

Naples Planning and Land Use Public Hearing and Regular Meeting Minutes October 13, 2009

Chairman Dale Harrison welcomes the public and the Commission to the meeting.

All Present: Chairman Dale Harrison, Vice Chairman Jim Richards, Stanley Johnson, Walter Gale, Cresta Slaugh, Lane Webb, Bruce Brown, Chris Hoem and Brandy Salazar

Public Hearing

Lane Use Ordinance Amendments

02-01 General Provisions

Chris Hoem: I will read the parts of the ordinance that have been revised. The beginning of the second paragraph of the Declaration reads: "It is hereby declared that any use of real property within the boundaries of Naples City which is not specifically permitted or approved as a conditional use is strictly prohibited. Any person or entity requesting a re-zone or a change in a classification or condition or characteristic of a zone or requesting or engaging any use which is not permitted pursuant to the terms of this ordinance is in violation of the ordinance." This has been revised to read "Any person desiring any change in the classification of the zone or permitted uses or conditional uses within any zone bears the burden of convincing the Planning and Land Use commission and the City Council that such a change is reasonable, necessary, appropriate, and consistent with the overall Planning and Land Use scheme adopted by the City in this Land Use ordinance and in the General Plan." The changes make it easier to understand. 02-01-006 Nuisance and Abatement. Misdemeanor and Penalty Provisions section needs to be added to this section, for example it would read "Any person, firm or corporation, whether as principal, agent, employee, or otherwise, violating or causing the violation of any of the provisions of this title, shall be guilty of a class B misdemeanor and upon conviction thereof shall be punishable by a fine of not more than two hundred ninety-nine dollars (\$299.00) or by imprisonment for a term not to exceed six (6) months, or by both such fine and imprisonment. Such person, firm or corporation shall be deemed guilty of a separate offense for each and every day during any portion of which any violation of this title is committed or continued by such person, firm or corporation and shall be punishable as herein provided." I think the penalties are a little steep. Craig Blunt thinks the City Attorney suggested thirty-five dollars a day. Craig Blunt is working on a consolidated fee schedule for fines that the City can use. Chairman Dale Harrison: I know it is hard to be fined but if it doesn't hit the perpetrators pocket book then they will not come into compliance. Vice Chairman Jim Richards: We need to look at the ordinance. For example, look at the section for noxious weeds. The ordinance states, "Noxious weeds, or weeds more than twelve (12) inches tall or weeds within thirty (30) feet of a structure, or ten (10) feet of the outer edge of any public street, or weeds in any other location which constitute an unreasonable fire hazard." I have barns on my property that have weeds up against them that get taller than twelve

inches, does that mean that if I don't keep them cut the City will fine me? Walter Gale: I believe that this would be enforced in commercial, industrial and higher density residential areas. There would be notices that would be mailed out before there would be a fine issued. I think that if we didn't have strict guidelines it would make it easy for the residents or businesses to not comply with the ordinance. Vice Chairman Jim Richards: There needs to be a written warning before any fine is issued and the notice needs to state that they need to contact the city office. Lane Webb: Are these notices sent certified or is there a way we can be sure they received the notice? Brandy Salazar: We do send certified letters and we keep all returned mail. Vice Chairman Jim Richards: I think that agriculture land should be exempt. The property owners could claim that the weeds are going to feed livestock through the winter. Brandy Salazar: The city mostly enforces this ordinance per complaints. Most agriculture land is far enough out that the city will not receive any complaints about the weeds. Chairman Dale Harrison: I am worried that the smoke in 02-01-007, section H will become a concern. I know what my definition of unreasonable is but what about the public. Vice Chairman Jim Richards: Smoke coming from a fireplace in a home should be reasonable. I think that smoke from a heating source should be excluded from this guideline. Chris Hoem: I think that chimney smoke for heating is reasonable. Chairman Dale Harrison asked for public comment, none was given.

