



Official Minutes of the Planning & Zoning Commission Meeting
of the City of Cottonwood
Held January 22, 2007 at 6:00 PM at the
Council Chambers
826 N. Main Street - Cottonwood, Arizona

Call to Order

Chairperson Gillespie called the meeting to order at 6:00 PM.

Roll Call

Acting Chairperson Gillespie	Present	Member Kevin	Present
Acting Vice Chairperson Kiyler	Present	Member Lovett	Present
Member Fisher	Present	Member Mazzuchelli	Present
Member Gonzales	Present		

Staff Present:

George Gehlert, Community Development Director
Johnny Guthrie, City Attorney
Charlie Scully, Planner
Wes Ballew, Planner
Carol Hulse, Planning Technician

Public Present:

Ball, Edgar	Gonzales, Ed	Oliphant, Bob
Boat, June	Gonzales, S.	Pen..., Tracy (illegible)
Boat, Robert M.	Green, Mary Ann	Rackov, Joe
C., Mark	Gyger, Gene L	Richards, Bob
Calvert, Darlene	Heier, Patricia	Tellis, Al
Eaton, William	Hillman, George	

Consideration of Minutes of November 20, 2006 Commission meeting.

Commissioner Kevin moved to approve the minutes as written. Commissioner Gonzales seconded the motion, which carried unanimously.

Nominations and election of Chairperson for 2007

Commissioner Mazzuchelli nominated Acting Chairperson Gillespie and Commissioner Lovett seconded the nomination. The vote was unanimously in favor.

Nominations and election of Vice Chairperson for 2007.

Commissioner Kevin nominated Vice Acting Chairperson Kiyler. Commissioner Gonzales seconded the nomination. The vote was unanimously in favor.

Appointment of Commission Representative to the Development Review Board for a term from January through June 30, 2007.

Commissioner Gonzales volunteered and the Commission unanimously approved Commissioner Gonzales as the Commission representative to the Development Review Board.

PCU 06-040 Consideration of a request for a Conditional Use Permit to allow a church in C-1 zoning. The location is 145 S. Main Street; APN 406-43-025; Carroll Subdivision, Lot 15, Block 2. Applicant: Graceway Bible Church. Agent: Al Tellis.

Mr. Gehlert presented the staff memo, a copy of which is available. He said the primary consideration would be the prohibition on liquor use per State Statutes (ARS § 4-207), which prohibits sale of alcohol within 300 feet of a church or school. Staff notified adjacent property owners of the proposal and received one letter of opposition from the owner(s) of New Beginnings nursery.

Mr. Gehlert referenced an addendum to the staff memo regarding the effects of Proposition 207 and a recommendation that, should the Commission approve the request, they require a waiver from the applicant indemnifying the City against future litigation due to such approval. He said that staff had no other issues with the proposal.

The applicant, Mr. Tellis, addressed the Commission, summarized as follows.

- This is a “planting” church
- Good location, needs only minor improvements
- The church would not care if liquor were sold next door
- No school is associated with the church and he believed the intent of the law is to protect schools, not churches
- He understood issues some owners could have if sale of liquor within 300 feet was prohibited

Mr. Guthrie explained that whether or not there would be a school is not an issue because Title 4-207 (Liquor Code) absolutely prohibits certain types of liquor licenses within 300 feet of a church. There is an exception for sacred ceremonial wine.

Mr. Guthrie advised the Commission about Proposition 207 that was termed “Eminent Domain,” experiences other states have had with similar legislation, and ways to work with 207. He advised the Commission that if they perceive there would be a reduction in someone else’s property value they could require a waiver and indemnification and they could deny the application if the applicant does not sign those documents. Mr. Guthrie emphasized that staff has not taken a position against the church being there. However, staff wants to hear from the public.

Mr. Guthrie and the Commission engaged in discussion about exposure and protection. Some points covered were:

- If a permittee could not pay the costs of indemnification, the permit could be revoked
- Money may not be recoverable

- The waiver is not a guarantee but it is working successfully in other municipalities
- 207 is a big question mark throughout the State of Arizona
- With 207, you're going to have exposure in ways that you never thought you were going to have exposure."

No one accepted Chairperson Gillespie's invitation to speak for the project. Two persons spoke against it.

Joe Rackov of 1002 S. 12th Street, Cottonwood said he owns rental property across the street. His stated objection was that Main Street should be for commercial use only and not for churches or schools.

