

Planning and Zoning Commission Work Session Minutes
January 18, 2018
Conference Room 1-B - 1st Floor City Hall

ATTENDANCE:

Commission Members Present: Burns, Harder, Loe, MacMann, Rushing, Russell, Strodman, Stanton, Toohey

Commission Members Absent: None

Staff: Bacon, Caldera, Palmer, Teddy, Zenner

Guest(s): None

ADJUSTMENTS TO AGENDA: None

TOPICS DISCUSSED – New Business:

- Building Permit Report

Ms. Bacon provided the December 2017 building permit reports to the Commissioners for information purposes. Mr. Strodman commented generally on the reports.

- **Sensitive Land Areas & FP-O Overlay Discussion**

Mr. Zenner introduced the topic by indicating that he understood the Commission desired to have discussion on this matter given recent disclosures during a public hearing on the NGT annexation and permanent zoning request held at the December 8 PZC meeting. He further noted that it was his understanding that the Commission desired to have clarity on how the provisions of the UDC related to avoidance of sensitive features were going to be handled moving forward.

Mr. Zenner explained that due to the recent identification of provisions within Section 29-1.6 of the UDC which requires exemption of more restrictive UDC standards when there is an overlay district in place limits staff's ability to fully enforce the provisions of Section 29-5.1(b) (Avoidance of Sensitive Areas). He further explained that his disclosure of this finding during the public hearing on the NGT annexation case, while surprising to several Commissioners, was believed to be necessary to ensure that they were properly informed of the UDC's application as it related to future development decisions for that site.

Mr. Zenner further indicated that the purpose of the NGT hearing was to recommend a permanent zoning classification for the site that the Council could consider as part of an annexation request – not approval of a development plan or subdivision action which is where the provisions of Section 29-5.1(b) would be applicable. He suggested that if the Commission felt that the site should not have been zoned for the proposed MN (Mixed use – Neighborhood) district it would have been more appropriate to have recommend denial of that request and made an alternative recommendation. Commissioners had discussion regarding this suggestion.

Commissioner's expressed concern regarding the staff's consistency in applying the requirements of Section 29-5.1(b) even prior to the NGT hearing disclosure. Several Commissioners provided referenced to other cases in which they believed staff were not sending a clear message regarding the provisions application. Mr. Zenner noted that every development application is unique and that support or denial of a request to allow for development within such identified areas varies based on several circumstances. He further pointed out that following identification of the exemption provisions of Section 29-1.6 he reviewed in greater detail the provisions of Section 29-5.1(b) and concluded that the staff had been errantly forwarding "design adjustment" requests to the Commission relating to this matter.

Mr. Zenner noted that the provisions of Section 29-5.1(b)(2) provided specific administrative direction and remedies that would have avoided the prior requests coming before the Commission for consideration. He noted that the only time that such requests would appear before the Commission were if the required written justification and documentation required by Section 29-5.1(b)(2)(i) were deemed insufficient and the applicant refused to remove the proposed development lots outside the sensitive feature area. Mr. Zenner noted that the staff is still becoming acquainted with the UDC's provisions and misinterpreted what was there. There was Commission discussion about this explanation.

Given the Commission discussion and staff explanation relating to this matter it was suggested that the text of Section 29-5.1(b) be revised. It was recommended that the requirement restricting development within any land located within the boundaries of the FP-O Overlay be eliminated and that such areas not be referred to as "sensitive". This recommendation was based on the fact that Section 29-1.6 provided such exemption and that to not do so just created confusion. Mr. Zenner noted that such a drastic step may not be necessary and would potentially undermine the purpose behind why the standards for protection were created. He suggested creating an incentive based approach to encourage developers to voluntarily set aside the flood fringe areas on their site. The floodway was already restricted from development per the FP-O district, but encouraging preservation of the flood fringe would still be of benefit to the public and wouldn't gut the original intent of the preservation requirements. He further noted that such a correction would eliminate the confusion of what was required to be protected/restricted from development and what wasn't.

Commissioners had discussion on this recommendation and indicated that they believed it would assist in resolving the confusion/conflict that currently exists within the UDC. Mr. Zenner confirmed that the Commissioner's desired staff to proceed forward with the revision and bring it back to them at the next work session. Commission acknowledged that was their desire. Mr. Zenner indicated that he would have an proposed amendment prepared for discussion at the February 22 work session as the Commission meetings for February 8 were to be canceled due to no public hearing items being received.

- **Density Bonus Discussion**

Due to time constraints discussion of this topic was indicated that it would be carried forward to a future work session meeting.

ACTION(S) TAKEN: December 18, 2017, minutes were approved. No other votes or motions were made.

Meeting adjourned approximately 6:55 p.m.