedge: Asked how close a tattoo studio can be to a church?

Backoff: The current standards have distance separations. Because of review of the court case, City Attorney felt that was problematic. Tattoo studios are separated between themselves by 2,500 feet with no requirement to be separated from other uses.

Wedge: Commented that she understands the speakers concerns about wanting flexibility. She feels more comfortable recommending approval of a document where it has the ability to be modified or changed using the one-year review period. Asked if public notices would go out?

Backoff: Yes.

Schaible: Agreed with Wedge.

Nelson: Asked City Manager and Council to look at actual true cost of CUP for small business. Transparency and flexibility has been great. Appreciate staff and consultant's work. Long term, he'd like to see everything on line, ability to submit applications and pay with a debit card.

Lough: Recommended reading new Errata into record and should vote on resolutions separately. Votes taken tonight should include Attachment A and other time dated handouts, last one at 5:45 PM.

Brindley: Staff agrees with the Errata change discussed earlier to include with motion: To modify the land use table in the Commercial zone to allow for merchandise sales in the Neighborhood Commercial zone on sites **less than 100,000 sq. ft.**

Wedge: Asked if staff can correct minor typos, changes, etc?

Backoff: There's an Errata item to cover those types of minor edits/changes.

Lough: It's not added to the resolution. Staff would point out new changes made and they wouldn't have to come back to Commission as long as it deals with subject matter before you tonight, which is pretty much everything. It would only be a new matter that was never discussed at public hearing. Errata's don't fit into that category.

Action:

COMMISSIONER NORRIS MOVED TO RECOMMEND APPROVAL TO CITY COUNCIL OF TA 12-63 AS SET FORTH IN RESOLUTION PC 12-4309 WITH MODIFICATION: ATTACHMENT "D" ERRATA TO INCLUDE MODIFICATION OF THE LAND USE TABLE 20.220-2 (COMMERCIAL ZONES), PAGE 20.220-5, TO ALLOW FOR MERCHANDISE SALES, NEW RETAIL, IN THE NEIGHBORHOOD COMMERCIAL "NC" ZONE ON SITES < 100,000 S.F.; SECONDED BY COMMISSIONER WEDGE AND CARRIED BY THE FOLLOWING ELECTRONIC VOTE;

AYES: COMMISSIONERS: JONES, MAAS, MINNERY, NELSON, NORRIS, SCHAIBLE, WEDGE

NOES: COMMISSIONERS: NONE

ABSENT: COMMISSIONERS: NONE

ABSTAIN: COMMISSIONERS: NONE

Nelson: Asked about start date for Item I, if adopted by Council?

Backoff: After the second reading.

COMMISSIONER NORRIS MOVED TO RECOMMEND APPROVAL TO CITY COUNCIL OF R 12-147 AS SET FORTH IN RESOLUTION PC 12-4310 WITH MODIFICATION: INCLUDES ATTACHMENT "D"; SECONDED BY COMMISSIONER WEDGE AND CARRIED BY THE FOLLOWING ELECTRONIC VOTE;

AYES: COMMISSIONERS: JONES, MAAS, MIINNERY, NELSON, NORRIS, SCHAIBLE, WEDGE

NOES: COMMISSIONERS: NONE

ABSENT: COMMISSIONERS: NONE

ABSTAIN: COMMISSIONERS: NONE

PLANNING DIRECTOR COMMENTS

Backoff: Thanked Don Grant, chairman of the EDC, subcommittee and acknowledged the tremendous efforts by Karen, staff and Nicholle from AECOM.

PLANNING COMMISSIONERS COMMENTS

None.

ADJOURNMENT

At 8:33 p.m. Commissioner Nelson adjourned the meeting.

Dean Nelson, Chairman
SAN MARCOS PLANNING COMMISSION

ATTEST:

Lisa Kiss, Office Specialist III
SAN MARCOS PLANNING COMMISSION