

**Naples Planning and Land Use
Regular Meeting
June 28, 2011**

Commission Present: Chairman Dale Harrison, Cresta Slaugh, James Richards and Kerry Kinney

Commission Absent: Walter Gale, Mark Partridge and Lane Webb

Council Rep. Present: Kenneth Reynolds

Others Present: Stan Wheeler, Christine Richardson, Robert Roth, Judy Roth, Carma Stevens, Janna Rae Butler, Lauri Hacking, Charity Bruce, Gary Hacking, Craig Goodrich, Dan Olsen, Valerie Cowel, Erin Mayberry, Devin Cook, Felicia Cook, Craig Carlson, Lyle and Wendy Karren, Rona Goodrich, Pam Gardiner, Phillip Manwaring, Dean Baker, Zale Meacham, Lorna Mayberry, Dwight Merkley, Bret Stringham, Chris Hoem and Brandy Salazar.

Verification of full Quorum Chairman Dale Harrison verified a full quorum.

**Approval of Agenda
June 28, 2011**

Chairman Dale Harrison recommended moving General Business to the first item of the agenda after approval of the minutes. Vice Chairman Jim Richards moved to approve the agenda for June 28 2011, Chairman Dale Harrison seconded the motion.

Roll Call Taken:

Chairman Dale Harrison	Aye
Cresta Slaugh	Aye
Jim Richards	Aye

The motion passed with all voting Aye.

Disclosure None

**Approval of Minutes
May 10, 2011**

Cresta Slaugh moved to approve the minutes for May 10, 2011, with the correction of one spelling error. Chairman Dale Harrison seconded the motion.

Roll Call Taken:

Chairman Dale Harrison	Aye
Cresta Slaugh	Aye
Jim Richards	Aye

The motion passed with all voting Aye.

General Business

Vacation of Tuscany Condos

Robert Roth is presenting for the Hackings, the new owners of Tuscany Condos. The Hackings would like to petition to vacate the condo status for a simple building lot for a single family dwelling. The building will be torn down and rebuilt with a single family dwelling. Chairman Dale Harrison moved to vacate Tuscany Condos and allow them to build a single family dwelling. Cresta Slaugh seconded the motion.

Roll Call Taken:

Chairman Dale Harrison	Aye
Cresta Slaugh	Aye
Jim Richards	Aye

The motion passed with all voting Aye.

Public Hearing

Chairman Dale Harrison moved to open the Public Hearing, Cresta Slaugh seconded the motion.

Roll Call Taken:

Chairman Dale Harrison	Aye
Cresta Slaugh	Aye
Jim Richards	Aye

The motion passed with all voting Aye.

Rezone RA-1 and RA-2 to R-1

Chris Hoem introduced himself and passed out maps to the public showing the areas for the proposed rezone. Chris explained that the maps show the updated properties for the proposed rezone. The reason there was a change is some of the lots on the previous map have enough area to have some livestock. The lots in the proposed rezone area are small lots that are not big enough to have livestock now. Chris then asked the public for input.

Lorna Mayberry: My concerns are where the zone line meets. Will this affect a zone if it borders the R-1 zone?

Chris Hoem: No, the boundaries are already set up. Nothing will change from the current use.

Laurie Hacking, 740 E. 2500 S.: We are renting to own from Rod Johnson. What and why is this rezoning necessary?

Chris Hoem: The City would like to make a difference between residential subdivisions and farmlands. Before this happened, they were the same zone. The City wanted to preserve agricultural land. None of the properties along 2500 South are being rezoned. The reason property owners received letters from the City doesn't mean your property is in the proposed rezone area. The City legally has to notify property owners within 500 feet of a proposed change.

Devin Cook: 2902 S. 290 E.: My concern is agriculture use of property. (Mr. Cook read the agriculture definition from Webster's Dictionary) By this definition, the rezone would prevent us from even growing a garden.