02-03 Administration and Procedures

Chris Hoem: 02-03-005.01, section f, a typo was corrected from 8% obscure to 80% obscure. Section k, the reference was corrected from 0215 to 02-16. There is a paragraph after section o and I changed the paragraph to section p. 02-03-006, section C. Approval for One Year, it reads, " Approval of the final plat by the City Council shall be valid for 12 months unless an extension is granted by the Planning Commission or City Council. If the final plat has not been recorded within the 12 month period, the final plat must be submitted to the Planning Commission for recommendation for re-approval. Each individual phase of a subdivision must have a recommendation from the Planning Commission and approval from the City Council. Preliminary approval of an entire subdivision shall not be voided if the final plat of the first section or phase is submitted for final approval on each subsequent phase of a subdivision; the previous phase must have 80% construction completed and 50% occupancy permits issued within the phase. Each phase shall not exceed thirty homes. Stanley Johnson: I am bothered by having an entire subdivision recorded, because when you record the entire subdivision and it doesn't get completed, the City is locked into what was approved no matter what time line the subdivision is completed in. Vice Chairman Jim Richards: I don't think that the entire subdivision should be recorded for property tax reasons. If the subdivision is not completed and occupied the property taxes go up considerably. Chris Hoem asks the Commission's opinion on how long a concept plan should last. The Commission agreed, not more than five years. Chris Hoem: Section D. Notification of Nearby Property Owners. For an overview, the current notification standard the city is currently using is overboard. The current ordinance reads, "The Planning Commission, at least fourteen days prior to the Planning Commission meeting, the applicant shall mail to all property owners of property located within 1,000 feet of the boundary of the proposed site plan written notice of the time, date and place where the Planning Commission will consider giving preliminary approval to the site plan.

The written notice shall also advise the property owner that she or he has the right to be present and to comment on the proposed plan. The applicant shall provide the Planning Commission with the names of all persons to whom the notice was mailed. The Building Official shall ensure that development is in compliance with the final plan, and all other requirements imposed by the planning commission. Upon approval of the plan by the planning Commission, no alteration shall be made without first obtaining approval from the Planning Commission.” The amended section reads, “Whenever notice is required to be mailed to any affected entities or nearby property owners, the applicant or municipality shall send such notice to all property owners within 500 feet of the proposed site plan, general plan, land use ordinance, or subdivision plan amendment or adoption. However, notification for annexations shall be sent to property owners within 1000 feet of the proposed annexation area including property owners in adjacent jurisdictions. The written notice shall also advise the property owner(s) that he/she has the right to be present and to comment on the proposed plan. If the applicant chooses to notify the affected entities, then the applicant shall provide the Planning Commission with the name of all persons to whom the notice was mailed. However, if the municipality mails the notification to nearby property owners, then the applicant shall pay a standard, reasonable fee (set by the City Council) to the City to complete the task of notification.” Chris Hoem: I think it would be difficult for an applicant to prove to the city that they have mailed the notices and to whom, I think this should be the City’s responsibility. The reason I wanted the wording to be in the ordinance that allows the applicant to notify the effected people. This would save the City and the applicant money; but I don’t know how the applicant would prove the notifications were mailed. Chairman Dale Harrison: I think that should be the City’s responsibility. Walter Gale: If the City is responsible for the notifications and the mailings, we have the documentation in the office showing who and where it was mailed Brandy Salazar: Property ownership information that includes mailing addresses, copies of label sheets showing who and what addresses the notices were sent to and a copy of the notice itself is kept in the office. Chris Hoem reads the current section E. Notification of General Plans, “Ten (10) days notice before First Public Hearing considering Plan or Amendment, published in newspaper, mailed to each affected Entity and/or posted in 3 public places or on website. Twenty-four (24) hours notice of each public meeting discussing Plan or Amendment and submitted to newspaper.” The changes made to reflect the state law read, “Upon inception of the initial process to amend or adopt the General Plan, there shall be ten days notice before the first public hearing considering the plan or amendment. This notification shall be mailed to all affected entities, published in a local newspaper, and posted either on the City website or in three public places. Every public meeting beyond the first public hearing, to adopt or amend a particular part of the General Plan shall have at least 24 hours notice of the public meeting on the City website or in three public places.” Chris Hoem reads the current section for Annexation Requests: Must have a Public Hearing to consider annexation requests and follow annexation plan policy. Notice will be published in the newspaper for two consecutive weeks and posted on the property to be annexed, or posted in a public place for two consecutive weeks and posted on the land. Mail notices to all property owners within 2,000 ft distance 3 days prior to Public Hearing.” Chris Hoem reads the revised section: “Fourteen days prior to the first public meeting to discuss an annexation plan, notice shall be mailed to affected entities within 1000 feet of the annexation area.