Mary Ann Green owns property at 215 S. Main Street, Cottonwood, which is a school. She is not against the church but is concerned about the future sale of the property and that the proposal would limit prospective buyers.

No one else spoke and Chairperson Gillespie closed the floor to the public.

Some of the Commission members' concerns and comments were as follows.

- Too many unknown liability issues with Proposition 207
- Bad location for a church
- Site would be better used as commercial
- Existing property owners have rights to the allowed C-1 uses
- City's liability cannot be quantified
- The applicant's letter that states he has no objections to liquor next door would not override State law
- Property use as a church would preclude upgrades to current liquor licenses in the 300-foot zone.

Commissioner Mazzuchelli made the following motion. "With great reluctance, by the way, I'm sorry but we need to make the motion to deny the request for PCU 06-040 based on the concerns that we have all expressed, the liability to the City." Commissioner Gonzales seconded the motion. The motion carried unanimously.

PCU 06-044 Consideration of a request for a Conditional Use Permit to allow a residence as part of a commercial building. The site is located in a C-1 (light commercial) zone that exists along the north side of North Main Street in Old Town. The location is 1123 North Main Street; APN 406-22-215A and 406-22-214B. Applicant: Larry Dummitt.

Mr. Gehlert presented the staff memo (copy available) emphasizing that staff encourages mixed use in commercial areas to prevent a "dead zone" at night and as a form of affordable housing. He presented graphics depicting the site and surrounding area. Mr. Gehlert read the following from the staff memo. "Staff therefore encourages approval of the request subject to the following stipulations:

1. That the structure conform to all building code and fire safety standards.
2. That permits be obtained for any tenant improvements.
3. That the applicant obtain a Certificate of Occupancy.

4. That the request be reviewed in one (1) year.
5. Any other stipulations the Commission deems necessary.”

Chairperson Gillespie noted that on similar applications in the past the Commission required the living quarters be occupied by the owner or his representative and could not be used as a rental.

Chairperson Gillespie invited the public to speak for or against the project. He closed the floor to the public when there was no response.

A brief discussion highlighted the following.

- Any requirement for fire sprinklers would be addressed before the Certificate of Occupancy is issued.
- There is a residence there now and they will not be required to tear down and rebuild.

Vice Chairperson Kiyler made the following motion. “Mr. Chairperson, I make a motion that we approve PCU 06-044 with the stipulations recommend by the staff and a stipulation that it shall not be rented to anybody outside of the regular business people.” Commissioner Kevin seconded the motion and it carried unanimously.

ZO 06-045 Discussion and possible action regarding amendments to the C-3 (Restricted Commercial) zone, located along North Main Street between North Willard Street and North Eighth Street in Old Town.

There were two parts and two motions to this discussion. The first concerned amendments to the C-3 zoning regarding uses and property development standards. The second concerned changing the name of the C-3 zoning district.

Mr. Scully presented the staff memo (copy available). In summary, Mr. Scully said there is only one C-3 zone in the City and it is comprised of 44 units along North Main Street. Currently, all uses require a conditional use permit and that is unusual. The proposed amendments would add certain permitted uses that have worked in the area, clarify possible conditional uses, and amend certain property development standards to better guide the interest in preserving and enhancing the existing character of the area as a unique mixed-use commercial and residential neighborhood.

Responding to questioning, Mr. Scully said that the proposed twenty-foot setback from the sidewalk for garages is to allow ample parking area without a vehicle hanging over the sidewalk. The fifteen- foot setback for the main structure is measured from the property line.

Mr. Scully noted that a packet was sent to all of the C-3 property owners and several owners attended this meeting.

Discussion ensued about the proposed requirement for a six-foot masonry wall for screening between commercial and residential uses. After determining that the purpose was to avoid chain link with slats, *there was consensus to specify exclusion of chain link with slats and leave more flexibility regarding solid screening materials.*

Mr. Scully moved into the second phase of this item regarding changing the name of the C-3 zoning district. He provided background and explained that the C-3 designation creates confusion because most people think it is commercial zoning. At a previous meeting, there were suggestions about making the name a title or a slogan. However, he advised selecting a more universal zoning classification name to allow application elsewhere in the city. A title or slogan would be appropriate in some other application.

The Commission reached consensus about changing the name to CR (commercial residential).

Chairperson Gillespie invited public comments for this item.