- Chris Hoem: I used the word agriculture in the letter but what I meant was livestock. This has nothing to do with gardens, crops, plants, etc..
- Devin Cook: I think it would be regrettable to prevent children from having a livestock show animal to raise or a chicken coop. There are a lot of children these days that have nothing to keep them out of trouble. I don't think we should restrict what people can do with their land. This affects 4-H involvement; it would be very regrettable to prevent children from the opportunity of participation.
- Chairman Dale Harrison: People generally buy in a subdivision with smaller lots because they don't want to have livestock. I believe there is a middle ground we can meet. The reason for Planning and Zoning is trying to keep the peace between neighbors.
- Stan Wheeler: I noticed in the letter, "if your property is in the proposed rezone area and is currently being used for agriculture, then that use may continue as long as it is not abandoned for more than one full year", If I have property in this proposed rezone area and I have a garden, if I get sick for a year or more and my garden hasn't been tended I can't replant when I have recovered. Do I understand this correctly?
- Chris Hoem: This situation you are talking about would only happen on a small lot in a subdivision and it only pertains to livestock. Other parts of agriculture like gardens, crops, planting etc., will not be affected.
- Stan Wheeler: There are a lot of housing sitting empty. If I want to sell a house and it has been empty for a year, what rights would the new owners get?
- Chris Hoem: They have whatever rights go with that zone.
- Stan Wheeler: You know, you guys are like a creeping fungus. You get in there and force change on us. You guys keep saying what if your neighbors complain you have a horse, well what about me? I can complain because the neighbor doesn't have a horse. It works two ways- well no it works one way- you guys' way. It doesn't work for the little guy.
- Pam Gardiner, 1862 E 500 S: I just want to know what area is planned to be rezoned that is near my property.
- Chris Hoem: Nothing on 500 South is changing. The only area near you that would be rezoned is Ironwood Subdivision.
- Craig Goodrich, 2680 S. 500 E.: I have 70 acres right across from the City Offices. It has been zoned as C-1. As I understand it, I cannot build a home on my property because it has been vacant for more than a year since it was rezoned. Isn't this unconstitutional to take someone's property for the needs or wants of the City?
- Chris Hoem: We are trying to fit the needs of the community with the zones and also plan for a future.
- Craig Goodrich: So you are telling me that you are backhandedly taking our property by rezoning it. I am concerned about Naples City rezoning properties. I feel it is unconstitutional to take the private property and in a way that it takes place behind closed doors at the end of a meeting.
- Charity Bruce 405 E. 2900 S.: I live in Hunter Hollow. I guess I am in more of an urban setting. Say my kids have chickens and we get rid of them for a year, we can't have them ever again? Okay, that doesn't work for me. This is the problem I am having, being told what I can do with my land even though it is smaller. My feeling is, if these people that come in and complain, if they want an urban area they need to move to an urban area. Naples is not like that. That is why we live here. If these people want city living then they need to go to

the city. I worry that I can't put something on my property even though it is small. I want to be able to do what I want with it when I want to even after a year.

Wendy Karren: I have ground on 2500 South, my understanding is that it won't be touched?

Chris Hoem: That is correct.

Wendy Karren: My son lives in High Country Estates and he has chickens. They will be able to keep their chickens now but if they don't have them for a year, they can't have more? Is this the same for High Country?

Chris Hoem: We might discuss chickens later in the meeting to allow them.

Wendy Karren: I think chickens should be allowed. The children look forward to taking care of the chickens and gathering the eggs.

Laurie Hacking: I just want some clarification. You guys might be able to make some concessions for chickens, how are you going to define what is and isn't allowed? What if, in my sister's case, if she wants a shetland pony, she should be able to have a shetland pony. I can understand. I don't know if you have ever had someone with 2 or 3 head of cattle on a small lot, I can see how that could be a concern, but it is their right as a private property owner. This is a private property issue and people want their constitutional right. This is my property, I paid for it and I pay taxes, leave me alone. I would like to know how you are going to determine what is allowed and what isn't.

Chairman Dale Harrison: That is what this meeting is all about. We want the public's input on what you guys want and what the public feels is acceptable. I don't mind a neighbor having a couple of horses but they need to be maintained. Say you owned your property for 15 years and someone new moved in next to you and has 3 cows on a 1/4 acre lot and doesn't maintain them. You would complain, where is the middle ground?