Fourteen days prior to the first public hearing to discuss an annexation plan, notice shall be mailed to affected entities within 1000 feet of the annexation area, published in a local newspaper, and posted either on the City website or in 3 public places. Within thirty days after the adoption of an annexation plan, a copy of the plan shall be sent to the County Recorder.” Chris Hoem reads the current Subdivision Plat Approval or Amendment: Must have a public hearing to consider approving or amending a subdivision plat 3 days notice of public hearing, mailed to all owners within 1000 ft. distance of subdivision or post on subdivision property. If subdivision is for Multi Unit Residential, Commercial or Industrial, notices are mailed to each affected entity. All subdivision will have Ashley Valley Water & Sewer approval.” Chris Hoem reads the amended section: “ Ten days prior to the public meeting to discuss a subdivision plat approval or amendment, notice shall be mailed to the affected entities, posted on the City website, and either published in a local newspaper or posted in 3 public places. Any residential subdivision with only 9 lots or less shall be exempt from notification requirements. All subdivisions must be reviewed by Ashley Valley Water & Sewer.” Vice Chairman Jim Richards: I think that is an excessive number of homes to be exempt from coming before the Planning Commission. I would be more comfortable with four or less or two more than two acres.” Walter Gale: The Planning Commission will still have to approve the subdivision plat. How many homes would there have to be to warrant a public hearing? Chairman Dale Harrison suggests the change to 8 homes. The Commission agrees to change the number of lots to 8 before a public hearing in necessary. Chris Hoem: Challenge of Proper Notice has been changed to read: any challenge to proper notice must be taken within 30 days of the meeting or action, otherwise notice is considered adequate and proper. Chairman Dale Harrison asked for public comment, none was given.

02-08 Industrial Zone I

Chris Hoem: 02-28-001, Objectives and Characteristics of Zones. There used to be three paragraphs, now there are only two. The third paragraph stated uses that are not allowed in the industrial zone. I moved these uses to the Non Permitted list on page three. I simplified the ordinance to make it more understandable. I have created two lists, one stating what is permitted and the other stating what is not permitted. There are a list of conditional uses and special provisions. Naples City does not currently have an I2 zone, but the guidelines for the I2 zone are part of this ordinance 02-28-006-02-28-009. I added section 02-28-010 Landscaping Requirements, it reads, The Developer shall provide a plat design of the meaningful landscape and its maintenance. The components, layout, arrangement, and size shall be approved by the Planning Commission. Meaningful landscaping is grass, trees, shrubs, xeriscape, etc., in an appealing layout and size arrangement approved by the Planning Commission. Landscaping shall be maintained by the property owner. The minimum area requirements for landscaping are as follows: 1. A minimum 20 foot strip of landscape measured from back of sidewalk, along the frontage; or 2. a minimum of 5% of the total lot area landscaped near the frontage. A bond or other financial guarantee shall be required, guaranteeing landscaping and other improvements, at the Planning Commission’s option. The design for curb and gutter in Industrial zones shall be either high-back or modified high-back. Modified back shall only be allowed where there is no sidewalk. Chairman Dale Harrison asked for public comment, none was given.