William Eaton of 633 N. 5th Street commended city staff and Commissioners on notification to the property owners and revisions based on public input. The changes will preserve the character of the neighborhood and stimulate economic activity. He agreed with the Commission about allowing flexibility in the screening materials while excluding some and he supports the proposed amendments.

Darlene Calvert of 752 N. Main Street and Mr. Eaton pursued the idea of using a creative name for the zoning district. Mr. Scully reiterated his advice to use a zoning classification name that is consistent with the rest of the Ordinance and applicable to other areas. He suggested that a creative name would be appropriate through another program such as marketing or on an entry sign. Mr. Gehlert noted that other districts have functional nomenclature.

Other ideas discussed were:

- The CR district could have place names associated with it such as Old Town CR, Mesquite CR, etc.
- There could be a separate design overlay over the commercial and residential areas.

Gene Gyger, principal trustee of property at 611 N. 8th Street, questioned zoning on that property. Staff explained that part of his property is zoned C-3 and part is R-2. They clarified that the proposed amendments would not change the zoning on the property.

Chairperson Gillespie closed the floor to the public when no one else asked to speak.

Commissioner Mazzuchelli made the following motion. "I would like to make a motion that we recommend approval of the changes to the C-3 district as proposed by the staff." Commissioner Lovett seconded the motion. The motion carried unanimously. Mr. Guthrie called a point of order, asking if the Commission intended to include the change they discussed about the wording of screening. Discussion followed, which resulted in the Commission agreeing to exclude chain link fencing with slats.

Commissioner Mazzuchelli moved to "Rescind the previous motion." Commissioner Lovett seconded the motion. The motion to rescind carried unanimously.

Commissioner Mazzuchelli made the following motion. "I would like to make the motion that we accept proposal...ZO 06-045 with the change on page 3, paragraph 7" (of the proposed ordinance) "on the screening, 'Where a lot adjoins a residential district, a commercial use

shall be screened from the residential property by a solid fence or wall excluding chain link and slats.” Commissioner Gonzales seconded the motion and all members voted in favor.

Quoting ARS § 38-431.02H, Mr. Guthrie advised the Commission that he believed the agenda notification met the standard “...and other matters related thereto” and the Commission could make a decision regarding the name change to the C-3 district. Additionally, the Commission discussed the name change issue in at least two prior meetings of the public body.

During brief discussion, the Commission reiterated that the zoning district designation should be a common form such as “CR” for administrative purposes. A designation such as “Old Town Historic District” could be used for marketing purposes.

Commissioner Mazzuchelli moved “That ZO 06-045, to approve the recommendation of staff to change the name of the C-3 district to the CR zone (Commercial/Residential).” Vice Chairperson Kiyler seconded the motion, which carried unanimously.

ZO 06-046 Discussion and possible action regarding amendments to the Zoning Ordinance, Section 405 Signs, pertaining to A-frame and other portable signs.

Mr. Scully presented the staff memo (copy available). He explained that this has been an issue for at least ten years. There were six meetings held on this topic in 2006. The City Council requested that the Planning and Zoning Commission review the proposed ordinance amendments regarding A-frame signs to provide an additional level of review and input before their final consideration.

Chairperson Gillespie invited comments from the public.

Ms. Calvert said she is for the A-frame signs on a limited basis such as for special sales, etc. However, some people abuse it. It should be allowed but with limitations.

Dr. Richards, 1495 E. Crestview Drive, announced that a new sign ordinance was given to Brian Mickelsen that day. It would solve a host of the problems. He is in favor of A-frame signs with limited use. Dr. Richards encouraged the Commission to table the discussion until the new ordinance is reviewed by staff and taken before the Commission.

Mr. Oliphant of 330 Desperado said that whatever is passed is meaningless without enforcement. Unfortunately, Council took it upon itself to bifurcate this issue by passing a \$25 annual fee. He is against the ordinance. Mr. Guthrie asked Mr. Oliphant if he is aware of the newly written ordinance that Dr. Richards referred to. Mr. Oliphant said the following.

- Dr. Richards wrote it (the ordinance). It is a comprehensive, serious effort.
- It addresses commercial and weekend signs.
- It addresses commercial vs. directional signs
- It addresses many issues not addressed in the staff’s proposal, such as balloons.

Mr. Guthrie asked about the availability of Mr. Richard’s draft ordinance. Mr. Oliphant gave his draft copy to Mr. Guthrie. Mr. Guthrie advised the Commission that, with this unprecedented help from the public, the Commission may wish to table this so staff can review it and report to the Commission.