Laurie Hacking: This boils down to a constitutional issue. It isn't right for the City to use "backdoor methods" to take rights away. This is what happens when people are not informed on what is happening around them. I know you said the letter was misinformation, it made people panic. One of the reasons my dad found this so passionate is because it is our property. You should be able to do with it what you want. There has got to be a very careful compromise.

Devin Cook thanks the Commission for holding this meeting, listening to the public and their opinions and being willing to make changes. Thank you for being human and listening. You are good people, you are our neighbors and I would just like to say thank you. I really appreciate what you are doing for us.

Chairman Dale Harrison: There is a fine line. I don't want to take anyone's rights away but I don't want any problems when new neighbors move in.

Craig Goodrich: What is the protocol to rezone a piece of property?

Chris Hoem: You would need to come to the Planning department and make application then we would do public notices, hold a public hearing then make a decision. The Planning Commission makes their recommendation for or against the rezone, and the City Council receives that recommendation and they vote whether to pass the rezone or not. The City Council are elected by city residents.

Erin Mayberry: It's really a challenge for the lifelong residents of Naples with these changes. I would recommend being mindful of these lifelong residents and try to preserve their way of life instead of changing things for them to bring in new development.

Chris Hoem: We are doing this to protect the current residents. We changed that to 20,000 square feet to be RA-1.

Vice Chairman Jim Richards: I have been on the Planning Commission for over 10 years. The main reason I stay on the Commission and take time off of work is to defend Americans property rights. I appreciate the public for coming and being a part of this process.

Chairman Dale Harrison asked for further comments. None were given.

**Land Use Ordinance 02-03
Administration and Procedures**

Chris Hoem: Top of page 7, “beyond the first public hearing” was removed because I would like to be able to hold public meetings before and/or after the public hearing. Under Land Use Ordinances, “subsequent” was removed for the same reason. Chairman Dale Harrison asked the public for comment, none was given.

**Lane Use Ordinance 02-10
Flood Plain Regulation**

Chris Hoem: Craig Blunt put together a flood plain ordinance and map. Chris showed the Commission a table specifying differences between the current chapter and the new 02-10. Chairman Dale Harrison asked the public for comment, none was given.

**Land Use Ordinance 02-31
Subdivisions**

The Planning Commission discussed the timing for requiring an inspection for the improvements going in a subdivision. They agreed to use the recommendation of the City Building Official for determination of the inspection timing.

The Planning Commission discussed the default method for the approval process for development. They agreed that by default, there are two public hearings, but that they may waive the second public hearing if the Planning Commission concludes that enough public input has been given.

Chris Hoem: I changed every mention of “subdivider” to “owner/developer.” I also re-organized several sections so that they make more sense. I corrected many clerical errors. We also changed many references of “subdivision” to a more broad “development.”

Chris Hoem: We added, “In the event the City Council does not accept the public improvements, the owner/developer shall be so advised in writing of the reason for the non-acceptance and shall be required to construct the improvements to City standards prior to the issuance of any building permit.”

Chris Hoem: On page 22 (as it is currently), under drainage systems, we want properties to maintain their own stormwater. They can now have a larger retaining area if they choose. The minimum is retainment of a 100 year storm.

Dale Harrison: There are a lot of retention ponds in our area. It’s a hardship on the developer but it needs to be balanced.

Brandy Salazar: Some of our industrial businesses pay to have their retention areas pumped out.

Chris Hoem: If the developer does not put the required improvements in, and bond for them in some way, then they cannot receive a building permit. It used to say certificate of occupancy.

Dan Olsen: What we've seen on the City Council is that we have in the past allowed development to happen and the improvements were not completed. If a developer cannot build all the improvements for a phase, then they need to reduce the size of the phase in order to complete all improvements.

Chris Hoem: On page 26, we added, "Approval of partial payment from a trust account or reduction in other improvement assurance must be in writing and is conditioned upon the City receiving, on a form approved by the City, proof of completion of the work and, in the event of partial payments, a signed Utah Conditional Waiver and Release upon progress payment in the form approved by the City Attorney." We also fixed the entire Partial Release of Funds section and Dennis Judd and I reworked the bond methods. Escrow agreements will no longer be allowed, but Trust accounts will be allowed. This change benefits the City.