02-33 Naples City Tree Ordinance

Chris Hoem: The tree guidelines used to be part of chapter 02-01 but I have created a chapter just for the tree guidelines. The City Council agreed to consolidate and absorb the duties of the City Tree Board into the Planning Commission the City Tree Board as well. I have changed the wording from City Tree Board to Naples Planning Commission. 02-23-008 is a list of trees that the City allows. I would strongly suggest that we allow more varieties but the trees will have to survive winter weather for this area. 02-23-009, Spacing. I changed the minimum spacing requirements. 02-33-10 Distance from curb and sidewalk, I changed the distance for small trees from seven feet to one foot, medium trees from eight feet to two feet and large trees from nine feet to four feet. Vice Chairman Jim Richards: If you plant a large tree a couple feet from the sidewalk, in ten years the root system will break up the sidewalk. Chris Hoem: The last paragraph states: Depending on the root system of a given tree, the Planning commission may require more or less distance from the tree to the closest curb or sidewalk. Chris Hoem reads 02-33-013 Public Tree Care: The City shall have the right to plant, prune, maintain and remove trees, plants and shrubs within the easement of all streets, alleys, avenues, lanes, squared, and public grounds as may be necessary to ensure public safety as to preserve or enhance the symmetry and beauty of such public grounds. The Planning Commission shall have the right to cause the removal of any tree or part thereof, which is in an unsafe condition or which by reason of its nature is injurious to sewers, electrical power lines, gas lines, water lines, or other public improvements or is affected with any injurious fungus, insect or other pests. This section does not prohibit the planting of street trees by adjacent property owners providing that the selection and location of said trees is in accordance with section 02-01 and 02-33 of this Ordinance. All maintenance of said trees, pruning, removal, or disposal of, irrigation, etc. shall be the responsibility of the property owner, or Home Owner's Association, if applicable. Walter Gale: Vernal City has an ordinance, if a tree dies the owner only has so much time to replace it, can we add that to this ordinance and mandate that they plant a tree that is close to the size of tree that is being replaced? Chairman Dale Harrison: It should be mandatory for industrial and commercial areas. Chris Hoem: 02-33-011 Distance from street corners and fire plugs, this section used to say that you couldn't plant a tree closer than fifty feet from a street corner. I have changed that to ten feet. This chapter also states that you have to have an arbor's license to be able to trim or remove trees. Vice Chairman Jim Richards: I think that they should only be licensed and insured. Walter Gale: I would like to look into the arbor license. What are the requirements to get an arbors license? Chairman Dale Harrison: I think the tree trimmers should be educated. Chris Hoem will do research on the requirements for an arbor license and find out if we have anyone in Uintah County has the license. Chairman Dale Harrison asks for further public comment, none was given.

Walter Gale moved to close the Public Hearing for Land Use Ordinance Amendments 02-01, 02-03, 02-28 and 02-33. Stanley Johnson seconded the motion.

Roll Call Taken:

Chairman Dale Harrison	Aye
Vice Chairman Jim Richards	Aye
Stanley Johnson	Aye
Walter Gale	Aye
Lane Webb	Aye
Cresta Slaugh	Aye

The motion passed with all voting Aye

Regular Meeting

Commission Present: Chairman Dale Harrison, Vice Chairman Jim Richards, Stanley Johnson, Walter Gale, Cresta Slaugh and Lane Webb

Commission Absent: Jim Garner

Council Rep Absent: Kenneth Reynolds

Others Present: Bruce Brown, Chris Hoem and Brandy Salazar

Open Ceremonies Chairman Dale Harrison calls the Regular meeting to order. Vice Chairman Jim Richards leads the pledge and the invocation was offered by Chairman Dale Harrison.

Verification of Full Quorum: Chairman Dale Harrison verifies a full quorum.

**Approval of Agenda
October 13, 2009** Jim Richards moved to approve the agenda for October 13, 2009. Walter Gale seconded the motion.

Roll Call Taken:

Chairman Dale Harrison	Aye
Vice Chairman Jim Richards	Aye
Stanley Johnson	Aye
Walter Gale	Aye
Lane Webb	Aye
Cresta Slaugh	Aye

The motion passed with all voting Aye

Disclosures: None

Approval of Regular Meeting Minutes August 25, 2009

Cresta Slaugh moved to approve the Regular Meeting Minutes for August 25, 2009. Stanley Johnson seconded the motion.

