

EXCERPT FROM THE SEPTEMBER 3, 2013 PLANNING COMMISSION REGULAR MEETING

2. Text Amendment Petition No. 13-4AM - VESTED RIGHTS - Staff: Scott Pickett, Senior Planner

(3:44) Chair Snyder read a memorandum dated September 3, 2013, stated no written communications have been received regarding this petition; and opened the public hearing

Mr. Pickett stated this is a city initiated text amendment requested by the city attorney to provide a mechanism to address allegations of vested rights, the new ordinance is a consolidation of verbiage from other sections of the code, this ordinance introduces the vested rights determination in the land development code, it is currently addressed in Chapter 94 Concurrency Management, explained there are times when action by city council is necessary to address vested rights, pointed to the examples included in the agenda packet, gave an example of how this could be applied, and reiterated the ordinance is a mechanism for determining vested rights.

Discussion took place on the ordinance creating a process not policy, whether there are past examples of vested rights, and decisions by the commission being appealable to council.

Ms. Fernandez confirmed this ordinance clarifies a process in the code so people do not have to undergo a circuit court proceeding.

Audience Participation

Jeff Boone, Venice resident, commented on the concept of clean hands that is missing from the proposed ordinance, and suggested the commission proceed cautiously.

Discussion ensued that everything in the law is tied to reasonable reliance, the example provided by Mr. Pickett, whether the words of the author are against the author creating a weakness in the code, good faith reliance, the clean hands principle, and shifting the responsibility to the government.

Mr. Pickett clarified the burden of proof is on the applicant and that the city currently does not have a mechanism in place to deal with this issue.

(4:11) Chair Snyder closed the public hearing.

A motion was made by Mr. Murphy and seconded by Mr. Towery, that based on the staff report and the presentation, the Planning Commission, sitting as the local planning agency and land development regulation commission, finds this petition consistent with the Comprehensive Plan and recommends to City Council approval of Text Amendment Petition No. 13-4AM.

Yes: 6 - Chair Snyder, Ms. Moore, Mr. Williams, Mr. Towery, Mr. Graser and Mr. Murphy

Absent: 1 – Mr. Shrauger