Dale Harrison: We need to make sure we add somewhere the language about requiring the first 25 feet of a driveway off the road must be paved in order to reduce mud-tracking onto the street.

Dale Harrison: As far as street width, we need to make sure the more narrow streets specifically cannot have on-street parking.

Chris Hoem: We're planning on repealing the PUD (Planned Unit Development) Chapter because we've had some problems enforcing them in the past. For residential subdivisions that still want to have an open space area, they will be required to set up a Homeowner's Association and it is illegal for the property owners to deed the open area to the City.

Dale Harrison: I would like the Fire Code appendix to be directly attached as an appendix to our Subdivisions ordinance.

Closure of the Public Hearing

Chairman Dale Harrison moved to close the public hearing, and Cresta Slaugh seconded the motion.

Roll Call Taken:

Chairman Dale Harrison	Aye
Cresta Slaugh	Aye
Jim Richards	Aye
Kerry Kinney	Aye

The vote passed with all members voting Aye.

Discussion of Public Hearing
Rezone RA-1 and RA-2 to R-1

Dale Harrison: I spoke with four or five property owners from the Pheasant Run subdivision and they were all very much in favor of the rezone. Many of them don't even want dogs to be allowed in the neighborhood!

Kerry Kinney: I think we should leave the question of whether or not chickens are allowed until the public approaches us with complaints.

Dale Harrison moved to recommend approval of the rezone excluding the changes on the map (exempted areas include the Northwest corner lot of Hunter Hollow, the area between Hunter Hollow and High Country, the unsubdivided areas of Pheasant Run, The Farm, and Sunstone subdivisions, and the very large lots of both Wildwood and Spring Creek subdivisions). Kerry Kinney seconded the motion.

Roll Call Taken:

Chairman Dale Harrison	Aye
Cresta Slaugh	Aye
Jim Richards	Aye
Kerry Kinney	Aye

The vote passed with all members voting Aye.

Land Use Ordinance 02-03

Administration and Procedures Dale Harrison moved to accept the two changes and recommend approval of the amendment to the City Council. Cresta Slaugh seconded the motion.

Roll Call Taken:

Chairman Dale Harrison	Aye
Cresta Slaugh	Aye
Jim Richards	Aye
Kerry Kinney	Aye

The vote passed with all members voting Aye.

Lane Use Ordinance 02-10 Flood Plain Regulation

Cresta Slaugh moved to recommend approval of the changes in this chapter in order to reflect the recently adopted municipal ordinance 11-129. Dale Harrison seconded the motion.

Roll Call Taken:

Chairman Dale Harrison	Aye
Cresta Slaugh	Aye
Jim Richards	Aye
Kerry Kinney	Aye

The vote passed with all members voting Aye.

Land Use Ordinance 02-31 Subdivisions

Dale Harrison moved to recommend approval of the changes including the specific changes stated in the meeting: 1. Twenty-five feet of pavement on any road/driveway off of public streets. 2. Approval by the Building Official concerning the 2 day inspection timing, and if the Building Official wants to change that to more than 5 days, that a reason be given to the Planning Commission. 3. The Fire Code access road appendix needs to be made an appendix of our ordinance. Kerry Kinney seconded the motion.

Roll Call Taken:

Chairman Dale Harrison	Aye
Cresta Slaugh	Aye
Jim Richards	Aye
Kerry Kinney	Aye

The vote passed with all members voting Aye.

Administrative Updates

None

Items for Future Discussion

None

Adjourn

Chairman Dale Harrison moved to adjourn, Cresta Slaugh seconded the motion.

Roll Call Taken:

Chairman Dale Harrison	Aye
Cresta Slaugh	Aye
Jim Richards	Aye
Kerry Kinney	Aye

The vote passed with all members voting Aye.

Next Planning and Land Use Meeting will be held on July 26, 2011 at 7:00 p.m.