Roll Call Taken:

Chairman Dale Harrison	Aye
Vice Chairman Jim Richards	Aye
Stanley Johnson	Aye
Walter Gale	Aye
Lane Webb	Aye
Cresta Slaugh	Aye

The motion passed with all voting Aye

Public Hearing Discussion
Land Use Ordinance Amendments
02-01 General Provisions

After further discussion, Vice Chairman Jim Richards moved to approve and send recommendations to the City Council to adopt 02-01 General Provisions with the changes the Planning Commission recommended. Walter Gale seconded the motion.

Roll Call Taken:

Chairman Dale Harrison	Aye
Vice Chairman Jim Richards	Aye
Stanley Johnson	Aye
Walter Gale	Aye
Lane Webb	Aye
Cresta Slaugh	Aye

The motion passed with all voting Aye

02-03 Administration and Procedures

After further discussion, Walter Gale moved to approve and send recommendations to the City Council to adopt 02-03 Administration and Procedures with the changes the Planning Commission recommended. Cresta Slaugh seconded the motion.

Roll Call Taken:

Chairman Dale Harrison	Aye
Vice Chairman Jim Richards	Aye
Stanley Johnson	Aye
Walter Gale	Aye
Lane Webb	Aye
Cresta Slaugh	Aye

The motion passed with all voting Aye

02-28 Industrial Zone I

After further discussion, Stanley Johnson moved to approve and send recommendations to the City Council to adopt 02-28 Industrial Zone I with the changes the Planning Commission recommended. Vice Chairman Jim Richards seconded the motion.

Roll Call Taken:

Chairman Dale Harrison	Aye
Vice Chairman Jim Richards	Aye
Stanley Johnson	Aye
Walter Gale	Aye
Lane Webb	Aye
Cresta Slaugh	Aye

The motion passed with all voting Aye

02-33 Naples City Tree Ordinance

Chairman Dale Harrison moved to table 02-33 Naples City Tree Ordinance for further education on arbor licensing for tree maintenance. Walter Gale seconded the motion.

Roll Call Taken:

Chairman Dale Harrison	Aye
Vice Chairman Jim Richards	Aye
Stanley Johnson	Aye
Walter Gale	Aye
Lane Webb	Aye
Cresta Slaugh	Aye

The motion passed with all voting Aye

Land Use Ordinance Discussion

R3 Zone

Form Based Codes

02-15-011 Landscape and Screening

02-16 Sign Regulations

Chris Hoem: The Commission has a draft chapter 02-25A Residential Zone R-3. This residential zone will allow commercial. On page 3 there is a long list of permitted uses. We would like for this ordinance to have more illustrations. Our goal is to follow Daybreak's example. Chris Hoem passes the Daybreak book around to the Commission. Chairman Dale Harrison moved to table the R3 Zone, Form based codes, 02-15-011 Landscape and Screening and 02-16 Sign Regulations. Vice Chairman Jim Richards seconded the motion.

Roll Call Taken:

Chairman Dale Harrison	Aye
Vice Chairman Jim Richards	Aye
Stanley Johnson	Aye
Walter Gale	Aye
Lane Webb	Aye
Cresta Slaugh	Aye

The motion passed with all voting Aye

General Business

Training: Effective Land Use Decision Making

This training will be held Wednesday October 21, 2009 in Roosevelt from 6-8 p.m. The cost is \$10.00 which the City is willing to pay along with a per diem. The City encourages car pooling.

Chairman Dale Harrison has received a couple of phone calls concerning the weeds at B-line storage.

Chairman Dale Harrison asks Chris Hoem to research Halliburton's sales tax. Will that be paid to Naples City or do they bill from offices in different states.

Adjourn

Walter Gale moved to adjourn, Stanley Johnson seconded the motion.

Roll Call Taken:

Chairman Dale Harrison	Aye
Vice Chairman Jim Richards	Aye
Stanley Johnson	Aye
Walter Gale	Aye
Lane Webb	Aye
Cresta Slaugh	Aye

The motion passed with all voting Aye

Next Planning and Land Use Meeting will be held on October 27, 2009 at 7:00 p.m.