Chairperson Gillespie closed the floor to the public when no one else came forward to speak.

The Commission and staff engaged in extensive discussion. The main comments and points are summarized below as pro/con (for/against approval).

PRO

- Proliferation of signs, people in costumes, and searchlights is an embarrassment
- Intent was to respond to that proliferation
- Current ordinance is difficult to enforce
- Council was looking for something enforceable so staff could deal with sign proliferation now
- A comprehensive re-write of the ordinance would take months
- Council is waiting on a response from the Commission on performance standards
- Staff is waiting for approval of the amendments to start enforcement
- If the revised ordinance becomes law, Council could mandate enforcement.

CON

- Lacks enforcement and penalty provisions and the Commission wants “teeth” in the ordinance
- Minimal (written) response from the business community
- A-frames are only a small part of the problem and the Commission does not want to sign off on them and have the rest swept under the rug
- The work is good but does not go far enough
- An enforcement component should be in any ordinance
- Current ordinance says no A-frames and that could be enforced now.

Other points of discussion were as follows.

- Political signs were a concern to at least one Commission member.
- Mr. Guthrie advised that political signs and people in costumes on street corners fall under First Amendment rights and must be treated differently.
- The lack of enforcement does not negate the Ordinance but does make the City look foolish.
- The key to enforcement is a hearing officer and that could happen this spring or summer.
- The Council could adopt the amended ordinance anyway (without Commission approval).
- The Council has great respect for the Commission.
- The Commission should attend the Council meeting and explain their position – Chairperson Gillespie volunteered to do this.

Chairperson Gillespie made the motion, “That we table this and direct staff to modify the proposal to include enforcement, a hearing officer, that type of thing, as would give the A-frame ordinance, alone, notwithstanding what would be reviewed in the future, some substance for enforcement at a later date.” Vice Chairperson Kiyler seconded the motion, commenting that he does not want staff to take what was said in a personal manner. The opinions the Commission has voiced have nothing to do with the job staff has done. The motion carried unanimously.

Discussion of possible future work sessions.

Mr. Gehlert suggested that discussion of the sign code might be worthy of a work session. Chairperson Gillespie asked staff to schedule it. February 5 was the date agreed upon for a work session to discuss the sign code.

Commissioner Mazzuchelli requested that staff provide the Commission members with a copy of Dr. Richard's proposed sign ordinance before the work session.

Informational Reports and Updates

Mr. Gehlert reported on the following.

- Brookfield is interested in taking over Bella Montana. Staff is looking for input on the qualitative side of it – such as, would it have significant impacts on adjacent areas?
- Staff is reviewing a sketch plan for a subdivision called Riley Heights.
- Read Homes submitted a final plat proposal for Unit One of Mesquite Hills. Following a discussion about water adequacy for the Mesquite Hills project, Commissioners asked for a copy of the 25-year water study. Mr. Gehlert will provide copies.
- A couple of subdivisions are under construction at the Air Park. There is lots of industrial activity.
- Internal trails will be available to the public.
- Introduced the new planner, Wes Ballew.
- Awarded Ed Kiyler a five-year service plaque because he was unable to attend the appreciation dinner in December to receive it.
- Announced the resignation of Mike Shimkus who had served as the code enforcement officer.

Commissioner Lovett announced that the Parks and Recreation Commission, Council members, and she would meet the next day to discuss rejuvenating the trails idea in Cottonwood. The Forest Service is proposing a recreation plan for the Mingus Foothills and she hopes there would be access from the city to the foothills. The trails group is working to interface our trail system with Clarkdale's.

Commissioner Fisher requested a progress report from Casey Rooney, Economic Development Planner.

Call to the Public

No Response.

Adjournment

Chairperson Gillespie adjourned the meeting at 8:37 PM.

Minutes prepared by: Carol Hulse, Planning Technician

March 19, 2007

Date Approved: _____

SUMMARY ACTION LIST

- Work session on February 5 to discuss sign code.
- Staff to provide the Commission members with a copy of Dr. Richard's proposed sign ordinance before the work session.
- Staff requests that Commission members provide input on the qualitative side of the Brookfield proposal for Bella Montana.
- Staff to provide Commission members with a copy of the Mesquite Hills 25-year water report.
- Commission requested a progress report from Casey Rooney, Economic Development Planner at the next regular meeting.